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SEP 26 2011

DEPARTMENT OF
WATER RESOURCES

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

IN THE MATTER OF APPLICATION FOR PERMIT)
NO. 63-32573, IN THE NAME OF M3 EAGLE)
ASSIGNED TO THE CITY OF EAGLE)
_____)
RESPONSE TO M3
OBJECTIONS AND
MOTION TO EXCLUDE
PROTESTANTS'
WITNESSES

Protestant, Eagle Pines Water Association, by and through Alan Smith, hereby responds to above-named motion as follows:

1. Protestants disclosure of witnesses was hand-delivered on September 8, 2011, to all Litigants before any Order had been entered by the Director, or at least before receiving any notice of it. Protestants did not receive the Pre-hearing Order until September 9, 2011.

2. Protestants were, at that time, in compliance with the verbal order of the Director made at the September 2nd Prehearing as it was stated only that the names of witnesses were to be disclosed by September 9, 2011. Nothing had been mentioned and no request was made by any party for telephone numbers, addresses, or summaries of the testimony. These requirements were added to the Prehearing Order by counsel for M3 before Protestants knew of it and after our witness list had already been submitted.

3. The last clause of the proposed Hearing Order was vague as the term "technical water supply issues" could mean anything. Protestants would point out that "water supply issues" and "pumping effects" was left open for later determination in the January 19th Agreement. The water supply of the TVHP has little relevance as to the water supply in the upslope area where M3 intends to pump.

4. You will be supplied the addresses and phone numbers of our witnesses once you have assured us that the discovery process will not be used to annoy, harass, or intimidate the witnesses.

Outrageous questions similar to the questions asked of Mr. Thornton and Mr. Head about “how much money they made” and “threatening them with sanctions” when they refused to answer is an abuse of the deposition process and you are aware of this fact. I will expect a copy of any notice of deposition taking so I can attend.

Respectfully submitted this 26 day of September, 2011.



Alan Smith

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26 day of Sept, 2011, a true and correct copy of the foregoing RESPONSE TO M3 OBJECTIONS AND MOTION TO EXCLUDE PROTESTANTS' WITNESSES 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