

AMENDED DIRECTOR'S REPORT

Subcase No. 63-18957

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MAY 01 2009

**DEPARTMENT OF
WATER RESOURCES**

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources

David R. Tuthill, Jr., Director

Donald V. Shaff, Adjudication Bureau Chief

April 30, 2009

DESCRIPTIVE SUMMARY

This is an Amended Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the *Order Denying Motion to Compel; Order Requesting 706 Report/Amended Director's Report from IDWR and Order Setting Scheduling Conference* issued by Special Master Booth on January 30, 2009, the Director submits the attached Amended Director's Report for filing with the Court.


DONALD V. SHAFT
Adjudication Bureau Chief

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-18957

NAME AND ADDRESS: OWYHEE MOTORCYCLE CLUB INC
6600 CARTRIGHT RD
BOISE ID 83703

SOURCE: Source: GROUND WATER Tributary:

This water right does not authorize the diversion of a low temperature geothermal resource or other geothermal resource. This water right is diverted from a well local referred to as the "Owyhee Motorcycle Club well."

QUANTITY: 0.160 CFS

27.930 AFY

142.400 AFY

The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1958

03/01/1963

POINT OF DIVERSION:

T04N R02E S15 SWSE Within ADA County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

COMMERCIAL

01/01 12/31

0.160 CFS 27.93 AFY

~~0.160 CFS 142.40 AFY~~

DOMESTIC

01/01 12/31

0.040 CFS

Domestic use is for 1 home and clubhouse associated with a motorcycle club and includes up to 1/2 acre of irrigation.

Commercial use is for a clubhouse and watering of tracks for dust control associated with a motorcycle club.

PLACE OF USE:

COMMERCIAL

within ADA County

T04N R02E S15 SESW

T04N R02E S15 SWSE

DOMESTIC

within ADA County

T04N R02E S15 SWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

PARCEL NO. S0615348400.

Amended Director's Report: Water Right No. 63-18957

CERTIFICATE OF SERVICE

I certify that on April 30, 2009, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, 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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

CHIEF, NATURAL RESOURCES DIVISION
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. BOX 44449
BOISE, ID 83711-4449

U.S. DEPT. OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIV.
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

THE TERTELING CO., INC.
Represented by:
CHARLES L. HONSINGER
455 S. THIRD ST.
P.O. BOX 2773
BOISE, ID 83701-2773

OWYHEE MOTORCYCLE CLUB, INC.
Represented by:
JULIE K. FISCHER
5680 E. FRANKLIN RD., ST.E 220
NAMPA, ID 83687

ADA COUNTY COURTHOUSE
200 W. FRONT S.T
BOISE ID 83702-7300

A handwritten signature in black ink, appearing to read "A. Mitchell". The signature is written in a cursive style with a large, looped initial "A" and a stylized "M".

Signature of person delivering form

RECEIVED

MAY 01 2009

DEPARTMENT OF
WATER RESOURCES

**SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
SUBCASE NO. 63-18957**

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources

David R. Tuthill Jr., Director

Donald V. Shaff, Adjudication Bureau Chief

April 30, 2009

I. INTRODUCTION

In accordance with Idaho Code section 42-1412(4), Administrative Order 1, and Special Master Booth's January 30, 2009, Order Denying Motion to Compel; Order Requesting 706 Report / Amended Director's Report from IDWR; Order Setting Scheduling Conference ("Order"), the Director of the Idaho Department of Water Resources ("IDWR" or "Department") submits this Supplemental Director's Report ("Report") Regarding Subcase No. 63-18957, setting forth the basis for the Department's recommendation for this water right. The Report was prepared under the supervision of David R. Tuthill, Jr., Director, and Donald V. Shaff, Adjudication Bureau Chief for IDWR.

As per the Order, IDWR is filing with the Court an Amended Director's Report ("ADR") for this right concurrently with the Report.

The following IDWR employee has knowledge of the information contained in the Report: Vicky Music, Senior Water Resource Agent.

II. BACKGROUND

On September 15, 1989, Owyhee Motorcycle Club, Inc. ("OMC") filed claim number 63-18957 in the SRBA seeking 0.04 cubic feet per second ("cfs") for domestic use and 0.23 cfs for commercial use based on beneficial use of a ground water source. See OMC's Claim, Exh. 1. The claimed domestic use was associated with the clubhouse/home and up to one half acre of irrigation; the commercial use was for the clubhouse and dust control of the motorcycle tracks. See id. OMC claimed December 31, 1958, for the priority date. See id.

On December 16, 2005, IDWR filed its recommendation for water right no. 63-18957 with a March 1, 1963, priority date for 0.04 cfs for domestic and 0.16 cfs for commercial uses, for a total quantity of 0.16 cfs and 142.40 acre feet per annum (“afy”). See Director’s Report for Basin 63 Part II for Irrigation and Other Water Rights, Exh. 2. On April 21, 2006, the Terteling Co., Inc. (“Terteling”) filed an objection as to priority date, quantity and the location of the point of diversion. See Terteling’s Objection, Exh. 3. On June 23, 2006, OMC filed a response to Terteling’s objection. See OMC’s Response, Exh. 4. On February 7, 2007, OMC filed a late objection. See OMC’s Objection, Exh. 5. Special Master Booth issued an order granting OMC’s motion to late objection on February 8, 2007.¹

III. DISCUSSION

A. Investigation and recommendation of priority date.

For SRBA claims, the priority date of a water right, if not based on decree, license or permit, should be the date when the water was first beneficially used on the property. See I.C. § 42-1409. For ground water use after March 25, 1963, the only valid method of appropriation is via permit or license. I.C. § 42-229. All earlier ground water uses could be appropriated based on beneficial use if the claimant could support the earlier date. See generally I.C. §§ 42-229, 1409(1)(d) and 1411(5). Among other ways to prove beneficial use, IDWR accepts documented evidence of priority which can include statements by an

¹ One other objector participated earlier in the subcase. On April 21, 2006, Edwards Family LLC (“Edwards”) filed an objection as to source and quantity, contending the water right should not exist. On June 23, 2006, Edwards filed a response to Terteling’s objection. On the same day, OMC filed a response to Edwards’ objection. On March 26, 2008, the parties filed a stipulation resolving the issues as to Edwards’ objection. The concurrently filed ADR reflects the stipulation.

“old timer” as long as the statements are somehow committed to writing and included in the file.

Vicky Music, Senior Water Resource Agent at IDWR’s Western Region office, was assigned water right no. 63-18957 for review and recommendation. Music conducted the initial claim file review, which included researching for any relevant well logs filed with IDWR, soliciting evidence of priority from the claimant and analyzing aerial photographs of the property.

A well log documents the date the well was drilled, providing evidence of the priority date of the right. Music determined that IDWR did not possess well logs for any wells located upon the claimed property.

IDWR’s initial correspondence with OMC in 1996 and 2001 was frustrated by the lack of a valid address for a current officer or board member. On September 2, 2004, as part of her claim review, Music sent OMC a letter at the then-address of record soliciting evidence of priority, and that letter was returned. Music then conducted an Internet search, found a physical address for OMC and resent the letter. IDWR understands that OMC’s caretaker received the correspondence and forwarded it to then-OMC President, Mike Jackson.

On September 24, 2004, Jackson called Music. During the conversation, Music explained what would constitute evidence of priority. Jackson stated that he would try to contact club members who might have historical knowledge. During this conversation, Jackson stated that it was general knowledge that the OMC had been located on the present site since the 1950s, but during the call he could not provide names and contact information of anyone with personal knowledge of such history.

On January 6, 2005, Music received a letter from Jackson purportedly to prove the priority date. See Jackson's January 6, 2005 letter, Exh. 6. On January 31, 2005, Music called Jackson to inform him the information provided was still insufficient evidence of priority. Jackson stated he would have past or current members with this knowledge contact her directly. Music heard nothing more from OMC until after the Director's Report was filed.

The available aerial photography of the place of use consists of the years 1939, 1964, 1987, 1992, 2000, and 2004. The 1939 photo shows no development on the site. The July 18, 1964, photo shows the presence of a clubhouse on the property as well as a network of motorcycle tracks.² See 1964 aerial photo, Exh. 7. The 1964 photo does not suggest the property was the site of recent construction. See id.

While the available evidence did not support the claimed 1958 date, Music concluded that the well was drilled prior to 1964 because the 1964 aerial photo did not show signs of recent construction and her conversations with Jackson suggested an earlier establishment of use. Music understood OMC's past water use had started as early as March. Mindful of the Ground Water Act as amended, and based on all the evidence available to her, Music recommended a priority date of March 1, 1963.

B. Investigation and recommendation of quantity.

When determining the quantity to recommend for a beneficial use claim, IDWR agents use all available information including measurements, conversations with claimants, and the agent's own research (i.e., searching through well logs). See generally I.C. §§ 42-1410 & 1411. In certain situations, though, a theoretical calculation of the

² IDWR is including a copy of the operative 1964 photo as an exhibit but remains willing to provide copies of the other photos if the Court deems it necessary.

flow and volume is an acceptable substitute for an actual measurement. See IDWR's Director's Memorandum dated November 1, 1990, ("Director's Memo"), Exh. 8. IDWR's adjudication bureau policy³ guides agents that an actual measurement is not necessarily required for a ground water beneficial use claim if the approximate flow rate is less than 0.20 cfs. See id.

On November 19, 2001, IDWR field subcontractor, Intrepid Engineering Services, Inc. ("Intrepid"), conducted a field visit at OMC. As a field subcontractor, Intrepid was responsible for determining the point of diversion via gps. Additionally, if possible, Intrepid was to take quantity measurements if possible, and if not, then to calculate a theoretical flow rate. For its work at OMC, Intrepid took photographs of the well house and the pump controller nameplate and calculated a theoretical flow rate. See Intrepid's Field Exam, Exh. 9. Intrepid assumed an elevation head of 50 feet and a pressure of 60 pounds per square inch ("psi") when calculating the theoretical flow. The theoretical flow calculation yielded 0.16 cfs. Intrepid did not calculate an annual volume.

During her claim investigation, Music sought additional information regarding quantity. She spoke with Jackson and learned OMC used water for dust control on the tracks on race days and about 1 – 2 days prior to each race day. Additionally, Jackson said OMC used water for the caretaker's trailer and irrigated approximately one-half acre outside the trailer. Jackson indicated that the clubhouse restroom has not functioned for several years, and there were about 30 races per year held at the OMC.

For small systems like that of OMC, IDWR does not require a physical measurement; a theoretical flow calculation is sufficient for making a recommendation.

³ This policy is also consistent with IDWR's allocations program policy that measurement devices are not needed for new water rights less than 0.20 cfs.

See Director's Memo, Exh. 8. Moreover, OMC's intermittent commercial use would complicate taking representative measurements. Therefore, Music utilized a theoretical calculation for her volume determination. Music confirmed Intrepid's assumptions were consistent with IDWR's method of calculating theoretical flow. Music determined the assumption about an elevation head of 50 feet was reasonable because IDWR's depth to ground water hydrograph showed the site was in an area of an estimated 50 feet to the water table. See Hydrograph, Exh. 10. The pump controller nameplate shows 5 horsepower which means, assuming the pump controller is sized correctly, that the pump itself is five or less horsepower. See Intrepid's Field Exam, Exh. 9. IDWR uses standard pressures for its theoretical calculations based on the size of the system. OMC's system of four discharge lines most resembles a medium sized irrigation system. For medium sized irrigation systems, IDWR assumes 50-60 psi of pressure. After verifying Intrepid's assumptions and calculation, Music agreed with Intrepid's flow rate calculation and used that as her basis for recommending a commercial quantity of .16 cfs. Music also recommended 0.04 cfs for the domestic use associated with the home/caretaker's trailer. See I.C. § 42-111. The total quantity is not cumulative as OMC's use is limited by the well's capacity, or 0.16 cfs.

Based on Jackson's statements that OMC used water for 30 race days a year plus pre-race days, Music used a total of 60 days for her calculation of the annual volume as shown in the following formula:

$$\frac{(\text{diversion rate})(\text{gallons/minute})(\text{minutes/hour})(\text{hours/day})(\text{\# days water used/year})}{(\text{gallons/acre foot})}$$

When calculated correctly, the resultant volume is.

$$\frac{(0.16 \text{ cfs}) (448.8)(60)(24)(60)}{(325,850)} = \frac{6,204,211 \text{ gallons/year}}{325,850} = 19 \text{ afy}$$

However, Music made a math error when calculating the annual volume and did not realize her mistake until after the Director's Report was filed. Hence, an excessive volume of 142.40 afy was recommended, whereas 19 afy should have been in accordance with the available evidence.

IV. AMENDED DIRECTOR'S REPORT FOR WATER RIGHT NO. 63-18957

Pursuant to the Order and on-record discussion at the January 27, 2009, motion to compel hearing, IDWR presents the following updated basis for its recommendation of the relevant elements in the concurrently filed ADR.

A. Investigation and recommendation of priority date.

After the initial recommendation was filed, sometime prior to June 6, 2006, then current OMC President Bill Henning contacted Music to discuss the OMC claim and objections thereto. On June 6, 2006, Music met with Henning and Eric Steiner, another OMC board member, and discussed the presence of storage tanks on the site, the priority date, recent water usage, and the quantity. OMC's representatives thought there were five tanks on site but were not certain of the tank capacities. They stated that the tracks were watered on race days and 1-2 days before. Henning said he would secure evidence from past or current OMC members to help prove an earlier priority date than recommended. Music informed Henning that if OMC disagreed with IDWR's recommendation that it should file an objection. Music explained the theoretical calculation and that she had made a math error in the annual volume calculation.

Subsequently, OMC retained counsel and said counsel sent Music an additional page of photographs and statements of Guy James, OMC member and former officer. See James page, Exh. 11. Later on, OMC submitted an affidavit of James in support of its motion for late objection. See Affidavit of Guy James (“Affidavit”), Exh. 12. James’ statements in both documents provided evidence of the claimed 1958 priority date which Music found reliable and consistent with the representations made by Jackson, Henning and Steiner. Based on the James’ statements and the Affidavit, the Department is recommending the claimed priority date of December 31, 1958.

B. Investigation and recommendation of quantity.

No party objected to the recommended diversion rate of 0.16 cfs. The only quantity objection was to the annual volume amount. During the objection resolution timeframe, OMC disclosed material details of its operation that support an amended quantity recommendation. In particular for the amended recommendation, Music relied on OMC’s 2008 race schedule and Henning’s deposition testimony regarding the water usage on practice days and descriptions of additional commercial uses to calculate a more realistic annual volume recommendation. See OMC’s 2008 schedule, Exh. 13 and Deposition of 30(B)(6) Witness, William Henning, (“Henning Deposition”), Exh. 14 at 70-74.

The race schedule lists 31 racing events in 2008 for a total of 47 race days. See OMC’s 2008 schedule, Exh. 12. Henning’s deposition testimony clarified that OMC does not water the track during the winter months. See Henning Deposition, Exh.13 at 43-45. Therefore, Music tallied the race events for only the months of March through October. For these eight months, the 2008 racing calendar shows 17 racing events

totaling 30 race days. During March through October, OMC also waters the tracks on Wednesday nights, practice nights for the OMC members.

Based on Henning's statements, Music included in her volume calculation an estimated 1-2 days of water prior to race days for a total of 26 prep days. Music estimated four practice days per month for eight months for a total of 32 days. Taken together, 30 race days plus approximately 26 prep days and 32 practice days totals 88 days. Based on the available information, Music found 88 days was reasonable and representative of a typical year of use given seasonal variation, i.e., earlier/later winter. Using the formula presented in Part III.B, *supra*, Music calculated the annual volume as follows:

$$\frac{(0.16 \text{ cfs})(448.8)(60)(24)(88)}{(325,850)} = \frac{9,099,509.76 \text{ gallons/year}}{325,850} = 27.93 \text{ afy}$$

Therefore, Music is now recommending an annual volume of 27.93 afy for commercial uses.

C. No additional field studies are needed to further determine OMC's historical water use.

Terteling, through its Draft Technical Memorandum, makes several recommendations regarding additional field work required to establish the production capacity of the OMC well and delivery system. See Exhibit A to the Affidavit of Charles L. Honsinger in Support of Motion to Compel in the Court's file. Specifically, Terteling proposes (1) the OMC well pump be pulled to determine the depth at which the pump was set and the make, model and horsepower of the pump, (2) the well's current condition be verified, (3) a temporary water level monitoring tube be installed, and (4) a

pump test be conducted. See id. OMC rejected these recommendations and Terteling suggested an alternative plan, to conduct the pump test only.

IDWR does not believe that the additional field work suggested by the Terteling is necessary. First, IDWR does not believe it is reasonable to require the claimants to pull their well pump because pulling a pump can damage the electrical system.⁴ While pulling the pump might provide more accurate information regarding the horsepower of the pump, IDWR does not believe that additional information justifies the risk to the pump. The horsepower of the pump is listed on the pump controller nameplate of the pump. It is IDWR's standard practice to rely upon pump controller nameplate horsepower rating. IDWR knows of no reason why the pump controller nameplate horsepower rating for this pump should not be relied upon. IDWR also sees little value in requiring a pump test. As discussed above, IDWR does not require pump tests of wells with a flow rate less than 0.20 cfs. See discussion *supra* at Part III.B. Furthermore, for older pumps, a pump test may not be representative of historical diversion rates because of possible pump deterioration. IDWR commonly relies upon a theoretical calculation for older pumps to determine a historic rate of flow. Since IDWR commonly accepts theoretical calculations as sufficient proof of historic rates of flow, IDWR does not believe any additional investigation is necessary.

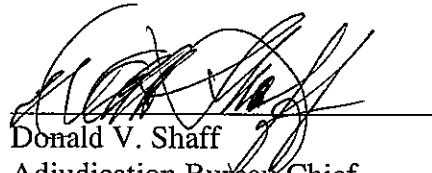
V. CONCLUSION

Evidence of priority submitted after the Director's Report for this right was filed, particularly the James page and his Affidavit, supports the December 31, 1958, priority

⁴ Similarly, for transfers or permits for new licenses, IDWR's allocations program does not require applicants pull their pumps for beneficial use exams nor does it require the proposed enlarged scope of field verification as proposed here by Terteling.

date for water right no. 63-18957. An annual volume recommendation of 27.93 afy is based on Jackson's statements, Henning's deposition testimony and the 2008 OMC race schedule. Because of the evidence obtained after the recommendation, IDWR recommends that Special Master Booth adopt IDWR's concurrently filed ADR for water right no. 63-18957.

Respectfully submitted this 30th day of April, 2009.



Donald V. Shaff
Adjudication Bureau Chief

EXHIBIT 1

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-18957
Date Received: 9/15/1989
Receipt No: W005966
Received By: Rch

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: OWYHEE MOTORCYCLE CLUB INC. 208-888-7357
Address: C/O RICK HENSON
P.O. BOX 733
BOISE, ID 83701

2. Date of Priority: DEC 31, 1958

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	02E	15	SW	SE			ADA

5. Description of diverting works:
120'D., 8" CAS., SUB. PUMP,P. TO CLUB HS/DOM. HOME/SPR. SYS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
COMMERCIAL	01/01	12/31	0.230		

7. Total Quantity Appropriated is:
0.270 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC 1 HOME/CLUB HS, COMM. USE IS FOR WATERING TRACK(S)

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	02E	15	SE	SW		COMMER	

A63-18957

Page 1

Date: 09/15/89

MICROFILMED
SEP 01 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	02E	15	SW	SE		DOMEST	
			SW	SE		COMMER	

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:
COMMERCIAL USE IS FOR CLUB HS. & WATERING OF TRACKS
DOMESTIC USE INCLUDES UP TO 1/2 ACRE OF IRRIGATION WITH HOME.
HOME IS COMBINED WITH CLUB HS.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am TREASURER of
Title
OWYHEE MOTORCYCLE CLUB, that I have signed the foregoing
Organization
document in the space below as TREASURER of
Title
OWYHEE MOTORCYCLE CLUB and that the statements contained in the
Organization
foregoing document are true and correct.

Vernon Carabidge
Signature of Authorized Agent

TREASURER OWYHEE MOTORCYCLE CLUB
Title and Organization

9/15/89
Date

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 15th day
of Sept 19 89

Ron Howerton
Notary Public

Seal

Residing at Ron Howerton
Residing at Boise, Idaho
My Commission Expires December 8, 1994



EXHIBIT 2

12/12/2005

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-18957

NAME AND ADDRESS: OWYHEE MOTORCYCLE CLUB INC
6600 CARTRIGHT RD
BOISE ID 83703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.160 CFS
142.40 AFY

The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/01/1963

POINT OF DIVERSION: T04N R02E S15 SWSE Within ADA County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS
COMMERCIAL	01/01 12/31	0.160 CFS 142.40 AFY

COMMERCIAL USE IS FOR CLUB HOUSE & WATERING OF TRACKS FOR DUST CONTROL ASSOCIATED WITH A MOTORCYCLE CLUB.

DOMESTIC USE IS FOR 1 HOME AND CLUBHOUSE ASSOCIATED WITH A MOTORCYCLE CLUB AND INCLUDES UP TO 1/2 ACRE OF IRRIGATION .

PLACE OF USE: COMMERCIAL Within ADA County

T04N R02E S15 SESW T04N R02E S15 SWSE

DOMESTIC Within ADA County

T04N R02E S15 SWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

PARCEL NO. S0615348400.

EXHIBIT 3

**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

Case No. 39576

A. Subcase 63-18957

(Insert water right no.)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: THE TERTELING CO INC.

Address: 3823 North 36th Street
Boise, Idaho 83703

Daytime Phone: 208 338-5200

Name & Address of Attorney, if any:

Charles L. Honsinger
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS'S REPORT

Name: OWYHEE MOTORCYCLE CLUB, INC.

Address: 6600 CARTWRIGHT ROAD
Boise, Idaho 83703

COPY

D. I object to the following elements as recommended in the Director's Report. (Please check the Appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: Only domestic quantity
4. ☒ **Priority Date**
Should be: Only domestic priority
5. ☒ **Point(s) of Diversion**
Should be: Is recommended in the incorrect 1/4 1/4 section
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION (S):** There is insufficient evidence to establish the priority date recommended. Point of Diversion is in wrong 1/4 1/4 section.

F.

VERIFICATION (must be completed)

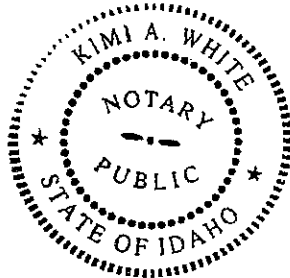
State of Idaho)
) ss.
County of Ada)

Charles L. Honsinger, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I. C. §§ 42-1401A (1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Charles L. Honsinger
Charles L. Honsinger

Subscribed and sworn to before me on: April 19, 2006



Kimi A. White
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 04/01/10

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will no be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on April 20, 2006, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. **Original to:**

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707
2. One copy to the Claimant of the water right at the following address:

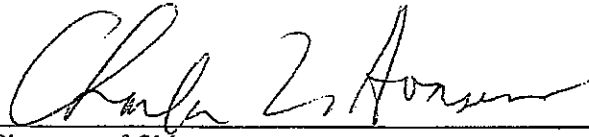
Name: OWYHEE MOTORCYCLE CLUB, INC.

Address: 6600 CARTWRIGHT ROAD
Boise, Idaho 83703
3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Signature of Objector or attorney
mailing on Objector's behalf

EXHIBIT 4

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)

Case No. 39576)

A. Subcase 63-18957

(Insert water right number
From the Objection Form)

**STANDARD FORM 2
RESPONSE TO OBJECTION**

Please **print or type** the following information

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Owyhee Motorcycle Club, Inc.

Address: 9100 W. Halstead Dr.

Boise, ID 83704

Daytime Phone: 208-466-9272

Name & Address of Attorney, if any:

Julie Klein Fischer

White Peterson, P.A.

5700 E. Franklin Rd., #200

Nampa, ID 83687

**C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING**

Name: The Terteling Co., Inc.

Address: 3823 North 36th Street

Boise, ID 83703

 **COPY**

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

- 1 ☐ Name and Address
- 2 ☐ Source
- 3 ☒ Quantity
- 4 ☒ Priority Date
- 5 ☒ Point(s) of Diversion
- 6 ☐ Instream Flow Description
- 7 ☐ Purpose(s) of Use
- 8 ☐ Period of Year
- 9 ☐ Place of Use

11 **Recommendation**

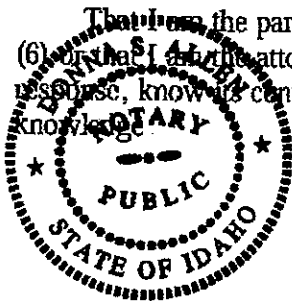
- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **VERIFICATION** (Must be Completed)

State of Idaho)
) ss.
County of Canyon)

Julie Klein Fischer, duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.



(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on June 22, 2006

Denise J. Allen
Notary Public for Idaho

Residing at: Nampa

My Commission Expires: 07-19-09

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on June 22, 2006, ~~1999~~, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2 One copy to the claimant of the water right at the following address:

Name: Owyhee Motorcycle Club, Inc.
Address: 9100 W. Halstead Dr., Boise, ID 83704

3 One copy to the party who filed the objection at the following address:

Name: The Terteling Co., Inc.
Address: Charles L. Honsinger, Ringert Clark Chartered, PO Box 2773,
Boise, ID 83701

4. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

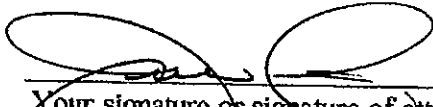

Your signature or signature of attorney
mailing on your behalf

EXHIBIT 5

**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

Case No. 39576

A. Subcase 63-18957

(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Owyhee Motorcycle Club, Inc.

Address: 9100 W. Halstead Dr.

Boise, ID 83704

Daytime Phone: 208-466-9272

Name & Address of Attorney, if any:

Julie Klein Fischer, White Peterson, P.A.

5700 E. Franklin Road, #200

Nampa, ID 83687

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Owyhee Motorcycle Club, Inc.

Address: Julie Klein Fischer, White Peterson, P.A.

5700 E. Franklin Rd., #200, Nampa, ID 83687

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: 1958
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
 - ☐ This water right Should not exist.
 - ☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): See attached Motion to File Late Objection.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Canyon)

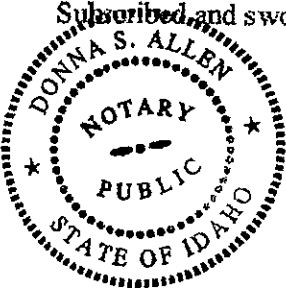
Julie Klein Fischer, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

[Signature]
(Signature of person filing objection)

[Signature]
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: February 8, 2007



Donna S. Allen
Notary Public for Idaho

Residing at: Nampa

My Commission Expires: 7/19/09

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on February 4, 200 7, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Owyhee Motorcyle Club, Inc.

Address: 9100 W. Halstead Dr.

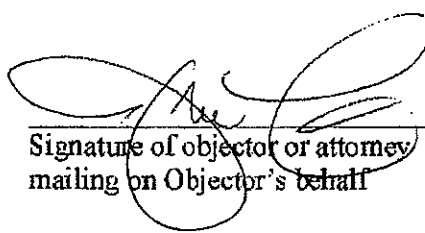
Boise, ID 83701

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

EXHIBIT 6

RECEIVED

JAN 07 2005

WATER RESOURCES
WESTERN REGION

January 6, 2005

Mike Jackson
23304 Lansing Lane
Middleton ID 83644

Department of Water Resources
2735 Airport Way
Boise ID, 83705-5082
Fax: 334-2348
Attn: Vicky L. Music

Dear Vicky,

As per our phone conversation we, the Owyhee Motorcycle Club Board Members, contacted some of the past club members from the 50's, 60's and 70's to check on changes with any water uses and no one knew of any major changes in how we have used our water.

I personally contacted past members, including Lew Alter, Dean Husky, Al Russel and Ken Krist and found they could not recall any changes in water usage.

I apologize for the lateness of this letter, but I didn't receive your letter until November, and it took some time to track down the past members who have since retired or moved on.

Sincerely,



Mike L. Jackson
O.M.C. Club President

EXHIBIT 7

7-18-64

OH 6DD-106

Z2



EXHIBIT 8

DIRECTOR'S MEMORANDUM

TO: Regional Offices, Water Allocation Bureau and Adjudication
Bureau and Adjudication Bureau

FROM: R. Keith Higginson

RE: Rate of Flow and Volume for Water Rights With Source of
Ground Water

DATE: November 1, 1990

Application Processing No. 51
Permit Processing No. 16
Adjudication Memo No. 31

A review of field examination procedures relative to measurement of rate of flow for diversions from ground water has resulted in the identification of certain water uses for which a theoretical computation is an acceptable substitute for measurement of rate of flow. The purpose of this memorandum is to describe situations where utilization of the theoretical computation is permissible.

The determination of which situations require measurement of rate of flow for a ground water right is outlined in Appendix 1. The procedure for determining rate of flow is described in Appendix 2. This memorandum shall be the authority for removal of flow measurement requirements from water right permits that are shown by Appendix 1 not to require measurement.

This procedure applies to rate of flow determinations for the preparation of water right licenses and adjudication Director's Reports.

Appendix I - Flow Chart for Determining if Flow Measurement is
Required

Appendix 2 - Procedure for Determining Rate of Flow

APPENDIX I FLOW CHART FOR DETERMINING IF FLOW MEASUREMENT IS REQUIRED Attached

Procedure for Determining Rate of Flow (Cont.)

3. H is computed as the sum of the dynamic lift (elevation distance between water surface during pumping and location of pressure reading) and the pressure head at the pump, computed as 2.31 times the pressure in psi.

c. Procedure:

1. Determine HP from motor nameplate.
2. Determine dynamic pumping level (water level during pumping), based on a **combination** of at least two of the following:
 - a. Discussions with well owner.
 - b. Measurement with a steel tape, pressure tube, or electric well probe (plus a drawdown factor).
 - c. Information from exams conducted on nearby wells, if in a homogeneous aquifer, (including the amount of anticipated drawdown).
 - d. Information provided on a well log, particularly where the well driller shows pump test data with discharge and draw down.
 - e. Information from water level contour maps, such as in the Snake Plain Aquifer.
3. Measure pressure of mainline near the pump, or estimate this pressure based on the type of operating system (high pressure pivot, open discharge, etc.).
4. Compute the theoretical rate of flow.

d. Example:

An irrigation system is found to have a 50 HP motor, a dynamic depth to water of 100 feet, and a pressure of 80 psi near the pump.

APPENDIX I

FLOW CHART FOR DETERMINING IF FLOW MEASUREMENT IS REQUIRED

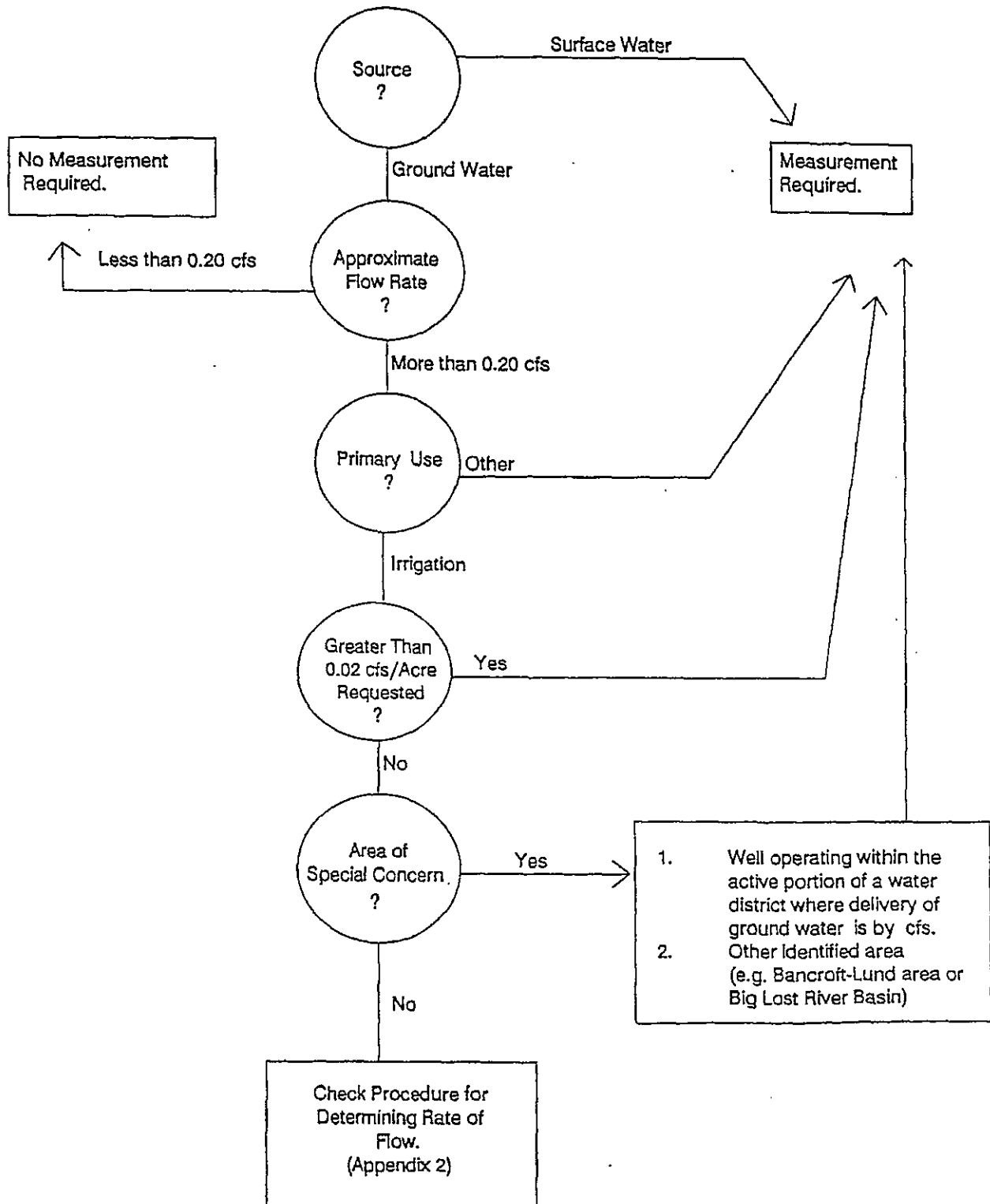


EXHIBIT 9



IDAHO DEPARTMENT OF WATER RESOURCES

SNAKE RIVER BASIN ADJUDICATION - BASIN 63



RIGHT ID 63 18957
POD ID 175079
Quad Boise North 2
Claim Type Large
Easting 322713
Northing 288581
GPSID A00092

Diversion Description

120'D., 8" CAS., SUB. PUMP, P. TO CLUB HS/DOM. HOME/SPR. SYS.

Assumptions

Elevation head.

Invoice #

2000-055-01

Phase-0 (No Attention)
Phase-I (Ready to Go to Field)
Phase-II (Site Visit - Data Missin
Phase-III (Complete w/issues)
Phase-IV (Total Complete)

Linked

Photos\175079a.JPG

Photos

Photos\175079b.JPG

EPE (ft)

17

Date (M/D/Y)

11/19/01

Time

10.21

Flow Rate (CFS)

0.16

Open Channel Flow

☐ Complete one box from both Area and Calculation sections

Cross Sectional Area

☐ Circular Channel

- ☐ Less than half full
☐ Half full
☐ More than half full
☐ Full

Diameter 0

Depth 0

☐ Rectangular Channel

Width 0

Depth 0

Flow Calculation

☐ Continuity

Velocity

0

☐ Orifice

(Use only for head over a pipe flowing full with free discharge)

Depth of Water above orifice centerline 0

☐ Weir

(Use only for water flowing freely over weir)

Height of water above nappe 0

Width of weir 0

☐ Manning (If used, include photo of representative channel section)

Channel Slope

Channel Description

Concrete lined .016
Smooth earth .025
Earth .033
Rough bed, weeds on sides .04
Smooth natural stream .033
Rough natural stream .1

Pumped System ☒

HP 5

Pressure Head (psi) 60

Elevation Head (ft) 50

Motor Mfg see photos

Motor Serial # see photos

Pump Type Submersible

Pump Mfg see photos

Pump Serial# see photos

New Contact Information ☐

New Contact Comments

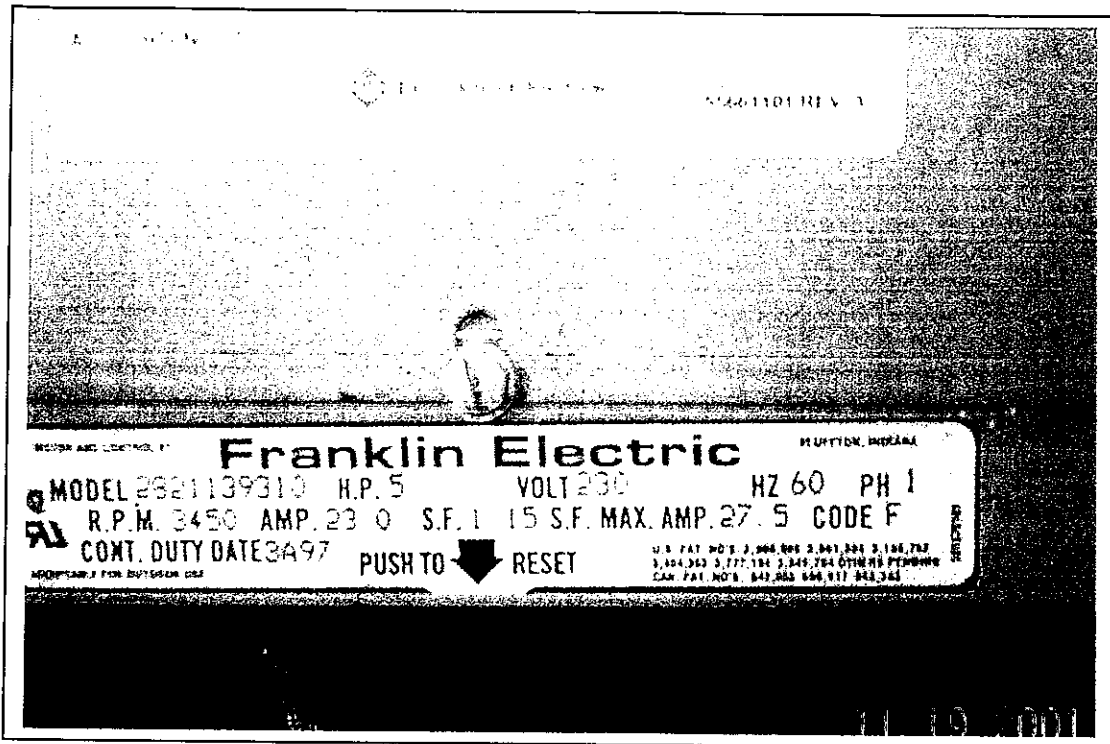
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INTREPID
Engineering Services, Inc. (IES)
Enabling People and Solutions

RIGHT ID

63 18957



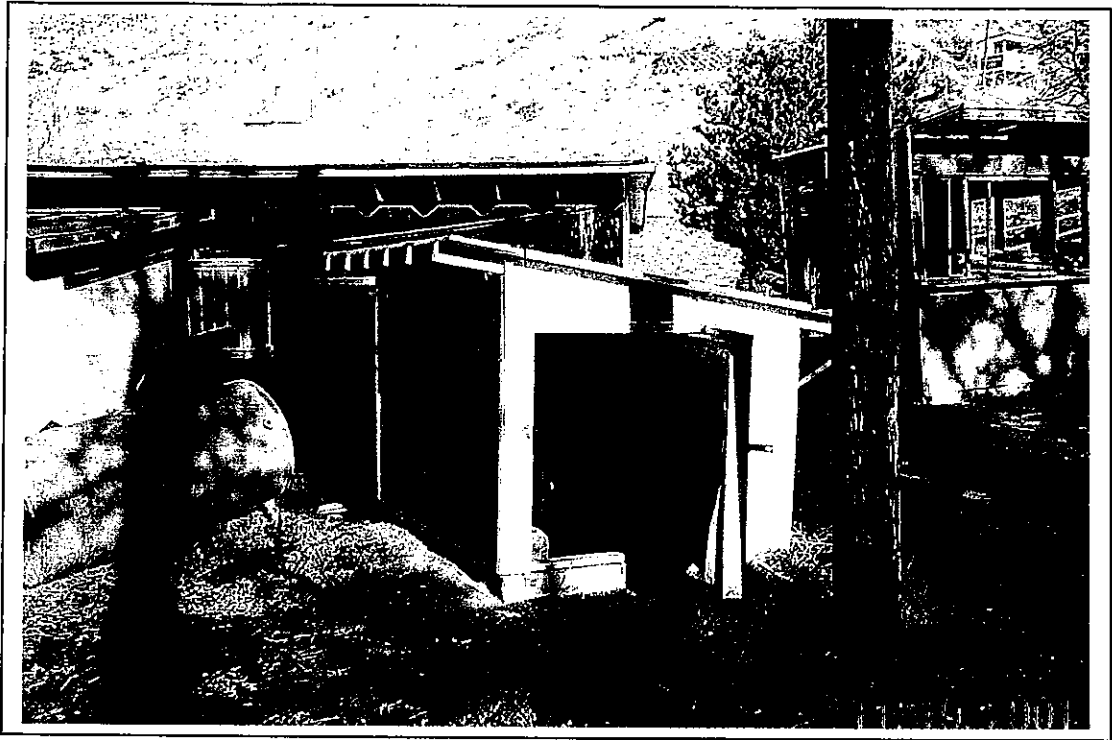
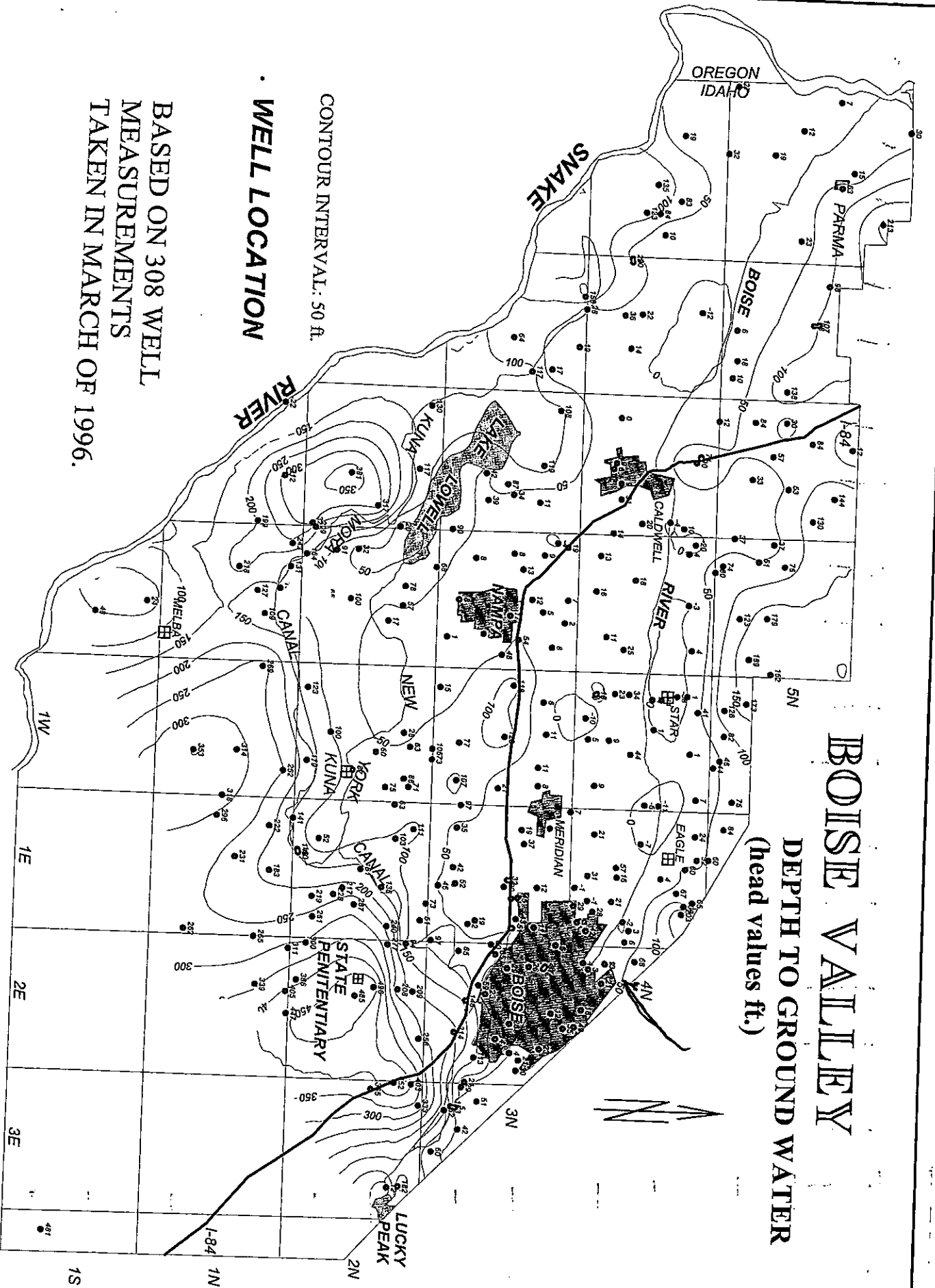


EXHIBIT 10

BOISE VALLEY DEPTH TO GROUND WATER (head values ft.)



CONTOUR INTERVAL: 50 ft.

WELL LOCATION

BASED ON 308 WELL
MEASUREMENTS
TAKEN IN MARCH OF 1996.

EXHIBIT 11

Guy James

10400 W. Granger
Boise 83704
208-323-0913

Boise resident = 70 years

At Current Address = 21 years

Owyhee Motorcycle Club
offices held:

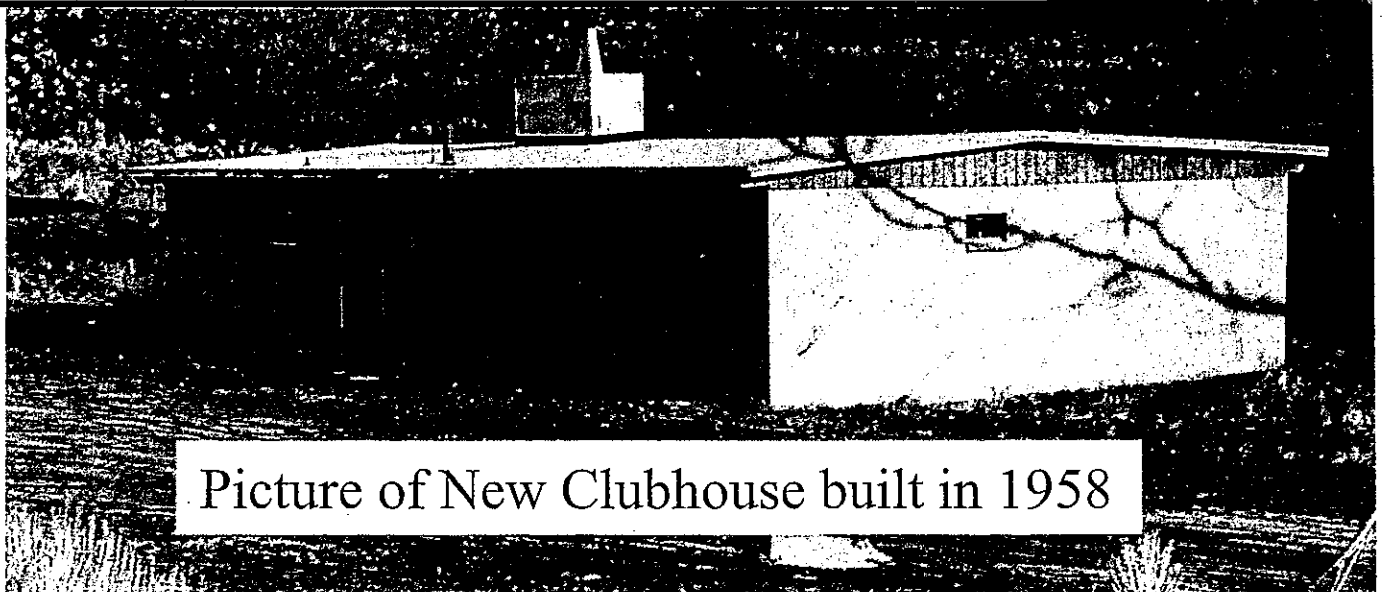
1957-1958 Treasurer; Ron DeShambo-President
1959-1964 Vice President under Bill Dunn
1968 Club President
1969-1979 Club Referee



Photo taken July 18, 2006

"I remember the building of our new clubhouse in 1958. We used the new well located just behind and to the North to get the water needed to mix the concrete we used to pour the floor with"

Guy James



Picture of New Clubhouse built in 1958

EXHIBIT 12

Julie Klein Fischer
WHITE PETERSON, P.A.
5700 East Franklin Road, Suite 200
Nampa, Idaho 83687-7901
Telephone: (208) 466-9272
Facsimile: (208) 466-4405
ISB Nos. 4601, 5850, 6559
jkl@whitepeterson.com

Judy L. Geier
EVANS KEANE, LP
PO Box 959
Boise, ID 83701-0959
Telephone: (208) 384-1800
Facsimile: (208) 345-3514
ISB No. 6559
jgeier@evanskeane.com

Attorneys for Owyhee Motorcycle Club, Inc.

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

In Re SRBA	)	A. Subcase No. 63-18957
	)	
Case No. 39576	)	AFFIDAVIT OF GUY JAMES
	)	

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

GUY JAMES, Being first duly sworn deposes and says:

1. This affidavit is being submitted as evidence of priority for Water Right No. 63-18957, Owyhee Motorcycle Club, Inc.

2. The facts contained herein are based on my own personal knowledge.

3. I have been a Boise resident for 70 years.

4. I held many offices of the Owyhee Motorcycle Club. These offices included Treasurer from 1957 to 1958; Vice President from 1959 to 1964; 1968 Club President; and 1969 to 1979 Club Referee.

5. In 1958 we built the clubhouse for Owyhee Motorcycle Club.

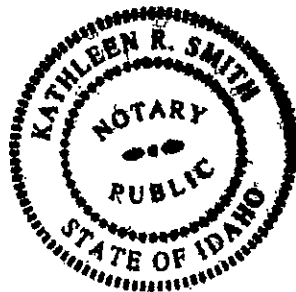
6. We used the new well located just behind and to the north to get the water needed to mix the concrete used to pour the floor for the clubhouse.

FURTHER YOU AFFIANT SAYETH NAUGHT.

DATED this 15th day of December, 2006.

Guy James
GUY JAMES

SUBSCRIBED AND SWORN TO Before this 15th day of December, 2006.



Kathleen R. Smith
NOTARY PUBLIC FOR IDAHO
My commission expires: 6/28/08

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 6 day of February December, 2006, a true and correct copy of the above and foregoing document was served upon the following by:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

X

US Mail
Overnight Mail
Hand Delivery
Facsimile X

Chief, Natural Resources Division
Office of the Attorney general
State of Idaho
PO Box 44449
Boise, ID 83711-4449

X

US Mail
Overnight Mail
Hand Delivery
Facsimile X

Edwards Family LLC
c/o Dana Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702

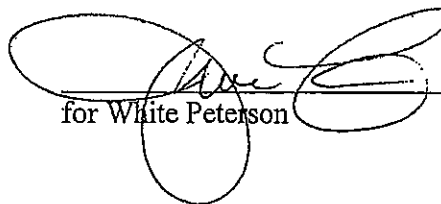
X

US Mail
Overnight Mail
Hand Delivery
Facsimile X

The Terteling Co. Inc.
c/o Charles L. Honsinger
Ringert Clark Chartered
PO Box 2773
Boise, ID 83701

X

US Mail
Overnight Mail
Hand Delivery
Facsimile X



for White Peterson

EXHIBIT 13

EXHIBIT 14

1 A. No.

2 Q. Now, you only use the commercial
3 water -- in my understanding is during the
4 summertime; is that correct?

5 A. Yes.

6 Q. Okay. During what period of year do
7 you start using the commercial water?

8 A. It depends on Mother Nature.

9 Q. Okay. So when it's hot and dry out,
10 and that might be April? You would start using
11 water as early as April?

12 A. It's subjective. I guess it could be.

13 Q. Have you started using water as early
14 as April?

15 A. Possibly.

16 Q. But you are not sure?

17 A. Yes.

18 Q. Have you used water as late as
19 November?

20 A. No.

21 Q. No.

22 A. I don't -- well, based on my time, and
23 what I know, no.

24 Q. Okay.

25 A. I don't have any recollection --

1 Q. That's all I'm asking you.

2 A. -- I don't have any recollection beyond
3 my membership.

4 Q. I'm not asking you what happened -- if
5 you don't know the answer, I'm not asking you
6 that. Okay? I'm asking you in your recollection
7 and in your term as a member here.

8 A. Mm-hmm.

9 Q. All right. So you don't recall using
10 water as late as November; right?

11 A. I do not.

12 Q. How about October?

13 A. I don't know. My job is not
14 maintaining the track.

15 Q. I understand. But you know for sure
16 it's not November?

17 A. I do.

18 Q. How is it that you know for sure it's
19 not November, but you are not sure about October?

20 A. Because they get -- I'm basing it on
21 the weather. They get the sprinklers blown out,
22 so they don't freeze.

23 Q. Right now it's March 20th. Are you
24 planning on using water to sprinkle the tracks
25 any time soon?

1 A. I didn't -- it depends on Mother Nature
2 I don't know.

3 Q. Are you prepared to do so? Have you
4 blown out your -- have you got the sprinkler
5 system ready to do so?

6 A. We are prepared.

7 Q. Okay. During the summer when you do
8 use the sprinkler system for watering the tracks,
9 how many days a week do you do that?

10 A. Only on race events.

11 Q. And how many race events do you have
12 each week?

13 A. It depends on the schedule.

14 Q. Okay. Typically, how many race events
15 do you have over a summer?

16 A. Two races a month.

17 Q. Two races a month. Okay. And is that
18 starting in June?

19 A. If you are asking me a question
20 specific to sprinkling the track, you need to be
21 more specific.

22 Q. Well, you've told me that you only
23 sprinkle a track during race events; right?

24 A. When the weather requires it.

25 Q. Okay.

1 Q. Person?

2 A. Derrick Personette.

3 Q. Does Mr. Dougherty have information
4 regarding the use of water?

5 A. Mike Dougherty might have some
6 information.

7 MR. HONSINGER: I don't think I have
8 any other questions. I'm waiting for your
9 counsel to see if she has any questions here.

10 EXAMINATION

11 QUESTIONS BY MS. KLEIN FISCHER:

12 Q. I have a couple of questions, Bill.
13 You testified that the track was watered during
14 events?

15 A. Yes.

16 Q. Are there practices that also sometimes
17 warrant watering the track?

18 A. There are.

19 Q. And tell me about that. What
20 practices?

21 A. During the summertime the Club is
22 opened for members only to practice on
23 Wednesdays. And we do water the motor-cross
24 track only during those Wednesday practices.

25 Q. We talked about the vehicles, the cars

1 coming in and out of the Club. Do you also use
2 the water available at Owyhee Motorcycle Club to
3 sprinkle or wet down the road for ingress and
4 egress?

5 A. We have a water truck that we do dust
6 control as well on the road in and out, yes.

7 Q. Okay. We talked a little bit about
8 using the water at the Club to wash off bikes,
9 presumably, you know, during an event or when
10 folks are riding. How many spigots are available
11 to wash bikes?

12 A. There are two spigots. One that is
13 primarily used, and one that is actually on the
14 caretaker's yard. And we try to not use that
15 one, but it does get used.

16 Q. The spigot at the caretaker's yard is
17 occasionally used to wash off bikes?

18 A. Yes.

19 Q. And then there is another one
20 designated for that purpose?

21 A. Yes.

22 Q. And are those spigots available to
23 folks at all times while they are out riding?

24 A. Yes.

25 Q. Mr. Honsinger asked you a few questions

1 about why you had been designated, because there
2 were some things that you just didn't know about
3 the water right.

4 And my question to you is simply this:
5 Out of the folks available that are members of
6 the Owyhee Motorcycle Club now, does anyone know
7 more about these proceedings in general and the
8 general system than you?

9 A. The proceedings in general, no. A lot
10 of people have a lot of tiny tidbits of
11 information. And I believe at this time, that I
12 have the most collective information to hopefully
13 accomplish what we're after.

14 MS. KLEIN FISCHER: Okay. Fair enough.
15 That's all the questions I have.

16 MR. HONSINGER: I have a couple
17 follow-ups.

18 FURTHER EXAMINATION
19 QUESTIONS BY MR. HONSINGER:

20 Q. Your counsel asked you a couple
21 questions about a water truck.

22 A. Yes, sir.

23 Q. I believe she asked you a question
24 about ingress and egress, and you specified the
25 use of a water truck. All right. So you fill up

1 that water truck with water from the pump, I
2 assume?

3 A. Yes.

4 Q. From the well?

5 A. Yes.

6 Q. And you run it down. And I assume it's
7 got sprinklers on the back similar to road trucks
8 you see around here?

9 A. Very rudimentary. We use it rarely.
10 It actually has a pipe across the back, and it
11 has just simply some holes drilled in the bottom
12 of it. It's not a technology today type vehicle
13 that has the ability to actually spray water like
14 a water truck would spray. So, no.

15 Q. How long has that truck been around?

16 A. I don't know the answer to that.

17 Q. Was it present when you became a
18 member?

19 A. Yes, sir.

20 Q. Okay. What year was the truck
21 manufactured?

22 A. It's very old. I don't know.

23 Q. Very old. Is it possible that it's
24 been around for 30 or 40 years?

25 A. I don't know the answer to that

1 question.

2 Q. Okay.

3 A. There is a grader up there that is
4 probably equally as old that they bought not too
5 many years ago. So I don't know.

6 Q. Is it working now? Is the water truck
7 working now?

8 A. It worked last winter -- or last
9 summer.

10 Q. Okay.

11 A. So I would presume that today it would.

12 Q. And is it a red truck; do you know?

13 A. It's an off-red, like a deep burgundy.

14 Q. Okay. Do you know whether or not that
15 truck has ever been filled at a fire hydrant
16 outside of the Owyhee Motorcycle Club?

17 A. I do not know that.

18 MR. HONSINGER: I don't think I have
19 any other questions.

20 MS. KLEIN FISCHER: Nothing else for
21 me.

22 MR. HONSINGER: We're done.

23 (Deposition concluded at 1:22 p.m.)

24 (Signature requested.)

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