

RECEIVED *Better*
OCT 04 2011 *Homen*

DEPARTMENT OF
WATER RESOURCES

Alan Smith
Eagle Pine Water Association
3135 Osprey Road
Eagle, ID 83616
208/939-6575
Protestant

**BEFORE THE DEPARTMENT OF WATER RESOURCES
FOR THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR PERMIT) RESPONSE TO M3'S
NO. 63-32573, IN THE NAME OF M3 EAGLE) REPLY OF
ASSIGNED TO THE CITY OF EAGLE) SEPTEMBER 27, 2011
_____) AND REVISED WITNESS
LIST

The September 27, 2011 Reply by M3 fails to address this Protestant's demand for notice of deposition to be taken of witnesses so that I can attend as an observer, nor have any assurances been forthcoming that the deposition process will not be used to intimidate the witnesses.

Mr. Fereday is incorrect as the Hearing Officer did state during the Prehearing Conference that Protestants would be able to challenge each exhibit number used to support the "32 so-called findings in Exhibit A".

It should also be noted that the City of Eagle is not in compliance with the September 9th 2011 Order and still is not even though Mr. Bruce Smith, the primary Attorney in this matter for the City of Eagle, returned from his trip on or about September 19th and no updates on the witness list or further summaries of testimony have been provided.

Additionally, the excerpt from the deposition of Mr. Thornton proves our point that M3's counsel have used the deposition process to intimidate witnesses. It is inappropriate to ask a litigant whether it has the finances to pursue its opposition to the M3 water application and that is exactly what was being asked. The Protestant never stated that the questions were about personal income. The "unfair prejudice" concept apparently only applies when it benefits M3.

Revised Witness List

Jason Smith
3135 Osprey
939-6575

Jason Smith may be called to testify as to the number of new subdivisions built along the “valley floor” between Linder Road and Plummer Road along Highway 44 and along Highway 16 to Beacon Light Road and the number of homes and businesses located in that area since the 1996 TVHP.


Mary Taylor
North Hartley Road
286-7575

Charles Meissner
Feedlot – Beacon Light Road
866-8688

Mike Moyle
480 North Plummer Road
286-7842

These witnesses will testify as to actual, “not potential,” damage and injury they have already endured as a result of the pumping of groundwater from the “valley floor” being done by the City of Eagle.

Respectfully submitted this 4 day of October, 2011.



Alan Smith

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4 day of October, 2011, a true and correct copy of the foregoing RESPONSE TO M3's REPLY OF SEPTEMBER 27, 2011 AND REVISED WITNESS LIST were served on the following parties as set forth below:

NOTICE OF SERVICE

North Ada County Groundwater Users Association
John Thornton
5264 N Sky High Lane
Eagle, ID 83616

U.S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile

North Ada County Groundwater Users Association
David Head
855 Stillwell Drive
Eagle, ID 83616

U.S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile

Norman Edwards
884 W Beacon Light Road
Eagle, ID 83616

U.S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile

Jeffrey C. Fereday
GIVENS PURSLEY LLP
601 West Bannock Street
PO Box 2720
Boise, ID 83701-2720

U.S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile

Gary Spackman, Hearing Officer
State of Idaho
Department of Water Resources
322 E Front Street
Boise, Idaho

U.S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile

Garrick L. Baxter and John W. Homan
Deputy Attorneys General, IDWR
P.O. Box 83720
Boise, Idaho 83720-0098

U.S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile

Bruce Smith
Moore, Smith, Buxton & Turcke, Chartered
950 W. Bannock Street Suite 520
Boise, Idaho 83702

U.S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile