

RECEIVED
JAN 02 2009
DEPARTMENT OF
WATER RESOURCES

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 455
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657
Attorneys for Claimants The Terteling Company, Inc.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	
	)	Subcase No. 63-18957
Case 38576	)	
	)	
	)	
	)	
	)	AFFIDAVIT OF CHARLES L. HONSINGER
	)	IN SUPPORT OF MOTION TO COMPEL
_____	)	
STATE OF IDAHO	)	
	) ss	
COUNTY OF ADA	)	

CHARLES L. HONSINGER, being first duly sworn upon his oath, deposes and says that:

1. I am the attorney for the objector The Terteling Company, Inc. ("TTCI") in the above captioned Snake River Basin Adjudication subcase.
2. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
3. On June 11, 2008, TTCI filed its Motion to Enter upon Land for Inspection of Water Diversion and Distribution System/Motion to Compel supported by the Affidavit of Charles L. Honsinger.

COPY

4. The Owyhee Motorcycle Club ("OMC") filed its Objection to Motion to Enter upon Land for Inspection of Water Diversion and Distribution System/Motion to Compel and supporting Affidavit of Julie Klein Fischer on June 13, 2008.

5. The Court heard TTCI's Motion on June 16, 2008, granting the same from the bench.

6. After the Court granted TTCI's Motion, I communicated with Julie Klein Fischer, counsel for OMC, to discuss the work that TTCI's expert, HydroLogic, Inc. needed to do. I explained to Ms. Klein Fischer that Mr. Squires would need to visit the OMC property to do a "pre-inspection" to determine what further work would be necessary. HydroLogic conducted the "pre-inspection" on July 23, 2008 accompanied by an expert from ERO Resources representing OMC.

7. On August 19, 2008, I forwarded a copy of a Draft Technical Memorandum authored by Ed Squires of HydroLogic, Inc. to Ms. Fischer. A true and accurate copy of the Draft Technical Memorandum together with the e-mail message with which it was transmitted is attached hereto as Exhibit "A". The Draft Technical Memorandum details the work conducted by HydroLogic during the "pre-inspection" together with a "Recommendations" section detailing the work necessary to determine the production capacity of the OMC water system.

8. On September 9, 2008, I received an e-mail message from Ms. Fischer stating that her client would object to the additional work proposed by HydroLogic, Inc., but that she preferred to work through her concerns that the scope of work was too great. A copy of that e-mail message is attached hereto as Exhibit "B".

9. On September 15, 2008, after speaking with Ed Squires of HydroLogic, Inc., I

forwarded Ms. Fischer a proposal for additional work to determine the capacity of OMC's system that was not as extensive as that proposed in HydroLogic's August 19, 2008 Draft Technical Memorandum. A copy of the e-mail forwarding that proposal is attached hereto as Exhibit "C". I noted in my e-mail that if the diminished work did not provide the needed information, TTCI reserved the right to file a Motion to Compel the work contemplated in the Draft Technical Memorandum.

10. On November 4, 2008, Ms. Fischer responded to the limited scope of work proposed by TTCI with a letter to me (a true and accurate copy of which is attached hereto as Exhibit "D") stating that OMC would not permit such work without further direction from the Special Master, even though the letter admits Ms. Fischer's knowledge that a further inspection would be needed.

11. As Ms. Fischer's letter specified that there were alternative methods that could be employed to obtain data, I requested that she let us know the specifics of such alternatives so that TTCI and its consultant could evaluate them. Attached hereto as Exhibit "E" are two separate e-mails requesting such details. To date, I have not yet received information regarding the alternatives referenced in the November 4, 2008 letter.

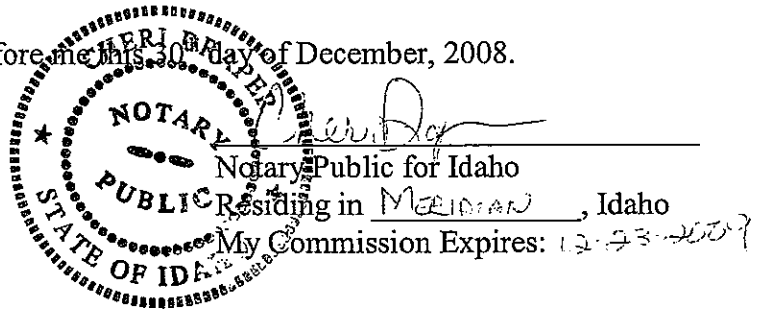
12. As indicated by HydroLogic Inc.'s August 19, 2008 Draft Technical Memorandum (see Exhibit A, ¶1.e,f; ¶4), the information needed to establish the capacity of OMC's system could not be obtained at the July 23, 2008 "pre-inspection." Accordingly, HydroLogic, Inc. indicates the procedures necessary to obtain the needed information (see Exhibit A, ¶6). It is these procedures to which TTCI's Motion to Compel is directed.

Further your affiant sayeth naught.

By:

Charles L. Honsinger
Charles L. Honsinger

Sworn to and subscribed before me this 30th day of December, 2008.



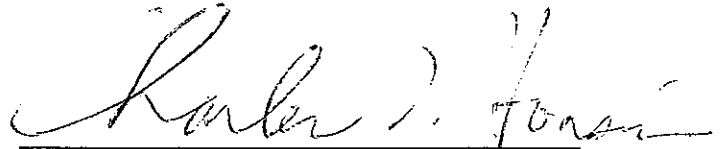
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of December, 2008, I caused to be served a true and correct copy of the foregoing document via U.S.mail and facsimile to the following:

Julie Klein Fisher
Morrow Dinius
5680 East Franklin Road, Ste. 220
Nampa, Idaho 83687
Fax: (208)475-2201

IDWR Document Depository
P.O. Box 83720
Boise, Idaho 83720
Fax: (208) 287-6700

Edward Family LLC
c/o Dana Hofstetter
Hofstetter Law office, LLC
608 West Franklin Street
Boise, Idaho 83702
Fax: (208)424-8774

A handwritten signature in cursive script, appearing to read "Charles L. Honsinger", written in black ink.

Charles L. Honsinger

Exhibit A

Charlie Honsinger

From: Charlie Honsinger
Sent: Tuesday, August 19, 2008 2:01 PM
To: Julie Fischer
Subject: FW: 8-19-2008 Evaluation of the Owyhee Motorcycle Club Ground Water Production Capacity
Attachments: 7-23- 2008 Data Needs Determined From the Field Reconnaissance of the Owyhee Motorcycle Club Water System by Hydro Logic 8-19-2008.doc; image001.jpg

Importance: High

Julie: I am forwarding a copy of Ed Squires' Initial Technical report. As you can see, he needs to do further work, including a pump test and a camera inspection to complete his work. Can you please give me a call after you review the report so we can discuss dates on which that work can be conducted? Thanks.

Charlie

Charlie Honsinger
Ringert Law Chartered Lawyers
P.O. Box 2773
Boise, ID 83701
Tel:(208)342-4591
Fax:(208)342-4657
clh@ringertlaw.com

From: Ed Squires [mailto:ed@hydrologicinc.net]
Sent: Tuesday, August 19, 2008 1:33 PM
To: Charlie Honsinger
Subject: 8-19-2008 Evaluation of the Owyhee Motorcycle Club Ground Water Production Capacity
Importance: High

Hydro Logic, Inc.

1002 W. Franklin St. Boise, ID 83702 (208) 342-8369 Fax: (208) 342-3100 Cell: (208) 631-6781

Dear Charlie,

I have finally been able to devote some time to getting you an outline report covering our first preliminary field reconnaissance of the Owyhee Motorcycle Club's water system. As we expected, there are several measurements that we were not able to obtain and these are described in the attached outline. This should not be construed as a negativity in any way to how OMC operates its system, it is just the typical way small water systems are built and operated in Idaho (without good means of monitoring) by contractors and because well owners often are unaware of the need for good monitoring. The proposed work is very straight forward and we can leave the well exactly as we found it (or we can leave the monitoring tube in the well for OMC's future use.

We stand ready to do the final measurements as soon as possible. Obviously, TTCI would pay for the necessary tubes and pump work. Please provide us with as much advance notice as possible for our scheduling. Feel free to pass this along to Julie Fisher.

Ed

DRAFT TECHNICAL MEMORANDUM

TO: Charles L. Honsinger/ Ringert Law/ Boise, Idaho

FROM: Ed Squires/ Hydro Logic, Inc. / Boise, Idaho

DATE: August 19, 2008

SUBJECT: Reconnaissance Level Inspection of the Owyhee Motorcycle Club Water System

1) Overview:

- a) The Terteling Company, Inc. (TTCI) has objected to the SRBA water right claims of the Owyhee Motorcycle Club (OMC) in Stewart Gulch, Ada County, Idaho.
- b) TTCI has requested that OMC allow an on site evaluation of the OMC water system and OMC has agreed to such an inspection.
- c) TTCI hired Hydro Logic, Inc. (HLI), a local ground water consulting firm to conduct a field-examination of the OMC water system to determine the capacity of the system and the quantity of ground water historically and currently diverted and used.
- d) On July 23, 2008, Loren Pearson, of HLI, met on site with Derrick Personette (863-2481), of the OMC, and Paul Drury, of ERO Resources, Corp. in Boise. Mr. Personette, a long-standing member of the OMC and sitting member of the Board of Directors, is familiar with the extent and operation of the OMC water system and was very helpful on site. Mr. Drury, a consultant hired by OMC, has conducted some previous testing of the OMC water system (described below).
- e) A field reconnaissance-level, inspection of the OMC water system was conducted on July 23, 2008 but several key components and characteristics of the well and water system were unable to be determined from the inspection because there are apparently no records or because the required measurements could not be obtained owing to on-site constraints.
- f) This Memorandum details remaining information needed for us to characterize the production capacity of the OMC water system.

2) SCOPE OF THE FIELD WORK:

a) General:

- i) GPS locations of permanent major structures such as the well, storage tanks, control valves, etc. were obtained for the entire system.
- ii) Digital photographs of all significant features and fittings were obtained, downloaded and stored.

b) Supply Well:

- i) This is a six (6) inch diameter steel-cased well located in a concrete and wood frame pump house directly behind (south of) the OMC Clubhouse.
- ii) The six inch casing appears to have been recently repaired and/or extended as a newer length of casing is welded onto the older casing visible near the current ground level at the well head (pump house has a sloping dirt floor).

- iii) According to Derrick Personette, there are no sand-production problems with the well and the OMC has not apparently experienced any problems with its well as far as he can remember.
- iv) Loren Pearson measured the non-pumping water level in the well at 29.22 feet below the top edge of the 6-inch casing using a disinfected electric well sounder inserted through the well head casing after removing the well cap head. The top of the 6-inch casing is 5 ½ feet above the dirt and (partially) concrete floor of the pump house at the well. Loren did not attempt to measure pumping water levels because there was no information available on the existing pump setting and no designated monitoring tube in which to take the measurements.
- v) According to Derrick, the well was probably drilled in 1958 when the Clubhouse was built to supply water for bathrooms and irrigation.
- vi) OMC apparently does not have a Well Driller's Report for the well. HLI has done an extensive search for a record for this well including 1) the IDWR digital, hard copy, and microfiche well log files at the Western Regional Office (including searching for the record in a mis-filed location), 2) the personal files of drillers, 3) HLI's own data base, and 4) water rights files of the IDWR. We have not been able to locate a well log for the OMC well.
- vii) The well cover securing and capping the well identifies Hiddleston Drilling and Pump Co., Inc. ((208) 587-9055
- viii) Testing of the OMC well by Paul Drury:
 - (1) Mr. Drury has apparently tested the OMC well on two separate occasions. Neither test, however, included any water level measurements in the well; either before or during pumping.
 - (2) During one test the well produced 75 to 60 gallons/minute at 83 PSI (the flow was not kept constant) discharging to the nearby creek through a 1½" fire hose for about twenty minutes.
 - (3) Drury's other test pumped water to the underground storage tank at the Motocross Track starting when the tank was "empty" until the float valve at the tank shut the flow off. Flow during this tank test was measured with a through the pipe ultrasonic flow meter at 59.5 gallons/minute.

c) Supply Well Pump:

- i) A relatively new-looking service sticker by Boise Valley Pump and Well Drilling is present on the pump panel (208) 343-1915 Ron Murphy.
- ii) Neither, Derrick Personette nor Paul Drury had any information about the installed pumping plant.
- iii) HLI contacted Ron Murphy at Boise Valley Pump to find they had apparently kept no records of the installed pump either.
- iv) The electrical panel for the well pump is a Franklin, Model # 2821139310, 5 HP, 230 V, 60 HZ panel without a variable frequency drive unit.
- v) The well head pressure gage was reading 91 psi with the pump off.

d) Well Head Plumbing:

- i) The well pump discharges through a 1½" galvanized steel line to two "Well-Mate" 86-gallon hydro-pneumatic pressure tanks (Model # WM25-WB) prior to being discharged through various line sizes to the rest of the OMC distribution system.
- ii) Four discharge pipes exit the pump house.
 - (1) A 1¼" diameter black polyethylene line is the domestic supply for the trailer house (caretaker's quarters).
 - (2) A 1½" diameter black polyethylene line supplies the Clubhouse.
 - (3) A 1½" diameter SCH40 PVC line supplies water to tanks located at the Short Track, Pee Wee Track, sprinklers at the Snack Shack, and sprinklers towards the front gate.
 - (4) A 2" diameter SCH40 PVC line supplies water to the underground tank at the Motorcross Track to the northeast.

e) Water Distribution System:

- i) Loren Pearson documented the booster pumps, main lines, sprinklers, and tanks of the water system including photographs and GPS locations.
- ii) These aspects are not covered in detail here because these facilities are not immediately germane to the use of ground water compared to the specifications and working conditions of the well pump for which we have no good information at this time.

f) Water Storage:

- i) Six tanks are in use at the OMC to store water for dust abatement.
 - (1) Below ground tank at Motocross Track: storage volume not measured, but estimated to be approximately 5,000 gallon capacity.
 - (2) Two tanks on the hill above the Clubhouse: each tank is 8 feet in diameter and 22 feet long which is ~8,000 gallons each for a total capacity of ~16,000 gallons (HLI calculation).
 - (3) Above ground tank adjacent to Pee Wee Track: 6 feet in diameter and 10 feet tall is a capacity of ~2,000 gallons (HLI calculation).
 - (4) Above ground tank at Short Track: 7.5 feet in diameter and 30 feet long is capacity of ~10,000 gallons.
 - (5) Below ground tank at Short Track: storage volume not measured, but estimated to be approximately 5,000 gallon capacity.
 - (6) Two pressure tanks are used at the well: ~30 gallons storage each equals ~60 gallons.

3) WATER USES:

a) Domestic:

- i) A Caretaker residence (trailer house) is occupied year-round.
- ii) According to Derrick this is a typical single family household water use.

b) Irrigation:

- i) Approximately one-half acre total of grassed area is watered around the “Snack Shack” and near the caretaker trailer house.

c) Commercial:

- i) Dust-abatement is apparently the single largest water use although we infer that the dust watering serves a second purpose of preparing the track surfaces for use.
- ii) All dirt track surfaces can be watered down by sprinklers and/or by hand watering with fire hoses.
- iii) According to Mr. Personette, OMC’s main commercial use of water coincides with its racing season, Memorial Day weekend through Labor Day: about three months during an average moisture year.
- iv) Additionally, Derrick explained that, during race season, water is used Wednesday evenings from 4 p.m. until 10 p.m. for the club members to use the track as they please. (* This water use is from storage and cannot be used to determine the diversion rate from the well per se.).
- v) When asked about the periods of use of the dust abatement uses, Derrick explained that watering of the tracks takes place before and during sanctioned races which typically occur four days per month, Thursday/Friday and Saturday/Sunday, with one track being utilized for each two day period. Any other special events for club members during the month would also require dust abatement.
- vi) Clubhouse uses portable toilets and not bathrooms with flush toilets.

4) CONCLUSIONS RELATED TO EVALUATING THE OMC WATER SYSTEM:

- a) There is no known information regarding the details of well construction including:**
 - i) Depth of well.
 - ii) Completion interval.
 - iii) Type of openings (screen, perforations, etc.).
- b) There is no data regarding the installed pump except it is less than 5 HP including:**
 - i) Pump performance curve.
 - ii) Depth setting in the well.
 - iii) Drop pipe diameter.
 - iv) Pump Make and Model.
- c) There is no useful hydraulic testing data or water level monitoring for the well:**
 - i) A valid pump test of the well has not been completed.
 - ii) Short-term “testing” by ERO included no water level measurements and discharge was not regulated at a constant rate.
- d) There is no instantaneous flow or totalizing meter installed in the system.**

- i) For testing of the well, and at the expected range of discharge rates, timed filling of a container of known volume would work.
- e) **No monitoring tube exists in the well.**
 - i) Loren Pearson was able to measure a non-pumping water level at 29.22 feet bmp.
 - ii) Measuring pumping water level is more risky not knowing the current pump setting and or the condition of the intake of the pump (sounding tape could get sucked into intake).
 - iii) The risk of getting the electric sounding tape tangled up with the submersible pump wire also exists without a designated monitoring tube.
 - iv) If the well construction is such that cascading water is present, the pumping water level could only be measured within a designated tube.
- f) **A single pressure gauge has not been checked for accuracy.**
 - i) At least two identically-reading gages would be needed to confirm system pressure.
- g) **The hydraulic testing by ERO Resources is too short- term and has no water level data.**
 - i) Paul Drury's first test of the well was conducted for twenty minutes with a varying discharge rate and no water level measurements.
 - ii) Paul's second test was for three hours, the time necessary to fill one of the tanks with a varying discharge rate and no water level measurements.
 - iii) No meaningful conclusions can be drawn with respect to the sustainable pumping rate of the OMC well from this data.

5) PRELIMINARY CONCLUSIONS RELATED TO OMC'S WATER USAGE:

- a) Best estimate of current reservoir storage volume at OMC is ~ 44,000 gallons (0.14 ac-ft).
- b) Aerial photography shows that the area of the race tracks has increased significantly over the years since 1963.
 - i) The main water use claimed is for dust abatement of the track area.
 - ii) We are currently evaluating historical aerial photography to delimit the periods of track expansion since inception of the OMC.
- c) The non-pumping water level in the well is 29.22 feet below top of existing casing.
- d) All dirt track surfaces can be watered down by sprinklers and/or by hand with fire hoses.
- e) Water use at OMC includes minor domestic use, some irrigation of grass near trailer house, and the rest for dust abatement.
- f) The 142 ac-ft recommended by the IDWR is simply not possible.

6) RECOMMENDATIONS:

- a) **Verify the Make, Model, and Depth Setting of the Installed Pumping Plant.**
 - i) Will require removal of the pumping plant to obtain depth setting, motor HP, and pump Model No.
- b) **Verify the Details of Well Construction and Current Condition of the Well:**
 - i) While the pump is out of the well, inspect the inside wall of the well.
 - ii) To protect against future liability and to document that no damage was caused to the OMC well as a result of removing the existing pump, TTCI should pay for a camera inspection of the well.
 - iii) At the same time, details of well construction can be ascertained such as are needed for the installation of a monitoring tube for hydraulic testing.
- c) **Install a PVC Monitoring Tube in the Well.**
 - i) Coincident with the re-installation of the pumping plant, a designated water level monitoring tube should be installed.
 - ii) This can be temporary and removed when the testing is completed or it can be left in the well for use by OMC.
 - iii) We recommend a 1-inch diameter schedule 80 PVC pipe for this purpose.
- d) **Conduct a Hydraulic Test of the Well and Pumping System:**
 - i) Conduct a constant-discharge draw down test of the well.
 - (1) Testing should be of minimum 24-hour duration and 48-hours would be better.
 - (2) Water level drawdown and recovery should be monitored.
 - (3) A means of accurately measuring flow is required (flow-meter recommended but timed filling of a known volume is acceptable).
 - (4) Well should be allowed to recover for several days prior to testing to allow water level to recover and for documentation of antecedent water level trend in the well prior to the test.

7) SOME ROUGH CALCULATIONS:

- a) Continuous Use of Well 365 Days Per Year:
 - i) Well is not used in this manner and calculation is made for conceptual purposes only.
 - ii) Assuming the well could produce the 60 gpm reported by Paul Drury on a continuous basis without shutting off.
 - iii) $60 \text{ gpm} \times 1440 \text{ minutes/day} \times 365 \text{ days/year} = 31,536,000 \text{ (96.8 ac-ft)}$.
 - iv) This is 45 acre feet less than the IDWR recommended.
- b) Continuous Use of Well During 90-Day Racing Season:
 - i) Well is not used in this manner and calculation is made for conceptual purposes only.

ii) Assuming the well could produce the 60 gpm reported by Paul Drury on a continuous basis for the three month racing season without shutting off.

iii) $60 \text{ gpm} \times 1440 \text{ minutes/day} \times 90 \text{ days} = 7,776,000 \text{ gallons} (\sim 24 \text{ ac-ft}).$

c) Half Time Use of the Well:

i) Well is not used in this manner and calculation is made for conceptual purposes only.

ii) Assuming the well can produce 60 gpm on a sustained basis, it would take 12 hours to fill the full complement of storage at OMC ($60 \text{ gpm} \times 720 \text{ minutes} = 43,200 \text{ gallons}$).

iii) Assuming the OMC storage is drained every day for the three month racing season OMC would use $\sim 4\text{MG}$ ($\sim 12 \text{ ac-ft}$).of water per year for commercial use.

Exhibit B

Charlie Honsinger

From: Julie Fischer [jfischer@morrowdinius.com]
Sent: Tuesday, September 09, 2008 1:33 PM
To: Charlie Honsinger
Subject: RE: Hi

Hi Charlie,

Yes, I have visited with them. To be honest, after reviewing the proposed scope of work, I believe it is outside what the SRBA court authorized, at least in concept. I know you anticipated two visits to the property, and the first was to determine what the system looked like and what testing might be done (on a second visit). I intend to file an objection to the proposed activities and seek to limit any additional testing to something more reasonable. I'd prefer to work through it with you and your client before filing an objection, so let me know how you want to proceed.

Thanks.

Julie

From: Charlie Honsinger [mailto:clh@ringertlaw.com]
Sent: Tuesday, September 09, 2008 1:24 PM
To: Julie Fischer
Subject: Hi

Heard from your client yet about the pump test?

charlei

Charlie Honsinger
Ringert Law Chartered Lawyers
P.O. Box 2773
Boise, ID 83701
Tel:(208)342-4591
Fax:(208)342-4657
clh@ringertlaw.com

Exhibit C

Charlie Honsinger

From: Charlie Honsinger
Sent: Monday, September 15, 2008 4:30 PM
To: Julie Fischer
Subject: FW: 9-15-2008 TTCI/OMC Settlement Negotiations and Hydrogeologic Studies
Attachments: image001.jpg

Importance: High

Julie: Here is an alternative procedure that Ed Squires came up with that is not as extensive as that he proposed earlier. How does this proposal sound? If it does not give them the information they need, we reserve the right to move to compel the work that Ed originally wanted to do. If this works, let me know, and I'll try to set it up asap.

On another note, we filed a stipulation with dates on it that I believe is now obsolete – the Court did not enter an order pursuant to our stipulation. How do you suggest we proceed now as far as setting a trial date and discovery schedule?

Charlie

Charlie Honsinger
Ringert Law Chartered Lawyers
P.O. Box 2773
Boise, ID 83701
Tel:(208)342-4591
Fax:(208)342-4657
clh@ringertlaw.com

From: Ed Squires [mailto:ed@hydrologicinc.net]
Sent: Monday, September 15, 2008 2:16 PM
To: Charlie Honsinger
Subject: 9-15-2008 TTCI/OMC Settlement Negotiations and Hydrogeologic Studies
Importance: High

Hydro Logic, Inc.

1002 W. Franklin St. Boise, ID 83702 (208) 342-8369 Fax: (208) 342-3100 Cell: (208) 631-6781

Dear Charlie:

In response to Owyhee Motorcycle Club's (OMC) rejection of our investigative plan to resolve the SRBA objections, I can suggest an alternative approach that may accomplish the objective. In this scenario, Hydro Logic, Inc. (HLI) could conduct only the hydraulic testing portion of our proposed plan. It is possible, but not certain, that such a test would adequately address The Terteling Company, Inc.'s (TTCI) concerns over the water use from the OMC well. In other words, our original plan considered the possibility of installing a monitoring tube and determining the depth of the pump bowls to ensure that we are able to obtain measurements throughout the testing. We could, as a fall-back position, attempt to conduct the testing and to obtain the measurements without removing the pump and installing a monitoring tube and, of course, without the guarantee that we would be able to obtain measurements as the water level drops throughout the test. The reason that we would not be able to measure could be because the submersible pump wire could prevent us from lowering our sounder in the small diameter well as the water level drops. We were able to measure the shallow (~15 feet bgl) non-pumping water level during our first visit so it may be possible to measure the well all the way through the proposed test period; we just have no way of knowing in advance.

Additionally, under this scenario, understand that we would not be to obtain a camera inspection of the well that would be helpful to our evaluation and OMC's own knowledge about its own system.

We are certainly willing to attempt to carry out such a test with the caveat that there is no 100% assurance that we will be able to obtain all of the information we seek after having expended the effort to conduct the test. To that end, you may wish to run this Plan-B by the client and, if TTCI is willing to take the risk that we may not obtain the necessary data, the OMC for their approval.

Let us know if this option works with everybody.

Ed Squires

Exhibit D

Kevin E. Dinius
Julie Klein Fischer
William A. Morrow
Shelli D. Stewart
Dennis P. Wilkinson

**Morrow
Dinius**
Attorneys at Law

5680 E. Franklin Rd., Ste. 220
Nampa, ID 83687
Telephone: (208) 475-2200
Fax: (208) 475-2201
www.morrowdinius.com

Email: jfischer@morrowdinius.com

November 4, 2008

Sent Via Email

Charles Honsinger
Ringert Clark
455 South Third Street
Boise, Idaho 83701

Re: *Owyhee Motor Cycle Club Right No. 63-18957*

Dear Charlie:

We have had a chance to review and consider the revised proposal submitted by your consultant, Ed Squires, regarding further testing of the Owyhee Motorcycle Club well. Although we appreciate Mr. Squires' agreement to limit the scope of the work originally proposed, the testing remains unacceptable.

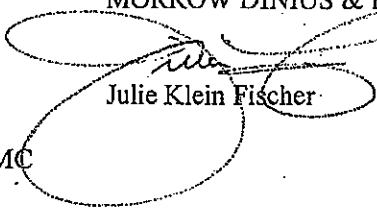
As you know, over OMC's objections, Special Master Booth authorized Terteling to visit the OMC property and inspect the water diversion and distribution system thereon, which has been done.¹ Unless I misunderstood the ruling, Special Master Booth did not authorize extensive testing of the OMC pump and well, or an investigation by your client of well construction details.

Without further direction from Special Master Booth, we cannot agree allow your client to perform the tests and work proposed. The proposal far exceeds what is necessary to verify the elements of the OMC water right, including rate of flow. There are less intrusive ways to measure the flow, such as those employed by OMC's consultants, and we would not object to Mr. Squires performing similar tests.

Please let me know how you intend to proceed, or if we need to raise this matter with Special Master Booth.

Sincerely,

MORROW DINIUS & FISCHER, PLLC



Julie Klein Fischer

Cc: William Henning, President OMC

¹ Admittedly, you indicated Mr. Squires first wanted to conduct a field reconnaissance-level inspection to determine what equipment might be necessary to measure the OMC flow during a follow up site visit.

Exhibit E

Charlie Honsinger

From: Charlie Honsinger
Sent: Tuesday, November 11, 2008 2:56 PM
To: Julie Fischer
Subject: RE: Scan from Morrow Dinius

Julie: What is ERO's proposed alternative? Let us know so we can evaluate it. Thanks.
Charlie

Charlie Honsinger
Ringert Law Chartered Lawyers
P.O. Box 2773
Boise, ID 83701
Tel:(208)342-4591
Fax:(208)342-4657
clh@ringertlaw.com

-----Original Message-----

From: Julie Fischer [mailto:jfischer@morrowdinius.com]
Sent: Tuesday, November 04, 2008 4:03 PM
To: Charlie Honsinger
Subject: FW: Scan from Morrow Dinius

Charlie,

Please see attached letter regarding OMC.

Thank you.

Julie Klein Fischer
MORROW DINIUS & FISCHER, PLLC
5680 e. Franklin, Suite 220
Nampa, Idaho 83687
208.475.2200 telephone
208.475.2201 fax
jfischer@morrowdinius.com

Charlie Honsinger

From: Charlie Honsinger
Sent: Tuesday, December 02, 2008 10:21 AM
To: Julie Fischer
Subject: RE: Scan from Morrow Dinius

Julie: Can you please let me know whether ERO has a proposed alternative? I have time starting tomorrow, and if I don't hear from you about the alternative, feel that I must draft and file a Motion to Compel.

Charlie Honsinger
Ringert Law Chartered Lawyers
P.O. Box 2773
Boise, ID 83701
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clh@ringertlaw.com

-----Original Message-----

From: Julie Fischer [mailto:jfischer@morrowdinius.com]
Sent: Tuesday, November 11, 2008 2:57 PM
To: Charlie Honsinger
Subject: RE: Scan from Morrow Dinius

ok

-----Original Message-----

From: Charlie Honsinger [mailto:clh@ringertlaw.com]
Sent: Tuesday, November 11, 2008 2:56 PM
To: Julie Fischer
Subject: RE: Scan from Morrow Dinius

Julie: What is ERO's proposed alternative? Let us know so we can evaluate it. Thanks. Charlie

Charlie Honsinger
Ringert Law Chartered Lawyers
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Boise, ID 83701
Tel:(208)342-4591
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-----Original Message-----

From: Julie Fischer [mailto:jfischer@morrowdinius.com]
Sent: Tuesday, November 04, 2008 4:03 PM
To: Charlie Honsinger
Subject: FW: Scan from Morrow Dinius

Charlie,

Please see attached letter regarding OMC.

Thank you.

Julie Klein Fischer
MORROW DINIUS & FISCHER, PLLC
5680 e. Franklin, Suite 220
Nampa, Idaho 83687
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