

FEB 28 2003

Department of Water Resources

Scott L. Campbell, ISB No. 2251
Angela Schaer Kaufmann, ISB No. 5436
MOFFATT THOMAS BARRETT
ROCK & FIELDS, CHTD.
101 S. Capitol Boulevard, 10th Floor
P.O. Box 829
Boise, ID 83701-0829
(208) 345-2000 tel
(208) 385-5384 fax

Attorneys for Respondent
Thompson Creek Mining Company

IN THE SUPREME COURT OF THE STATE OF IDAHO

In Re: SRBA Case No. 39576
Consolidated Subcase No. 03-10022
Nez Perce Tribe Instream Flow Claims

Supreme Court Nos. 26042 & 26128

**THOMPSON CREEK MINING COMPANY'S
RESPONSE TO NEZ PERCE TRIBE'S MOTION
TO FILE OVER LENGTH REPLY BRIEF**

Thompson Creek Mining Company, by and through its counsel of record Moffatt, Thomas, Barrett, Rock & Fields, Chtd., and in accordance with Idaho Appellate Rule 32, hereby responds to the Nez Perce Tribe's Motion to File Brief in Excess of 50 Pages.

Thompson Creek Mining Company ("Thompson Creek") has no particular objection to the Tribe's Motion to the extent it requests permission to file its Reply Brief in excess of 50 pages. However, Thompson Creek feels that it is quite important to object to and clarify a significant misstatement in the Tribe's Motion: Thompson Creek is not now, nor has it ever been, a member of the Federal Claims Coalition. (Affidavit of Scott L. Campbell, ¶ 3). In fact, the third sentence of Thompson Creek's Appellate Response Brief specifically states that, "[a]t the outset, Thompson Creek also wishes to clarify that it is not a member of the Federal Claims Coalition." Response Brief of the Respondent Thompson Creek Mining Company, p. 1.

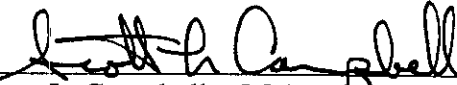
The Tribe must have overlooked that sentence. Thompson Creek will be happy to provide any other evidence this Court deems necessary in order to prove that it is *not* a member of the Federal Claims Coalition.

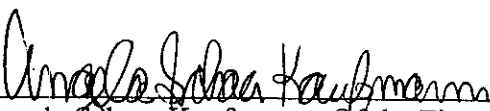
Certain other clients of Thompson Creek's counsel are members of the Coalition, and in accordance with the Idaho Supreme Court's August 6, 2000 Order, those other clients did not file individual briefing in the above-captioned appeal, nor did they join with Thompson Creek's brief. (Campbell Aff., ¶ 4). Since Thompson Creek is not a member of the Federal Claims Coalition, it did not violate and indeed fully respected the Court's duly-issued order.¹

Therefore, Thompson Creek respectfully requests that the Court disregard any suggestion that Thompson Creek's brief be stricken, and further requests that the Court duly consider the arguments contained therein, along with the other briefing in this matter.

DATED this 27th day of February 2003.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By: 
Scott L. Campbell - Of the Firm

By: 
Angela Schaefer Kaufmann - Of the Firm
Attorneys for Respondent, Thompson
Creek Mining Company

¹ Thompson Creek also notes that it is unaware of any Motion to Strike filed with the Idaho Supreme Court.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February 2003, I caused to be served a true and correct copy of the foregoing **THOMPSON CREEK MINING COMPANY'S RESPONSE TO NEZ PERCE TRIBE'S MOTION TO FILE OVER LENGTH REPLY BRIEF** by depositing copies thereof in the United States mail, postage prepaid, in an envelope properly addressed to the persons listed below:

Thomas E. Moss, US Attorney
D. Marc Haws, Asst US Attorney
District of Idaho
877 W. Main Street, Ste. 201
Boise, ID 83702

K. Heidi Gudgell
~~Nez Perce Tribe~~
Office of Legal Counsel
P.O. Box 305
Lapwai, ID 83540-0305

Elizabeth Ann Peterson
U.S. Dept. of Justice - ENRD
P.O. Box 23795 (L'Enfant Station)
Washington, D.C. 20026

Peter C. Monson
U.S. Department of Justice -ENRD
999 Eighteenth Street, Suite 945
Denver, CO 80202

Steven C. Moore
Native American Rights Fund
1506 Broadway
Boulder, CO 80302

Lawrence Wasden / Steven W. Strack
State of Idaho
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

Terry T. Uhling
JR Simplot Company
P.O. Box 27
Boise, ID 83707

Roger D. Ling
Ling, Nielsen & Robinson
P.O. Box 396
Rupert, ID 83350

Lary C. Walker
Attorney at Law
P.O. Box 248
Burley, ID 83318

W. Kent Fletcher
Fletcher Law Office
PO Box 248
Burley, ID 83318

Jeffrey C. Fereday
Givens Pursley LLC
P.O. Box 2720
Boise, ID 83701-2720

Albert P. Barker, John K. Simpson
John A. Rosholt, Travis Thompson
Barker, Rosholt & Simpson
P.O. Box 2139
Boise, ID 83701-2139

Douglas Endreson
Attorney at Law
1250 Eye Street, NW
Washington, DC 20005

Bruce M. Smith
Moore Smith Buxton & Turcke
225 N. 9th St., Suite 420
Boise, ID 83702

Brandelle Whitworth
Shoshone-Bannock Tribe
P.O. Box 306
Fort Hall, ID 83203

H.W. Rettig
Rettig, Rosenberry & Lovan
P.O. Box 729
Caldwell, ID 83605

Jerry R. Rigby
Ray W. Rigby
Rigby Thatcher Andrus Rigby Kam
& Moeller, Chtd.
P.O. Box 250
Rexburg, ID 83440-0250

Charles L. Honsinger
Daniel V. Steenson
Ringert Clark, Chtd.
P.O. Box 2773
Boise, ID 83702-2773

Norman M. Semanko
Attorney at Law
205 N. 10th Street, Suite 530
Boise, ID 83702

James C. Tucker
Idaho Power Co.
P.O. Box 70
Boise, ID 83707

Michael B. White
Hecla Mining
6500 Mineral Drive
Coeur d'Alene, ID 83814

Michael Mirande
Miller Bateman LLP
1426 Alaskan Way, Suite 301
Seattle, WA 98101

Josephine P. Beeman
Beeman & Associates, PC
409 W. Jefferson Street
Boise, ID 83702

Dana L. Hofstetter
Hofstetter Law Office
608 W. Franklin
Boise, ID 83702

Jerry L. Hoagland
HC 79 Box 44
Melba, ID 83641

United States Dept. of Justice
Environment & Natural Resource
550 W. Fort Street, MSC 033
Boise, ID 83724

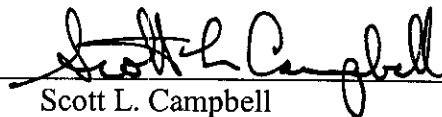
IDWR Document Depository
P.O. Box 73720
Boise, ID 83720-0098

Clayton M. Badley (pro se)
1220 Esast 10th North
Mountain Home, ID 83647

David & Melodie Baker (pro se)
HC 68 Box 304
Clayton, ID 83227

John E. Burns (pro se)
PO Box 264
Carmen, ID 83462

By:



Scott L. Campbell