



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

September 27, 2006

Roger D. Ling
615 H ST
P.O. Box 396
Rupert, ID 83350-0396

David Barber
Deputy Attorney General
P.O. Box 44449
Boise, ID 83711-4449

RE: Subcase No. 31-11845 (Jernberg/Idaho Properties)

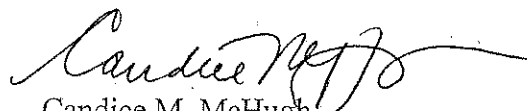
Dear Parties:

Enclosed please find the Second Supplemental Director's Report for the above referenced subcase. The Second Supplemental Director's Report includes two attachments and one map.

Also included are copies of the report and data prepared and used by Department employee Mr. Hornbaker to create the topographic survey map. Mr. Hornbaker's report and data have not been provided to the SRBA Court but are being provided to the parties based on their prior request that they receive the underlying data from the survey.

If you should have any questions or comments, please feel free to contact me at (208) 287-4810.

Very Truly Yours,


Candice M. McHugh
Deputy Attorney General

Enclosure

**SECOND SUPPLEMENTAL DIRECTOR'S REPORT
REGARDING SUBCASE NO. 31-11845**

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
Donald V. Shaff, Adjudication Bureau Chief

September 27, 2006

I. INTRODUCTION

In accordance with Idaho Code § 42-1412(4), Administrative Order 1, and Special Master Bilyeu's *Order Setting Deadlines and Status Conference* regarding subcase no. 31-11845 issued on June 5, 2006, and *Order Granting Motion to Vacate Trial Date and Third Amended Trial Schedule* dated July 18, 2006, the Idaho Department of Water Resources ("IDWR" or "Department") submits this Second Supplemental Director's Report for Subcase No. 31-11845. On May 26, 2006, the Department submitted its Supplemental Director's Report for Subcase No. 31-11845 ("May 26, 2006 Supplemental Director's Report") explaining the basis of the Department's recommendation for this water right. IDWR conducted a topographic survey on June 12-17, 2006 and then again on August 21-26, 2006. The draft results of the June survey were provided to the parties on June 27, 2006 in a map and data format. The data, maps, photos and final report from the June and August survey were provided to the parties along with this report on September 27, 2006. This Second Supplemental Director's Report ("Report") was prepared under the supervision of Karl J. Dreher, Director and Donald V. Shaff, Adjudication Bureau Chief of the IDWR.

The following Department employees have knowledge of the information contained in this Report: Carter Fritschle, Section Manager, Technical Support Section of the Adjudication Section and Sonny Hornbaker, Professional Geologist¹.

¹ Attached hereto as Attachment 1 for the Court and parties' information is a brief biography of Mr. Hornbaker.

II. DISCUSSION

The purpose of performing the June and August site analysis was to gather GPS data defining land surface, roads, ditches, laterals and other features of importance to provide data to compile a computer modeled topographic map. This information would then help inform the Department and the parties about what lands could receive irrigation water under the gravity flow flood irrigation system.

The results of IDWR's additional field inspections in June and August confirmed the observations from the field inspection on May 15, 2006, and show that much of the land in the claimed place of use is up gradient from much of the ditch system. Included herewith is a map, labeled as Map 1² that shows the topographic survey, performed by Mr. Hornbaker as assisted by Department employee Manuel Rauhut. Also shown on the Map 1 in green, are the areas that the Department recommended as irrigated in the May 26, 2006 Supplemental Director's Report. Map 1 shows that the Department's conclusions may have been a bit generous; at the very least, Map 1 shows that no more than 324.5 acres can be irrigated within the claimed place of use. An onsite field inspection by the Court may be helpful.

Generally, the main supply ditch runs in a southwesterly direction from where water enters the claimed place of use, (i.e. the uncultivated pasture land). (See upper northeast corner of Map 1). The water enters the claimed place of use through a 2.9 foot diameter culvert. Attached hereto as Attachment 2 is a photograph taken by Mr. Hornbaker of the culvert. The bottom of this culvert is at an elevation of 4791.48 and the elevation of the road above this culvert is 4796.04. (See location in the upper northeast

² Not included on the map is the western portion of the claimed place of use where there is no dispute about irrigation use.

corner of Map 1 marked with a blue letter C). Gravity flow flood irrigation of acres in addition to the 324.5 acres already recommended does not appear possible based on the topography of the land and the various cross-sectional surveys of the ditches and ditch banks.

Furthermore, there are considerable questions regarding whether or not some of the ditches, shown on Map 1, were ever connected to the main supply ditch. Several lateral ditches run across the land, however, Mr. Hornbaker could not locate any structures for diverting water from the main supply ditch to the laterals, although he found some old discarded head gates on the property.

Also depicted on Map 1 are ditches that can no longer receive water from the source because they have been plugged off. (See locations on Map 1 depicted with a red triangle.) The Department does not have information when these plugs were inserted into the ditches.

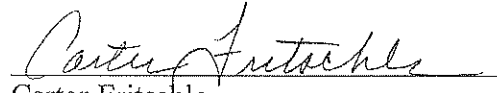
Finally, many of the ditches on the eastern portion of the property appear to function as drainage ditches based on the contour of the land. For example, the ditches located in the southeast corner of Map 1 appear to collect surface water runoff from the surrounding area but do not appear to convey ground water to the lands located in this area.

III. CONCLUSION

After reviewing all the data that was developed by the topographic survey and notes and field observations, the Department concludes that 324.5 acres is the maximum

possible number of irrigated acres within the claimed place of use for water right nos. 31-11845 and 31-2395.³

Respectfully submitted this 27th day of September, 2006.


Carter Fritschle
Section Manager
Technical Support Section of the
Adjudication Bureau, IDWR

³ Water right no. 31-2395, as detailed in the May 26, 2006 Supplemental Director's Report, overlaps with water right no. 31-11845. See May 26, 2006 Supplemental Director's Report at 4, 13 and 14.

CERTIFICATE OF MAILING

I certify that on September 27, 2006, I mailed the original and copies of this document including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P. O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

*via hand delivery
Sept. 28, 2006*

2. BEN D JERNBERG
IDAHO PROPERTIES LLC

Represented by:
ROGER D LING
MICHAEL TRIBE
615 H ST
PO BOX 396
RUPERT, ID 83350-0396

STATE OF IDAHO
Represented by:
STATE OF IDAHO
700 W JEFFERSON ROOM 210
P O BOX 44449
BOISE, ID 83711-4449

IDWR REPOSITORY
PO BOX 83720
BOISE, ID 83720-0098



Signature of person or attorney mailing the form

SONNY L. HORNBAKER P.G.

EDUCATION

Boise State University
Bachelor of Science, Geology, 1979

Boise, Idaho

MILITARY

Army National Guard
Honorable Discharge, 1977

Boise, Idaho

PROFESSIONAL REGISTRATION

Idaho State Board of Professional Geologists, No. 555, 1984

CAREER RELATED WORK EXPERIENCE

GEOLOGIC

Mapping - intrusive and extrusive volcanics, metamorphics and sedimentary terrains, in central Idaho, northern Nevada and eastern Oregon areas exploring for base, precious metals and placer deposits.

Drill Logging - reverse circulation, drill core (NQ,HQ) and geotechnical logging, pad layout and construction, drill intercept projections.

Claim Staking - filing, layout, legal research and patent claim applications. Geophysical exploration - Scintillometer, Sintrex IGS-2 system, VLF and EM surveys.

Report Generation - data organization, computer modeling, report writing and drafting.

Geochem Exploration - soil sample grids, stream sed, rock chip, water quality.

ENGINEERING

Surveying - horizontal and vertical control surveys in conjunction with aerial mapping, claim staking, drill hole location, surface and underground mine control. Survey closing and coordinate rotation.

Ore Projections - cross-sectioning, volume and grade calculations of mineral deposits, mine dumps and mill tailings.

Data Generation - 2 and 3 dimensional map generation, graphs and bar chart, data base management, computer program composition, stability analysis modeling.

Geotechnical Engineering - provide technical assistance, acts as advisor to staff and shares findings and data with counterparts; coordinates testing including seismic, soil mechanics, seepage, and slope stability analyses; develops and maintains computerized data system.

LABORATORY

Chemistry - analysis of geologic materials by gravimetric, colorimetric, titration, atomic absorption, and fire assaying.

Metallurgy - testing of ores, grindability, sieve analysis, floatation, gravity concentration, cyanide leaching.

Data generation - metallurgical balances, general computations and report writing.

EMPLOYMENT HISTORY

1989 - to Present Idaho Department of Water Resources Boise, Idaho
Geological Engineer/Resource Protection

Department of Water Resources, Boise, Id. Review engineering and geotechnical design reports, perform inspections on tailings and water storage dams for compliance with dam safety rules and regulations. Perform site investigations; drilling operations, geological mapping, surveying; stability and seismic analyses on earth fill structures and foundations footprints.

1988 - 1989 Atlas Precious Metals Vale, Oregon
Exploration Geologist

Supervised infield RC drilling operations for delineating disseminated gold deposit.

1980 - 1988 Boise Assayers and Metallurgy Boise, Idaho
Registered Geologist

Planned and initiated field exploration procedures for the evaluation of precious, base metals and placer deposits. Managed lab activities and supervised metallurgical testing projects and data generation.

1979 - 1980 Uranium Services Supply Shirley Basin, Wyoming
Ore Control Geologist

Supervised daily mining activities from mapping to mining of roll front uranium ore in an open pit mine.

INTERESTS

English and Pleasure riding; Endurance riding; Ranching; Mineral collecting and Photography.

TECHNICAL TRAINING PROGRAMS/WORKSHOPS/CONFERENCES

2004 – ASDSO Seminar on Soil Mechanics sponsored by University Missouri-Rolla

2001 - Slope Stability and Seepage Analysis sponsored by URS Corp.

1993 - Dam Tenders Seminar sponsored by USBR

1992 - Embankment Dams Soil Aspects, University Missouri-Rolla

1992 - Flood Fight Training Sponsored by Idaho Bureau of Disaster Services

1990 - Dam Tenders Seminar sponsored by USBR

1989 - Western States Seismic Policy Council Conference



Attachment 2