

63-78957

MORROW & FISCHER
ATTORNEYS AT LAW

332 N. Broadmore Way, Ste. 102
Nampa, Idaho 83687
208-475-2200
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www.morrowfischer.com

November 27, 2009

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NOV 30 2009
DEPARTMENT OF
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IDWR Document Depository
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Boise, ID 83720-0098

Re: Owyhee Motorcycle Club

Copies enclosed:

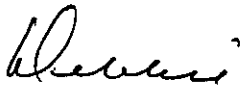
- ☐ For you to fill out. Please complete form and return to my office.
- ☒ For your information.
- ☐ For filing. Please file the original document and return the conformed copy in the envelope which we have provided.

REMARKS:

Enclosed please find a copy of the following documents:

1. Owyhee Motor Cycle Club's Motion for Attorneys' Fees and Costs.

Please call if you have any questions.



Debbie R. Howard
Legal Assistant

T:\Clients\O\Owyhee Motorcycle Club 22151.000\Correspondence\Transmittal 11.27.09.

Julie Klein Fischer
MORROW & FISCHER, PLLC
332 North Broadmore, Suite 102
Nampa, Idaho 83687
Telephone: (208) 475-2200
Facsimile: (208) 475-2201
ISB No.: 4601
jfischer@morrowfischer.com

RECEIVED

NOV 30 2009

DEPARTMENT OF
WATER RESOURCES

Attorneys for Owyhee Motorcycle Club

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 39576

) SUBCASE NO. 63-18957
)
)

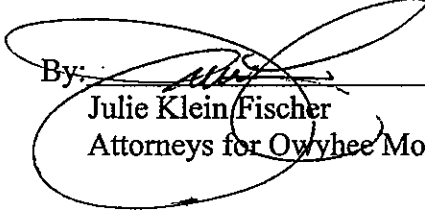
) OWYHEE MOTOR CYCLE
) CLUB'S MOTION FOR
) ATTORNEYS' FEES AND COSTS
) (Re: Terteling Co., Inc.)
)
)

COMES NOW, Owyhee Motorcycle Club, Inc. ("OMC") through its attorney of record, Julie Klein Fischer of the law firm Morrow & Fischer, PLLC and moves this court for an order requiring the Terteling Co., Inc. to pay OMC's attorneys fees and costs incurred in defending this matter. This Motion is made pursuant to Idaho Code § 12-121 and is supported by the *Memorandum of Fees and Costs and Affidavit of Attorney*, as well as OMC's *Legal Memorandum in Support of Fees and Costs*, filed herewith. This Motion also is supported by the file, record and other pleadings on file in this matter.

COPY

DATED this 25th day of November, 2009.

MORROW & FISCHER, PLLC

By: 

Julie Klein/Fischer

Attorneys for Owyhee Motorcycle Club

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 25 day of November, 2009, a true and correct copy of the above and foregoing document was served upon the following by:

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

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Edwards Family LLC
c/o Dana Hofstetter
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, ID 83702

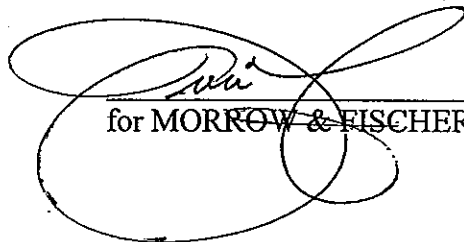
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The Terteling Co. Inc.
c/o Charles L. Honsinger
RINGERT LAW.
455 S. Third Street
P.O. Box 2773
Boise, ID 83701-2773

☒
☐
☐
☐

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Facsimile X to 342-4657


for MORROW & FISCHER, PLLC

DEPARTMENT OF
WATER RESOURCES

Attorneys for Owyhee Motorcycle Club

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

**MEMORANDUM OF COSTS AND
ATTORNEY FEES AND
AFFIDAVIT OF ATTORNEY**

COMES NOW, Owyhee Motorcycle Club, Inc. ("OMC") through its attorney of record, Julie Klein Fischer of the law firm of Morrow & Fischer, PLLC, and hereby states that the following fees and costs have been incurred in the above-entitled case:

A. Costs as a Matter of Right - I.R.C.P. 54(d)(1)(C)

1.	Deposition Reporting and Transcribing Fees	<u>597.85</u>
	Total Costs as a Matter of Right	\$597.85

B. Discretionary Costs - I.R.C.P. 54(d)(1)(D)

1.	Copy Charges	77.15
2.	Postage Charges	22.48
3.	Courier Fees	20.00
4.	Consulting Fees – ERO Resources Corp.	2,858.25
	Total Discretionary Costs	\$2,977.88

TOTAL COSTS

\$3,575.73

II. ATTORNEY FEES - IDAHO CODE § 12-121; IRCP 54 and 54(e)

A. Hourly Fees

OMC engaged counsel on an hourly fee plus cost basis for representation in this matter. Idaho Rule of Civil Procedure 54(e)(3) allows the Court to consider “whether the fee is fixed or contingent” as a factor in determining the amount of attorney fees to be awarded. I.R.C.P. 54(e)(3)(E).

OMC provides, as Exhibit “A,” a true and correct copy of the billing entries for attorney fees incurred by Plaintiffs from June 6, 2006 through June 2009. The attorney fees charged, and the non-taxable costs incurred, were reasonably and necessarily incurred in the handling of the present action. Additionally, the attorney and paralegal fees are correct and reflect actual work performed by members of White Peterson, P.A., Morrow Dinius, and Morrow & Fischer, PLLC.

The legal practitioners who spent time working on this matter and their corresponding hourly rates are listed below. On Exhibit “A,” the timekeepers are identified by initials or number only.

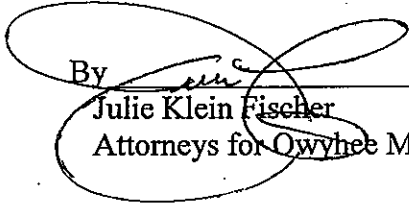
<u>Initials</u>	<u>Attorneys/Legal Assistants</u>	<u>Hourly Rate</u>
JKF (3)	Julie Klein Fischer – Attorney, Partner	\$175.00-225.00
JMV	James M. Vavrek - Attorney, Associate	\$125.00
LT (7)	Laura Terrazas - Paralegal	\$100.00
DA	Donna Allen – Paralegal	\$90.00
CG	Chelsea Greene – Legal Assistant	\$75.00
CB	Cindy Bishop – Legal Assistant	\$25.00-40.00

TOTAL FEES, HOURLY (as compiled on Exhibit A): **\$11,932.00**

TOTAL COSTS AND ATTORNEY FEES, HOURLY **\$15,507.73**

DATED this 25 day of November, 2009.

MORROW & FISCHER, PLLC

By 
Julie Klein Fischer
Attorneys for Owyhee Motorcycle Club

AFFIDAVIT OF ATTORNEY

STATE OF IDAHO)
 : ss.
County of Canyon)

Julie Klein Fischer, being first duly sworn, deposes and says:

1) I am an attorney licensed to practice law in the state of Idaho and am a member of the Morrow & Fischer, PLLC law firm in Nampa, Idaho. I previously was a partner in the law firms of White Peterson, PA, and Morrow Dinius & Fischer, PLLC.

2) I am one of the attorneys representing the OWYHEE MOTORCYCLE CLUB (“OMC”), in the above entitled matter.

3) As one of the attorneys for OMC, I am familiar with the records and method of timekeeping utilized by the firms of White Peterson, Morrow Dinius, and Morrow & Fischer.

4) To the best of my knowledge and belief, the items of cost set forth above are correct, were necessarily and reasonably incurred, and are in compliance with Rule 54(d) of the Idaho Rules of Civil Procedure. The discretionary costs identified above were necessary and exceptional costs reasonably incurred and should, in the interest of justice, be assessed against The Terteling Co., Inc. as contemplated in Rule 54(d)(1)(D) of the Idaho Rules of Civil Procedure.

5) The attorney fees requested by OMC are set forth in Exhibit "A" attached hereto and incorporated herein by this reference. To the best of my knowledge and belief the information contained in Exhibit "A" is correct and in compliance with Rules 54(d) and Rule 54(e) of the Idaho Rules of Civil Procedure.

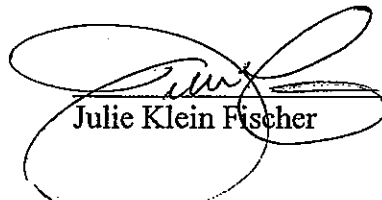
6) The attorney fees requested by OMC are reasonable and were necessarily and justifiably incurred. In addition, the rates charged are consistent with comparable service and rates for someone of my experience in the Third, Fourth and Fifth Judicial District Courts of the State of Idaho.

9) The paralegal fees requested by OMC also are reasonable and were necessarily and justifiably incurred.

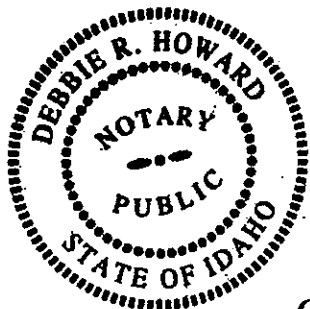
10) Attached hereto as Exhibit "B" is a true and correct copy of a letter from Julie Klein Fischer to Charles Honsinger dated June 4, 2008.

11) Attached hereto as Exhibit "C" is a true and correct copy of ERO Resources report prepared in this matter for OMC.

DATED this 25 day of November, 2009.


Julie Klein Fischer

SUBSCRIBED AND SWORN TO before me this 25th day of November, 2009.



Debbie R. Howard
Notary Public for Idaho
My Commission Expires: 7/22/2014

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the ____ day of November, 2009, a true and correct copy of the above and foregoing document was served upon the following by:

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

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c/o Dana Hofstetter
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, ID 83702

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The Terteling Co. Inc.
c/o Charles L. Honsinger
RINGERT LAW.
455 S. Third Street
P.O. Box 2773
Boise, ID 83701-2773

☒

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[Signature]
for MORROW & FISCHER, PLLC

Exhibit A

Detail Cost Transaction File List

Client		Trans Date	Tmkr	H P	Tcd	Rate	Amount	Ref #
Client ID 22151.000 Owyhee Motorcycle Club, Inc.								
22151.000	06/04/2008	3	A	51			0.20 Photocopy charges	ARCH
22151.000	06/05/2008	3	A	51			0.10 Photocopy charges	ARCH
22151.000	06/05/2008	3	A	53			0.42 Postage	ARCH
22151.000	06/11/2008	3	A	51			1.80 Photocopy charges	ARCH
22151.000	06/11/2008	3	A	51			0.10 Photocopy charges	ARCH
22151.000	06/11/2008	3	A	53			0.59 Postage	ARCH
22151.000	06/13/2008	3	A	51			0.60 Photocopy charges	ARCH
22151.000	06/18/2008	3	A	51			0.10 Photocopy charges	ARCH
22151.000	06/18/2008	3	A	53			0.59 Postage	ARCH
22151.000	06/26/2008	3	A	73			48.50 Outside professional fee ERO Resources Corp.	ARCH
22151.000	07/25/2008	3	A	73			247.75 Outside professional fee ERO Resources Corp.	ARCH
22151.000	07/31/2008	3	A	51			0.40 Photocopy charges	ARCH
22151.000	08/11/2008	3	A	79			631.00 Consulting - ERO Resources Corp.	ARCH
22151.000	11/06/2008	3	A	73			1,031.00 Outside professional fee ERO Resources Corp.	ARCH
22151.000	01/06/2009	3	A	53			1.68 Postage	ARCH
22151.000	01/26/2009	3	A	53			0.42 Postage	ARCH
22151.000	01/31/2009	3	A	51			10.35 Photocopy charges	ARCH
22151.000	02/13/2009	3	A	72			20.00 Courier fee - TA	ARCH
22151.000	02/28/2009	3	A	51			33.20 Photocopy charges	ARCH
22151.000	03/17/2009	3	A	73			776.50 Outside professional fee ERO Resources Corp.	ARCH
22151.000	04/16/2009	3	A	73			123.50 Outside professional fee ERO Resources Corp.	ARCH

Client ID 22151.000

Billable

2,928.80

ERO Resources Corp. 1000 E. Edwards Road

GRAND TOTALS

Billable

2,928.80

Copy = 46.85

postage = 3.70

Courier = ~~33.20~~ 20.00

ERO = 2858.25

Detail Cost Transaction File List
 White, Peterson, Gligray, Rossman, Nye & Nichols, P.A.

Client	Trans Date	Tmkr	H P	Tcode/ Task Code	Rate	Amount	Ref #
Transaction Date 06/22/2006							
22151.000	06/22/2006	JKF	A	105		3.78 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/30/2006							
22151.000	06/30/2006	JKF	A	101	0.150	1.80 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	06/30/2006	JKF	A	101	0.150	2.70 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 09/08/2006							
22151.000	09/08/2006	JKF	A	105		1.35 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/22/2006							
22151.000	12/22/2006	JKF	A	105		0.39 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 02/06/2007							
22151.000	02/06/2007	JKF	A	105		6.18 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 02/15/2007							
22151.000	02/15/2007	JKF	A	105		0.39 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 02/28/2007							
22151.000	02/28/2007	JKF	A	101	0.150	13.50 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 05/09/2007							
22151.000	05/09/2007	JKF	A	105		0.39 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 05/10/2007							
22151.000	05/10/2007	JKF	A	105		0.39 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 07/25/2007							
22151.000	07/25/2007	JKF	A	105		0.41 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 07/30/2007							
22151.000	07/30/2007	JKF	A	105		0.41 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 07/31/2007							
22151.000	07/31/2007	JKF	A	105		0.41 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	07/31/2007	JKF	A	101	0.150	1.05 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 08/03/2007							
22151.000	08/03/2007	JKF	A	105		0.41 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 08/31/2007							
22151.000	08/31/2007	JKF	A	101	0.150	1.50 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 10/11/2007							
22151.000	10/11/2007	JKF	A	105		0.82 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 10/12/2007							
22151.000	10/12/2007	JKF	A	105		0.41 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 10/31/2007							
22151.000	10/31/2007	JKF	A	101	0.150	1.20 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/04/2007							
22151.000	12/04/2007	JKF	A	105		0.58 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/11/2007							
22151.000	12/11/2007	JKF	A	101	0.150	1.50 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 02/27/2008							
22151.000	02/27/2008	JKF	A	105		1.64 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 02/29/2008							
22151.000	02/29/2008	JKF	A	101	0.150	2.25 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 03/04/2008							
22151.000	03/04/2008	JKF	A	105		0.41 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 03/21/2008							
22151.000	03/21/2008	JKF	A	135		427.73 Reporting costs M & M Court Reporting Service, Inc. Deposition of Joe Terteling v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/01/2008							
22151.000	04/01/2008	JKF	A	135		170.12 Reporting costs M & M Court Reporting Service, Inc. Deposition of William Henning v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH

Date: 11/24/2009

Detail Cost Transaction File List
White, Peterson, Gigray, Rossman, Nye & Nichols, P.A.

Page: 2

<u>Client</u>	<u>Trans Date</u>	<u>Tmkr</u>	<u>H P</u>	<u>Tcode/ Task Code</u>	<u>Rate</u>	<u>Amount</u>	<u>Ref #</u>
Transaction Date 04/03/2008							
22151.000	04/03/2008	JKF	A	105		0.41 Postage v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/30/2008							
22151.000	04/30/2008	JKF	A	101	0.150	4.80 Photocopies v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
GRAND TOTALS							
Billable					646.93		

Depositions = 597.85

postage = 18.78

copies = 30.30

Detail Fee Transaction File List White, Peterson, Gigray, Rossman, Nye & Nichols, P.A.

Client	Trans Date	Tmkr	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount		Ref #
Transaction Date 06/06/2006									
22151.000	06/06/2006	JKF	A	35	175.00	1.00	0.00	Drafted and submit proposal for legal services (No Charge) v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/08/2006									
22151.000	06/08/2006	JKF	A	50	175.00	0.10	17.50	Schedule meeting with Owyhee Motorcycle Club v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/13/2006									
22151.000	06/13/2006	JMV	A	50	125.00	1.45	0.00	Researching administrative law question re: SRBA contested water rights (No Charge) v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/14/2006									
22151.000	06/14/2006	JKF	A	50	175.00	0.20	35.00	Email communication with Eric Steiner re water committee and scope of legal services v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/20/2006									
22151.000	06/20/2006	DA	A	1	90.00	0.40	36.00	Telephone conference with IDWR v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	06/20/2006	DA	A	3	90.00	0.50	45.00	Preparation of Notice of Appearance v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	06/20/2006	CB	A	50	25.00	1.00	0.00	Set and Organize new file. (No Charge) v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	06/20/2006	JKF	A	50	175.00	2.50	437.50	Prepare for and attend meeting with OMC Board re proceeding and responding to objections to OMC water rights v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/21/2006									
22151.000	06/21/2006	DA	A	5	90.00	0.50	0.00	Revision to Notice of Appearance; telephone conference with SRBA (No Charge) v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/22/2006									
22151.000	06/22/2006	DA	A	3	90.00	1.50	135.00	Preparation of Response to Objection (Terteling and Edwards); preparation of Objection; telephone conference with SRBA case administrator; preparation of letter to Court, Tertling, Edwards, IDWR, Attorney general, U.S. Dept of Justice v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	06/22/2006	JKF	A	50	175.00	1.00	0.00	Draft response to objections to water right recommendation. Draft Objection to Point of Diversion recommendation. Review Dir. Report deadlines and calendar same. Draft Notice of Appearance. E-mail with Judy Geier re: inclusion on the Notice of Appearance. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	06/22/2006	JKF	A	50	175.00	1.80	100.00	Prepare response to objection and submit v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 06/27/2006									
22151.000	06/27/2006	JKF	A	50	175.00	0.20	35.00	Respond to email from B. Henning v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/05/2006									
22151.000	12/05/2006	JKF	A	50	175.00	0.50	87.50	Contact client re reminder of OMC hearing tomorrow; coordinate for Bill Henning to attend; brief telephone conference with Bill Henning v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/06/2006									
22151.000	12/06/2006	DA	A	35	90.00	0.65	58.50	Drafted Affidavit of Priority Claim -- Guy James v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	12/06/2006	JKF	A	4	175.00	2.50	437.50	Preparation for and attend initial SRBA hearing in Boise; office conference with Donna re preparation of affidavit related to priority v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/07/2006									
22151.000	12/07/2006	DA	A	35	90.00	0.50	0.00	Begin drafting Motion to File Objection v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/11/2006									
22151.000	12/11/2006	DA	A	50	90.00	0.50	0.00	Continue drafting Motion to File Late Objection; review file for additional information to support Motion v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 12/26/2006									
22151.000	12/26/2006	DA	A	50	90.00	0.40	0.00	Calendars status conference; preparation of transmittal letter to client v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 02/05/2007									
22151.000	02/05/2007	DA	A	5	90.00	1.20	108.00	Revision to and finalization of Motion to File Late Objection, and Objection; preparation of letter to clerk of court v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 02/06/2007									
22151.000	02/06/2007	DA	A	5	90.00	0.50	45.00	Revision to letter to Clerk of Court; prepare and mail documents for filing with court	ARCH

Detail Fee Transaction File List White, Peterson, Gigray, Rossman, Nye & Nichols, P.A.

Client	Trans Date	Tmkr	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount	Ref #
Transaction Date 02/06/2007								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 02/15/2007								
22151.000	02/15/2007	CB	A	50	40.00	0.30	12.00	ARCH
Transmittal letter to client.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 03/21/2007								
22151.000	03/21/2007	DA	A	1	90.00	0.20	18.00	ARCH
Telephone conference with Bill Henning; email to JKF								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 03/27/2007								
22151.000	03/27/2007	DA	A	1	90.00	0.30	27.00	ARCH
Telephone conference with SRB re late objection and								
filing of same; email to JKF re procedure and that late								
objection filed with court								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 05/01/2007								
22151.000	05/01/2007	JKF	A	50	175.00	0.50	87.50	ARCH
Attend status conference for water right.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 05/09/2007								
22151.000	05/09/2007	CG	A	50	75.00	0.20	15.00	ARCH
Prepare letter to client with copy of Status Conference								
Order.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 05/15/2007								
22151.000	05/15/2007	JKF	A	50	175.00	0.20	35.00	ARCH
Email with Judy and Bill Henning re: board approval of								
Edwards settlement proposal.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 06/07/2007								
22151.000	06/07/2007	JKF	A	50	175.00	0.50	87.50	ARCH
Prepare for mediation. Coordinate later time with client								
and objectors due to schedule issues (n/c).								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 06/08/2007								
22151.000	06/08/2007	JKF	A	50	175.00	1.50	262.50	ARCH
Attend settlement conference with Tertelings.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 06/26/2007								
22151.000	06/26/2007	JKF	A	50	175.00	0.20	35.00	ARCH
Email communications with Board President re next step.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 07/13/2007								
22151.000	07/13/2007	JKF	A	50	175.00	0.10	17.50	ARCH
Review emailed information on well.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 07/27/2007								
22151.000	07/27/2007	JKF	A	50	175.00	0.50	87.50	ARCH
Review emails from Bill Henning regarding work done to								
well. Draft letter to Charlie Honsinger to provide								
information to him about wells. Email to Bill for approval.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 07/30/2007								
22151.000	07/30/2007	CG	A	50	75.00	0.25	18.75	ARCH
Fax and email July 30th letter to Charles Honsinger and								
client.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
22151.000	07/30/2007	JKF	A	50	175.00	0.10	17.50	ARCH
Finalize letter to opposing counsel forwarding well								
information. Email to Bill Hennig for review before								
sending. Mail and fax letter to opposing counsel after								
receiving approval from client.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 07/31/2007								
22151.000	07/31/2007	JKF	A	50	175.00	0.60	105.00	ARCH
Telephone conference with Dana Hoffsteder re:								
stipulation to settle. Brief conference with Charlie								
Honsinger. Participate in status conference.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 08/03/2007								
22151.000	08/03/2007	CG	A	50	75.00	0.25	18.75	ARCH
Copy to client Notice of Status Conference.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 10/01/2007								
22151.000	10/01/2007	JKF	A	50	175.00	0.20	35.00	ARCH
Receive and review letter from C. Honsinger re: further								
settlement discussions. Email to Bill Henning status.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 10/02/2007								
22151.000	10/02/2007	JKF	A	50	175.00	0.30	52.50	ARCH
Participate in status conference.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 10/10/2007								
22151.000	10/10/2007	CG	A	50	75.00	0.50	37.50	ARCH
Calendar scheduling order.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 10/11/2007								
22151.000	10/11/2007	CB	A	50	50.00	0.60	30.00	ARCH
Finalize and mail letter to Honsinger, transmittal letter to								
client with copy.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
22151.000	10/11/2007	JKF	A	50	175.00	1.00	175.00	ARCH
Revise signature blocks on settlement with Edward and								
forward to client and IDWR. Draft response to Terteling								
letter and forward to client and opposing counsel.								
v. The Terteling Co., Inc. & Edwards Family, LLC								
Transaction Date 12/04/2007								
22151.000	12/04/2007	CB	A	50	50.00	0.40	20.00	ARCH
Have hand delivered letter to Dana Hoff's office.								

Detail Fee Transaction File List
White, Peterson, Gigray, Rossman, Nye & Nichols, P.A.

Client	Trans Date	Tmkr	H P	Tcode/ Task Code	Rate	Hours to Bill	Amount	Ref #
Transaction Date 12/04/2007								
							Transmittal letter to client. v. The Terteling Co., Inc. & Edwards Family, LLC	
Transaction Date 02/27/2008								
22151.000	02/27/2008	JKF	A	50	175.00	0.40	70.00 Prepare 30(b)(6) notice, email client. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 03/04/2008								
22151.000	03/04/2008	CG	A	50	75.00	0.25	18.75 Copy to client our deposition notice for The Terteling Co. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 03/10/2008								
22151.000	03/10/2008	JKF	A	50	175.00	0.25	43.75 Prepare deposition notice. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 03/19/2008								
22151.000	03/19/2008	CB	A	50	50.00	0.20	10.00 Received call from M & M Court Reporting. Emailed copy of Notice of Deposition to Anne at M & M. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	03/19/2008	JKF	A	50	175.00	0.30	52.50 Schedule time with Bill Henry for deposition preparation. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 03/21/2008								
22151.000	03/21/2008	JKF	A	50	175.00	4.50	787.50 Prepare for deposition of Terteling. Meeting with Bill Henning re deposition preparation. Telephone conference with Hoffsedin re same and Terteling's goal. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	03/21/2008	CG	A	50	75.00	0.25	18.75 Photocopy exhibits for depositions. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 03/31/2008								
22151.000	03/31/2008	CB	A	50	50.00	1.50	75.00 Brief office conference with JKF, second with Chelsea G. regarding file. Work in file. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/03/2008								
22151.000	04/03/2008	CB	A	50	50.00	0.33	16.50 Transmittal letter to client. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/04/2008								
22151.000	04/04/2008	CB	A	50	50.00	0.75	0.00 Work in file. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/07/2008								
22151.000	04/07/2008	JKF	A	50	175.00	0.30	52.50 Email with Vicki music - working on a reasonable annual volume number. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/09/2008								
22151.000	04/09/2008	CB	A	50	50.00	0.17	8.50 Fax Notice Continuing Trial Date to client. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/10/2008								
22151.000	04/10/2008	JKF	A	50	175.00	0.25	43.75 Email communications with Charlie & IDWR re: respnse to settlement. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/11/2008								
22151.000	04/11/2008	JKF	A	50	175.00	0.40	70.00 Email with client; Charlie Hunsinger; IDWR re: status of settlement and obtaining final information to determine historical lease. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 04/14/2008								
22151.000	04/14/2008	JKF	A	50	175.00	1.00	175.00 Telephone conference with Vicky @ IDWR. Email Bill re: status of obtaining final info on tank sizes to perform calculations. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	04/14/2008	JKF	A	50	175.00	0.75	131.25 Telephone conference with Charlie Hunsinger re: letter of settlement. Participate in pretrial. Email client. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 05/12/2008								
22151.000	05/12/2008	CG	A	50	75.00	0.25	18.75 Telephone conference with Bill Henning re case, review files. v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 07/28/2008								
22151.000	07/28/2008	JKF	A	210			0.00 Write off balance - client paid in full per 20% discount offer v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
22151.000	07/28/2008	JKF	A	210			0.00 Write off balance - client paid in full per 20% discount offer v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH
Transaction Date 07/31/2008								
22151.000	07/31/2008	JKF	A	210			0.00 Write off balance - client paid in full per 20% discount offer v. The Terteling Co., Inc. & Edwards Family, LLC	ARCH

BRAND TOTALS

Billable

39.45

4,364.50

~~Morrow & Fischer, PLLC~~

Morrow Dinius

Client	Trans Date	Tmkr	H P	Tcd	Rate	Hours to Bill	Amount		Ref #
Client ID 22151.000	Owyhee Motorcycle Club, Inc.								
22151.000	05/16/2008	3	A	1	200.00	0.20	40.00	Email communications with Charlie Honsinger re: the status of settlement and the upcoming trial; schedule conference with Charlie for Monday	ARCH
22151.000	05/21/2008	3	A	1	200.00	0.75	150.00	Email with Steve Hannula; telephone conference with Steve Hannula re: scope of review; email client re: working on calculation	ARCH
22151.000	05/22/2008	7	A	1	100.00	0.20	20.00	Finalize letter to Steve Hannula	ARCH
22151.000	05/22/2008	3	A	1	200.00	2.00	400.00	Working with Steve Hannula to determine annual volume of Owyhee Motorcycle Club uses; telephone conference with Bill re: subpoena	ARCH
22151.000	05/23/2008	3	A	1	200.00	2.60	520.00	Work on settlement; telephone conference with Dave; recalculate usage; email settlement to Charlie Honsinger; telephone conference with SRBA court; telephone conference with client re: status; notify AG's office of status conference for Tuesday	ARCH
22151.000	05/27/2008	3	A	3	200.00	1.00	200.00	Telephone conference with Charlie Hunsinger re: settlement and counter offer from Terteling; participate in status conference; place call to Bill H. to convey counter offer	ARCH
22151.000	06/02/2008	3	A	1	175.00	0.60	105.00	Email with Charlie re: needing response to settlement; telephone conference with Steve Hannula	ARCH
22151.000	06/03/2008	3	A	3	175.00	0.25	43.75	Telephone conference with Steve Hannula to confirm he did not include the domestic use in his calculations; email Charlie re: settlement	ARCH
22151.000	06/04/2008	7	A	1	100.00	0.20	20.00	Finalize letter to Charles Honsinger	ARCH
22151.000	06/04/2008	3	A	1	175.00	0.50	87.50	Draft counter offer and fax to Honsinger	ARCH
22151.000	06/12/2008	3	A	1	175.00	4.95	866.25	Drafting objection to motion for site visit; telephone conference with Steve Hannula re: availability to measure flows; revise agreement	ARCH
22151.000	06/13/2008	3	A	1	175.00	2.00	350.00	Finalize objection to site visit; draft and finalize affidavit; telephone conference with Steve Hannula; draft objection to motion to shorten time	ARCH
22151.000	06/16/2008	7	A	1	100.00	1.70	170.00	Draft notice of substitution of counsel; finalize objections to motion to enter land and expedited hearing; draft affidavit of Julie; prepare documents for fax filing with SRBA; telephone conference with clerk of court in Twin Falls	ARCH
22151.000	06/16/2008	3	A	1	175.00	2.00	350.00	Prepare for motion hearing; participate in motion hearing; follow up telephone conference with Charlie Honsinger	ARCH
22151.000	06/18/2008	3	A	1	175.00	0.40	70.00	Email communications with Bill Henning re: motion opposing site visit; brief telephone conference with Bill to advise on the status of the motion and hearing, also discussed using ERO resources to independently measure OMC diversion rate	ARCH
22151.000	06/19/2008	7	A	1	100.00	0.10	10.00	Review message from the Department of Water Resources	ARCH
22151.000	06/26/2008	3	A	1	175.00	0.20	35.00	Follow up with Bill Henning re: status of water measurements; email Charlie Honsinger re: court order to stipulate to deadlines	ARCH
22151.000	06/30/2008	3	A	1	175.00	0.20	35.00	Email communications with Charlie Honsinger re: stipulated trial schedule	ARCH
22151.000	07/02/2008	3	A	1	200.00	0.10	20.00	Email Charlie Honsinger re: proposed stipulation as ordered by SRBA court	ARCH
22151.000	07/03/2008	3	A	1	200.00	0.10	20.00	Email communications with Charlie Honsinger re: stipulated schedule as directed by SRBA court	ARCH
22151.000	07/08/2008	3	A	1	200.00	0.30	60.00	Revise proposed stipulation	ARCH
22151.000	07/14/2008	3	A	1	200.00	0.10	20.00	email communication with Bill re: meeting with ERO	ARCH
22151.000	07/16/2008	3	A	1	200.00	0.20	40.00	Attempt to coordinate time for Terteling expert to visit OMC; email Charlie; email Bill Henning	ARCH
22151.000	07/17/2008	3	A	1	200.00	0.30	60.00	Review email from Bill Henning re: site inspection; telephone conference with Paul Drury at ERO re: results and participation in meeting with Ed squires; request brief report from Paul	ARCH
22151.000	07/18/2008	3	A	1	200.00	0.75	150.00	Receive revised stipulation on scheduling and trial dates from opposing counsel; review stipulation, sign and file with the Court (pursuant to court order); reschedule site visit for Ed Squires to 10:30, confirm with Paul Drury; telephone conference with Derek at OMC to discuss how to proceed if Terteling participates	ARCH
22151.000	07/21/2008	3	A	1	200.00	0.30	60.00	E-mail comm. with Charlie Honsinger re: scheduling experts site visit; telephone consultation with Paul Drury; place call to Derrek	ARCH
22151.000	07/22/2008	7	A	1	100.00	0.20	20.00	Review Julie's calendar for trial date stipulation	ARCH
22151.000	07/22/2008	3	A	1	200.00	0.50	100.00	Coordinate site inspection; telephone conference with Bill and Derek; telephone conference with Ed Squire re: scheduling site inspection	ARCH
22151.000	07/24/2008	3	A	1	200.00	0.30	60.00	Telephone conference with Paul D. re: site visit and results; e-mail Charlie Honsinger	ARCH
22151.000	07/24/2008	7	A	1	100.00	0.20	20.00	Fax file stipulation with SRBA	ARCH
22151.000	08/04/2008	7	A	1	100.00	0.10	10.00	Telephone conference with Bill Henning	ARCH
22151.000	08/22/2008	3	A	1	200.00	0.25	50.00	Receive and review Ed Squires report and email from Charlie Honsinger	ARCH
22151.000	08/26/2008	3	A	1	200.00	0.20	40.00	Communications with Charlie Honsinger re: another site visit to test well further	ARCH
22151.000	09/02/2008	3	A	1	200.00	0.30	60.00	E-mail client re: available dates for second site visit; e-mail	ARCH

Detail Fee Transaction File List Morrow & Fischer, PLLC

Client	Trans Date	Tmkr	H P	Tcd	Rate	Hours to Bill	Amount	Ref #
Client ID 22151.000 Owyhee Motorcycle Club, Inc.								
22151.000	09/03/2008	3	A	1	200.00	1.25	250.00	ARCH
							Charlie re: same	
							E-mail communication with Charlie re: site visit; e-mail to W. Henning and Paul Drury re: objection to intrusive site visit; telephone conference with Paul re: preparation of memo on why site inspection is unnecessary	
22151.000	09/08/2008	3	A	1	200.00	0.30	60.00	ARCH
22151.000	09/09/2008	3	A	1	200.00	0.20	40.00	ARCH
							Review memo from P. Drury on scope of proposed testing	
							Email to Charlie Honsinger that we will object to scope of pump testing unless some less intrusive method of pumping can be arranged	
22151.000	09/16/2008	3	A	1	200.00	0.25	50.00	ARCH
							Receive and review revised proposal from Charlie Honsinger for site visit	
22151.000	09/16/2008	3	A	1	200.00	0.25	50.00	ARCH
							Receive and review revised proposal from Charlie Honsinger for site visit	
22151.000	09/25/2008	3	A	1	200.00	0.25	50.00	ARCH
							Follow up with Charlie Honsinger on modified testing	
22151.000	10/20/2008	3	A	1	200.00	0.20	40.00	ARCH
							Communications with Charlie Honsinger re: site visit	
22151.000	11/04/2008	3	A	1	200.00	1.20	240.00	ARCH
							Draft response letter to Charlie Honsinger; email communications with ERO; receive scheduling order; email status update to Bill Henning	
22151.000	12/03/2008	3	A	1	200.00	0.25	50.00	ARCH
							Email communication with John Westra re: plat maps	
22151.000	01/06/2009	7	A	1	100.00	0.25	25.00	ARCH
							Review motion to compel; office conference with Julie; calendar deadlines and hearing	
22151.000	01/20/2009	3	A	1	200.00	2.00	400.00	ARCH
							Review motion to compel filed by Terteleing seeking to conduct extensive testing on the OMC well; review ERO draft report; draft objection thereto and file with court	
22151.000	01/20/2009	7	A	1	100.00	0.25	25.00	ARCH
							Review file for order allowing site inspection; office conference with Julie; fax file response to motion to compel with SRBA	
22151.000	01/27/2009	3	A	1	200.00	1.00	200.00	ARCH
							Participate in telephone hearing on motion to compel	
22151.000	02/03/2009	3	A	1	200.00	0.25	50.00	ARCH
							Receive and review order denying motion to compel; scan and email to client; also forward to ERO	
22151.000	02/03/2009	7	A	1	100.00	0.20	20.00	ARCH
							Receive and review order denying motion to compel; calendar deadlines; office conference with Julie	
22151.000	02/11/2009	7	A	1	100.00	0.25	25.00	ARCH
							Prepare recent motion to compel documents for delivery to consultant	
22151.000	02/13/2009	7	A	1	100.00	0.95	95.00	ARCH
							Prepare deposition transcripts for deliver to consultant	
22151.000	02/13/2009	3	A	1	200.00	1.30	260.00	ARCH
							Email communications with Vicki Music at IDWR re: information needed for evaluation and new recommendation; communications with Paul Drury re: drafting final report for OMC and to assist IDWR; forward documents to Paul Drury	
22151.000	02/26/2009	3	A	1	200.00	0.50	100.00	ARCH
							Review report sent by ERO; email communication with IDWR re: forwarding copy of ERO report to Vicki	
22151.000	03/02/2009	3	A	1	200.00	0.30	60.00	ARCH
							Review report	
22151.000	03/03/2009	3	A	1	200.00	0.60	120.00	ARCH
							E-mail to Paul Drury requesting changes on the expert report to increase the Annual Volume due to the track usage	
22151.000	03/05/2009	7	A	1	100.00	0.25	25.00	ARCH
							Review revised report from ERO; telephone conference with Julie; email to Vicki Music attaching ERO report	

Client ID 22151.000	Billable	36.20	6,487.50
	Non-billable	0.10	10.00
	Total	36.30	6,497.50

GRAND TOTALS

Billable	36.20	6,487.50
Non-billable	0.10	10.00
Total	36.30	6,497.50

JKF =

LMT =

Account Inquiry - All Transactions

Client #	22151/000	Resp Lawyer	2 Julie Fischer
Name	Owyhee Motorcycle Club, Inc.	File Type	34 Water Law
Matter:	v. The Terteling Co., Inc.		
Contact		Bus. Phone:	888 7357
Address1	4024 E. Preakness	Cell Phone:	
Address2		Fax	
Address3	Nampa	E-Mail	william.henning@ServiceExperts.com
Zip Code	83686	Date Opened	06/20/2006
State ID		Date last bill	07/10/2009
Tax N		Date last payment	07/22/2009
Tax N		Date last active	07/22/2009

— TIME DETAILS —

Initials	Date	Description	B/NB	Hours	Fees	Balance	Audit	Status
JF	05/21/200	Review recommended report; forward to client and ERO for comments	B	0.40	90.00	90.00	113	*2
JF	05/27/200	Review IDWR recommendation and reports; email to ERO	B	0.50	112.50	202.50	116	*
JF	05/27/200	Review IDWR recommendation and reports; email to ERO	B	(0.50)	(112.50)	90.00	119	*
JF	05/27/200	Discuss recommendation and reports with ERO	B	0.30	67.50	157.50	119	*2
JF	05/28/200	Final confirmation with parties that no objections need to be filed	B	0.30	67.50	225.00	117	*2
	05/31/200	BILLED #2	B	(1.00)	(225.00)	0.00	146	*2
JF	06/08/200	Email comm. with Bill Henning re: any objections filed by Terteling. Review online IDWR data. Email comm. with Vicky Music re: objections filed.	B	0.40	90.00	90.00	194	*3
JF	06/09/200	Email to Bill re: Steps to close matter.	B	0.30	67.50	157.50	195	*3
JF	06/10/200	Review order. Draft Motion to Dismiss	B	1.00	225.00	382.50	197	*3
JF	06/11/200	Email Request to Charlie Honsinger to dismiss case by Stipulation. Finalize motion.	B	0.40	90.00	472.50	198	*3
JF	06/19/200	Finalize motion to dismiss. Email C. Honsinger 2nd time re: stipulation to dismiss. Receive email from C. Honsinger re: no objection. Discuss stipulation.	B	0.50	112.50	585.00	201	*3
JF	06/23/200	Review availability of Attorney's Fees; participate in telephonic status conference; brief conference with client following status conference	B	1.20	270.00	855.00	347	*3
	06/30/200	BILLED #3	B	(3.80)	(855.00)	0.00	360	*3
		TOTAL BILLABLE		0.00	0.00			
		TOTAL NON BILLABLE		0.00	0.00			

— A/R DETAILS —

Initials	Date	Reference	Description	Fees	Disb+Taxes	Balance	Audit	Status	
JF	04/30/200	1086	BILLED # 1-Previous Balance	0.00	123.50	123.50	44	*1	
JF	05/31/200	1147	BILLED # 2-ACCOUNT RENDERED	225.00	0.00	348.50	146	*2	
JF	06/30/200	1321	BILLED # 3-ACCOUNT RENDERED	855.00	0.00	1203.50	360	*3	
JF	07/10/200	1086	Payment on Account - Thank you-Check # 1486 FROM: Owyhee Motorcycle Club, Inc.	0.00	(123.50)	1080.00	365	*1	
JF	07/10/200	1147	Payment on Account - Thank you-Check #1486 FROM: Owyhee Motorcycle Club, Inc.	(225.00)	0.00	855.00	365	*2	
JF	07/22/200	1321	Payment on Account - Thank you-Check #1499 FROM: Owyhee Motorcycle Club, Inc.	(855.00)	0.00	0.00	394	*3	
			TOTAL	0.00	0.00	0.00			
CUR:	0.00	30DAY:	0.00	60DAY:	0.00	90DAY:	0.00	120DAY:	0.00

Total fees w/ m+f = \$1,080 (all JKF)

Costs = 0

Exhibit B

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

Morrow Dinius

Attorneys at Law

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Nampa, ID 83687
Telephone: (208) 475-2200
Fax: (208) 475-2201
www.morrowdinius.com

Email: jfischer@morrowdinius.com

June 4, 2008

Via facsimile to 342-4657

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

Re: *Owyhee Motor Cycle Club Right No. 63-18957*
I.R.E. 408 Communication

Dear Charlie:

Thank you for your client's prompt response to Owyhee Motorcycle Club's last settlement offer. To summarize, my clients offered to limit their annual volume to 25.4 afy, and your client indicated that was acceptable, provided OMC would agree never to make a call on the Terteling's well closest to the OMC point of diversion.

While we appreciate the continued efforts to settle, OMC cannot agree to a no call restriction. As you know, the subject well is OMC's sole source of water. In the *unlikely* event a call was necessary OMC could be significantly damaged without the ability to curtail all junior uses. Further, the dust issues about which your client is most concerned would be worse if OMC's use was disabled.

The amounts and restrictions we are negotiating are so modest, I remain hopeful we can reach an agreement. However, if we cannot reach an agreement, I am confident OMC will establish the diversion rate and annual volume proposed. I have worked with ERO Resources to verify the same, and will be prepared to prove what we have offered in terms of settlement. In mentioning ERO I am not suggesting I would call an expert at trial. I am aware that discovery is closed, and any expert disclosure deadlines have long passed.

Please let me know your clients position as soon as possible. We remain willing to settle the objections as previously proposed:

Priority Date:	1958
Commercial:	.16 cfs
Domestic	.40 cfs
Annual Volume	25.4 afy (on the commercial component)

Charles Honsinger

June 4, 2008

Page 2

I look forward to hearing from you. In the meantime, and in response to your email that Terteling may want to visit the OMC property and take measurements if we don't settle, please be advised that Terteling is not authorized to do so.

As always, I look forward to hearing from you.

Sincerely,

MORROW DINIUS



Julie Klein Fischer

Cc: William Henning, President OMC

T:\Clients\O\Owyhee Motorcycle Club 22151.000\Correspondence\Honsinger ltr 06-04-08.docx

Exhibit C

Consultants in
natural
resources and
the environment

Denver • Boise • Durango • Western Slope

**OWYHEE MOTORCYCLE CLUB
WATER RIGHT CLAIM NO. 63-18957
ADA COUNTY, IDAHO**

Prepared for—

Julie Klein Fischer, Esq.
Morrow Dinius & Fischer, PLLC
5680 E. Franklin Rd., Ste. 220
Nampa, Idaho 83687

Prepared by—

Paul E. Drury, P.E.
ERO Resources Corporation
3314 Grace St.
Boise, Idaho 83703
(208) 373-7983

March 5, 2009



ERO Resources Corp.
3314 Grace Street
Boise, ID 83703
(208) 373-7983
Fax: (208) 373-7985
www.eroresources.com
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**OWYHEE MOTORCYCLE CLUB
WATER RIGHT CLAIM NO. 63-18957
ADA COUNTY, IDAHO**

MARCH 5, 2009

Introduction

This report provides additional evidence to support the Idaho Department of Water Resources (IDWR) recommendation for water right 63-18957 owned by the Owyhee Motorcycle Club (OMC). To prepare this report, ERO Resources Corp. (ERO) reviewed the claim, recommendations, and adjudication back file obtained from the IDWR website online data base. ERO also performed site visits on June 24 and July 17, 2008 to collect data regarding the diversion and distribution system, acquire information to describe the water system operations, and to conduct flow measurement tests to verify the diversion capacity.

The diversion and distribution system has been developed to provide domestic, irrigation, and commercial water to the Owyhee Motorcycle Club located in Township 4 North, Range 2 East SW¼ SE¼ Section 15 in Ada County, Idaho. This property is located north of Boise off of Cartwright Road.

IDWR Claim Review

IDWR conducted a desk top review of claim 63-18957 to verify elements of the water right including the rate of flow and annual diversion volume. IDWR contracted Intrepid Engineering Services (Intrepid) to conduct the on-site investigation portion of the review.

The online water right back file for 63-18957 contains a field report prepared by Intrepid dated November 19, 2001 for the Snake River Basin Adjudication as part of the IDWR claim review. This field report describes the diversion works as an 8 inch casing, 120 feet deep, with a 5 horsepower submersible pump.

Intrepid's field report concludes that the flow rate from the subject well is 0.16 cfs based on a 5 hp pump, a lift of 50 feet, a discharge pressure of 60 psi, and an efficiency of 70%.

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IDWR's recommended annual volume limit is 142.4 acre-feet per year, but is in error. Notes in the water right back file indicate the annual volume should be 19 acre-feet and not 142.4 acre-feet as recommended.

Description of Diversion and Distribution

The OMC diversion works consist of a well located near the south property line in the SW¼ SE¼ Section 15. The well drillers report could not be located for this well. There is no name plate data for the pump available. There is no meter installed on the diversion works. A photograph of the diversion works is shown in Figure 1. The motor starter in the pump house indicates the pump is 5 horsepower. The pump and motor is submersible. Access to the nameplate data for make, model and serial number is not possible without pulling the pump.



Figure 1. Owyhee Motorcycle Club Diversion Works

The distribution system consists of a 1.5 inch diameter steel pipe from the well to two pressure tanks located in the pump house. A pressure gage is installed on the distribution piping inside of the pump house. A total of four distribution lines lead from the pressure tanks to the place of use. A 1.25 inch line leads to the trailer house for domestic use. A 1.5 inch line leads to the club house for domestic use. A 2 inch and a 1.5 inch line lead to storage tanks located throughout the property. Water from the storage tanks is pumped with booster pumps through

sprinkler systems and hoses for dust suppression and preparation of dirt tracks. A photograph of the distribution works is shown in Figure 2.



Figure 2. Owyhee Motorcycle Club Distribution Works

Six water storage tanks are located throughout the property. These tanks are used to store water prior to the application of water to the motorcycle tracks for dust suppression. Members of the OMC estimate the combined storage volume of the six tanks is about 46,000 gallons. Discussions with OMC and notes in the IDWR claim back file indicate that the OMC facility conducts approximately 60 races per year. In addition to race days, the facility is open for practice once a week during the summer months. Prior to opening and during races and practices, the storage tanks are filled and drained for track conditioning. At a discharge rate of 0.16 cfs for 80 days (60 race days plus 20 practice days), the annual volume pumped is approximately 25 acre-feet. This volume is sufficient to operate the facility.

Flow Measurement Test

Paul Drury, P.E., a water resource engineer with ERO, conducted two flow measurement tests on July 17, 2008. The first test utilized an ultra-sonic flow meter to measure the flow rate in a closed pipe. Discharge was measured in the 1.5 inch diameter steel discharge pipe using a Peek PolySonic meter, Model Number DCT-7088, Serial Number 33508, Calibrated June 2006. The meter requires temporary installation of transducers on the outside of the pipe. Transducers

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were installed on a straight run of pipe near the well head in a WW configuration at a spacing of 5.2 inches. Flow measurement was recorded to be 59.5 gpm (0.13 cfs) at an in line pressure of 83 psi at the pump house after the flow rate stabilized at a constant rate. The back pressure (83 psi) is higher than under normal operating conditions because only one discharge pipe was open for the test. Normal operations will have other pipes open for filling of tanks and other uses, which would lower the back pressure. A lower back pressure would result in a higher flow rate from the well.

The second test, used to confirm the results of the first test, utilized the time to fill a container of known volume. The test was started once the flow rate and pressure stabilized. The measured flow rate of 59.5 gpm was confirmed by the time to fill a 58.5 gallon drum (59 seconds) at an in line pressure of 83 psi at the pump house. The flow test configuration is shown in Figure 3.

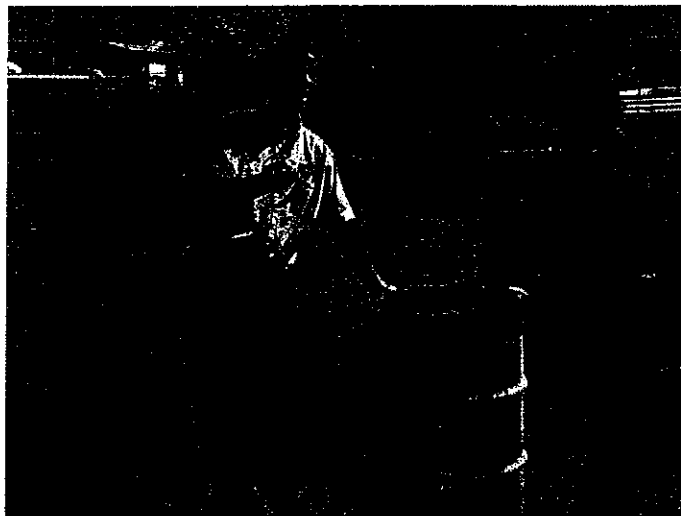


Figure 3. Flow measurement at the Owyhee Motorcycle Club

Both tests determined the flow rate to be 0.13 cfs at a discharge pressure of 83 psi. This flow rate compares favorably with Intrepid's flow value of 0.16 cfs, which is based on a lower discharge pressure (60 psi). Paul Drury observed and recorded the flow meter and pressure gage during both tests.

The flow measurement tests conducted by Paul Drury reflect normal operating conditions during fill of the below ground tank at the Motocross Track with the exception that no other uses

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(domestic) or other tank filling was taking place at the same time. The pump discharges to this tank at atmospheric conditions; there is an air gap between the discharge pipe and the water level in the tank; and the discharge pressure is constant. The measured discharge of 0.13 cfs is a conservative estimate of the flow rate the water system is capable of producing. As mentioned above, only one of the four discharge lines from the pump house was open during the test. If all four discharge lines were open, the flow rate would be greater due to less back pressure. In addition, ground water pumping from nearby wells on the adjacent property to the south may have caused aquifer affects that reduced the flow rate measured during the tests.

Conclusion

IDWR should file an amended report indicating the recommended diversion rate of 0.16 cfs and annual volume limit of 25 acre-feet. Data collected by ERO supports conclusions made by Intrepid that the ground water pumping system at OMC is capable of a diversion rate of 0.16 cfs. IDWR recommendation for water right 63-18957 should reflect that diversion rate.

ERO estimates that an annual volume of 25 acre-feet is appropriate and sufficient for operations at OMC. An annual volume limit of 25 acre-feet represents a fair estimate of the annual use based on a diversion rate of 0.16 cfs for 80 days/year. IDWR recommendation for water right 63-18957 should reflect that annual volume.