

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 No. 75-11017

**STANDARD FORM 2
RESPONSE TO OBJECTIONS**

RECEIVED
APR 11 2014
DEPARTMENT OF
WATER RESOURCES

B. NAME AND ADDRESS OF PERSON RESPONDING:

Name: Lemhi Gold Trust, LLC
Address: 1112 W. Main St., Ste. 101
Boise, ID 83702

Daytime Ph: 208-954-7039

Name and Address of Attorney:

Attorney Name: Albert P. Barker/Shelley M. Davis
Attorney Address: Barker Rosholt & Simpson LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, Idaho 83701-2139
Attorney Phone: (208) 336-0700

C. NAME AND ADDRESS OF PERSON(S) WHO FILED OBJECTION TO WHICH YOU
ARE RESPONDING:

Name:	Richard Rabe	Ann Heltsley	Robert Felton
Address:	P.O. Box 183	P.O. Box 3	1373 3 rd Ave.
	North Fork, ID 83466	North Fork, ID 83466	Salt Lake City, UT 84103

D. I am responding to the objection(s) to the following elements:

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

BRIEF EXPLANATION FOR RESPONSE.

The water right should be decreed as claimed. Specific responses to the Objectors' "Reasons Supporting Objections" shall be supplied during the proceedings/hearing to resolve such objections. Additionally, Lemhi Gold opposes the Objection of Ann Heltsley. Ms. Heltsley is not a water right holder or claimant in the State of Idaho, and therefore, does not have standing to object before this Court.

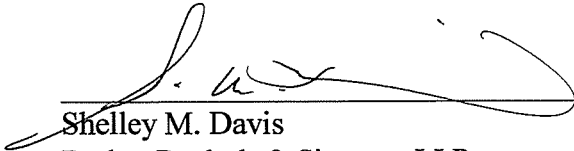
Additionally, Lemhi Gold responds that the quantity element of the Second Amended Director's Report improperly limits the diversion to 0.5 cfs. Lemhi Gold provided evidence to the Idaho Department of Water Resources demonstrating that the historical mining development diverted up to 3.8 cfs of water for mining at the claimed place of use. Please see attached, Exhibit 1.

VERIFICATION

State of IDAHO)
) ss.
County of Ada)

Shelley M. Davis, duly sworn, upon oath, deposes and says:

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.

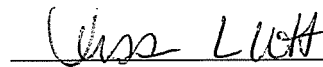


Shelley M. Davis

Barker Rosholt & Simpson LLP

Attorneys for Respondents

Subscribed and sworn to before me on: April 10, 2014



Notary Public for: Idaho
Residing at: *Boise, Idaho*
My Commission Expires: *2/20/2015*



CERTIFICATE OF SERVICE

I certify that on April 10, 2014, I served this STANDARD FORM 2 RESPONSE TO OBJECTIONS upon the following persons, in the manner stated below:

1. Original VIA Hand-Delivery to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy via US MAIL to the claimant and parties who filed the objections at the following address:

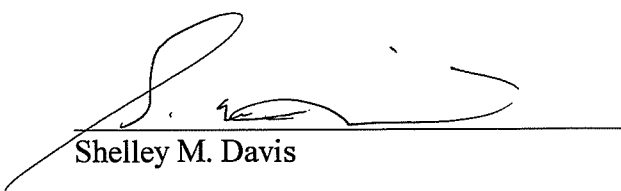
Name:	Richard Rabe	Ann Heltsley	Robert Felton
Address:	P.O. Box 183	P.O. Box 3	1373 3 rd Ave.
	North Fork, ID 83466	North Fork, ID 83466	Salt Lake City, UT 84103

3. Copies via US MAIL to:

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

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

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



Shelley M. Davis

EXHIBIT 1



**SPF WATER
ENGINEERING**

RECEIVED

JAN 31 2014

**DEPARTMENT OF
WATER RESOURCES**

MEMORANDUM

DATE: January 29, 2014
TO: Carter Fritschle, Idaho Department of Water Resources
FROM: Roxanne Brown *nb*
RE: *Diversion Rate for Amended Water Right Claim 75-10117*
SPF JOB NO.: 1018.0010

Brief Overview

Lemhi Gold Trust LLC (LGT) is currently developing a mine site approximately 60 miles northwest of Salmon, Idaho in the Ditch Creek drainage. Water right claims numbered 75-10117 and 75-10542 were filed in the Snake River Basin Adjudication (SRBA) for historical mining purposes on the Bull of the Woods mine site, using water diverted from Ditch Creek and Little Ditch Creek.

Amended claims were submitted in 2013 and reviewed by the Idaho Department of Water Resources (IDWR) prior to issuance of an *Amended Director's Report* to the SRBA court on November 27, 2013. In the report, the Director recommended claim 75-10542 be disallowed.¹ Claim 75-10117 was recommended to authorize the diversion of 0.50 cfs from Ditch Creek for mining purposes. LGT filed a motion to submit a second amended claim for 75-10117 on December 26, 2013. After hearing, Special Master Dolan issued an order granting the motion to amend the claim on January 17, 2014.

SPF previously submitted two memoranda in support of the LGT water right claims: dated July 15, 2013 and November 10, 2013. Our investigation supported two types of historical water use on the Bull of the Woods mine site:

1. Water diverted from Ditch Creek and conveyed in a steel pipe to generate electricity to power air compressors and drills in the mine, and provide light in the tunnel, mill and camp;
2. Water diverted from Ditch Creek to provide water for the processing of ore, including the chemical process, and washing and sluicing of tailings; and

¹ LGT has agreed with the finding of disallowal for claim 75-10542.

The purpose of this memo is to explain the portions of SPF's previous memos as they pertain to the calculation of historical diversion rates developed under water right 75-10117.

Water Use for Power Production and Ore Processing (Closed Conduit)

Written material submitted with the November 10 memo provided evidence of a steel pipeline with an 800' head used to convey water to a power plant which supplied electricity to the mine, mill and camp. The pipeline originated with a diversion from Ditch Creek. SPF estimated the location of the point of diversion and calculated the length of the pipeline based on an 800' elevation change between the diversion point and mill site (the assumed location of the power plant) using USGS topographic maps and ESRI GIS technology. We estimated the pipeline route to be 1.5 miles in length.

A calculated estimate of flow rate in the pipeline was included with the November 10 memo. We estimated the pipeline could divert and convey a maximum of 0.8 cfs to the mill and mine site for power generation and use in ore processing.

Water Use for Ore Processing (Open Ditches)

SPF conducted a site visit to collect GPS data and photographic evidence of mine and mill activity on July 19, 2013.² Within the area examined, SPF noted and photographed several historical ditches.³ SPF also collected GPS point data to establish the location of the ditches. Field notes taken during the site visit detailed the size (width and depth) of each ditch. The slope of each ditch which appeared to have delivered water directly to the mine and mill site was estimated using the GPS data points projected on a USGS topographic map using ESRI GIS technology.

SPF's field investigation estimated the ditches are each 3' wide and 1.5' deep and fall 120-160' to the mill. The ditches are each approximately 2,150' long. This information was used to estimate the capacity of the ditches. (a complete analysis was included with the November 10 memo). We estimated the ditches have maximum carrying capacities of 1.5 each.

Amended Claim

LGT submitted its amended claim based on the investigation and analysis summarized above. The claim was specifically amended to claim the 3.8 cfs diversion rate estimated during SPF's review (0.8 cfs in the pipeline plus a total of 3.0 cfs in two ditches).

² A map of the area was included in the November 10 memo.

³ Photographs of the features were included with the November memo.