

**Keen, Shelley**

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**From:** Jo Beeman [jo.Beeman@beemanlaw.com]  
**Sent:** Friday, April 21, 2006 2:33 PM  
**To:** Rassier, Phil  
**Cc:** Office Beeman; Keen, Shelley  
**Subject:** RE: Astorquia Water Right

Phil,

Thank you for providing the draft license condition. I would like to discuss it with you when you return April 25. I have a mediation that day, so it may be the late afternoon before I can call. I am assuming the language will wait until after you and I talk.

Here are my questions. Does this language change any of the evidentiary presumptions at the SRBA court that normally apply to the Director's Report? Does the language alter the effect of the SRBA decision on administrative res judicata? How does this language affect the content of a 706 report on the priority date issue, if the SRBA court were to ask IDWR to prepare a report? Finally, will the issuance of the license be appealable to district court if the SRBA court decides it is bound by administrative res judicata?

When we talk, we can go over Judge McKee's order. I don't have it with me at the moment.  
Jo

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**From:** Rassier, Phil [mailto:Phil.Rassier@idwr.idaho.gov]  
**Sent:** Friday, April 21, 2006 1:32 PM  
**To:** Jo Beeman  
**Cc:** Office Beeman; Keen, Shelley  
**Subject:** Astorquia Water Right

Jo,

In accordance with your request, set out below is the draft license condition language I am proposing to the Water Allocation Bureau for use in the Astorquia matter:

"Pursuant to agreement of the parties to resolve litigation in Ada County Case No. CV-OC-0208301, Astorquia v. Idaho Department of Water Resources, issuance of this license shall not preclude opportunity for review of the validity of the priority date of this water right in the ongoing Snake River Basin Adjudication."

We briefly discussed the potential of IDWR recommending the right to the SRBA District Court as a permit, however, I find little support for that approach within the Department. I will be out of the office until Tuesday.

Thanks,

Phil

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Phillip J. Rassier  
Deputy Attorney General  
Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720

4/21/2006



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**Keen, Shelley**

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**From:** Rassier, Phil  
**Sent:** Friday, April 21, 2006 1:32 PM  
**To:** 'Beeman, Jo'  
**Cc:** 'Beeman Law Office'; Keen, Shelley  
**Subject:** Astorquia Water Right

37-7460

Jo,

In accordance with your request, set out below is the draft license condition language I am proposing to the Water Allocation Bureau for use in the Astorquia matter:

"Pursuant to agreement of the parties to resolve litigation in Ada County Case No. CV-OC- 0208301, Astorquia v. Idaho Department of Water Resources, issuance of this license shall not preclude opportunity for review of the validity of the priority date of this water right in the ongoing Snake River Basin Adjudication."

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## Keen, Shelley

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**From:** Rassier, Phil  
**Sent:** Friday, April 28, 2006 11:30 AM  
**To:** Keen, Shelley  
**Cc:** Hamlin Nygard, Susan  
**Subject:** RE: Astorquia Water Right

Shelley,

Jo did call me, but we did not discuss in any detail the questions she asked of me in her e-mail of Friday, April 21, 2006. I did not feel comfortable responding to her questions without first consulting with the SRBA attorneys. Susan has agreed to review Jo's questions and develop appropriate responses from the Department's perspective. I hope we can get that done in the next couple of weeks.

Phil

-----Original Message-----

**From:** Keen, Shelley  
**Sent:** Friday, April 28, 2006 11:07 AM  
**To:** Rassier, Phil  
**Subject:** RE: Astorquia Water Right

Phil,

The last message I saw regarding the Astorquia water right was that Jo wanted to talk with you on or after April 25. Did she call you? Are we ready to move ahead?

Shelley

-----Original Message-----

**From:** Rassier, Phil  
**Sent:** Friday, April 21, 2006 1:32 PM  
**To:** 'Beeman, Jo'  
**Cc:** 'Beeman Law Office'; Keen, Shelley  
**Subject:** Astorquia Water Right

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