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Attorneys for Applicant Black Rock Utilities, Inc.

RECEIVED

MAR 04 2009

**DEPARTMENT OF
WATER RESOURCES**

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

In the Matter of Application to Amend Water
Permit No. 95-9045 in the Name of the Black
Rock Utilities (Application No. 74780)

NOTICE OF SERVICE

NOTICE IS HEREBY GIVEN that on the 3rd day of March, 2009, Applicant Black Rock Utilities, Inc. ("Black Rock") served a true and correct copy of *Black Rock's Notice Regarding Exhibits and Exchange of Exhibit 62*, a copy of which is attached hereto as Exhibit A, along with a copy of this *Notice of Service* to the following by the method and at the address indicated below:

Jai K. Nelson, RN
Coordinator
Coalition for Positive Rural Impact
15192 Gate 7 Ridge Road
Coeur d'Alene, ID 83814

☐ U.S. Mail
☒ Overnight Mail
☐ Hand Delivery
☐ Fax
☐ Email

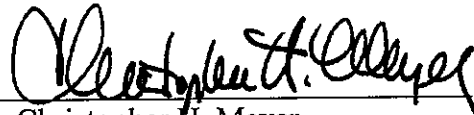
Black Rock's Notice Regarding Exhibits and Exchange of Exhibit 62 was originally served and filed on February 23, 2009, but due to mechanical error, pages 2, 3 and 4 of the service copy provided to Protestant Jai K. Nelson were inadvertently omitted.

DATED this 30th day of March, 2009.

Respectfully submitted,

GIVENS PURSLEY LLP

By


Christopher H. Meyer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of March, 2009, the foregoing was filed, served, or copied as follows:

DOCUMENT FILED:

Mr. Gary L. Spackman
Administrator, Water Management Division
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
Fax: (208) 287-6700
Email: Gary.Spackman@idwr.idaho.gov

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☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

SERVICE COPIES TO:

Jai K. Nelson, RN
Spokesperson/Coordinator
Coalition for Positive Rural Impact
15192 Gate 7 Ridge Road
Coeur d'Alene, ID 83814
Email: jaikandcadence@yahoo.com

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☐	Hand Delivered
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☐	Facsimile
☐	E-mail

COURTESY COPIES TO:

Robert G. Haynes
Regional Manager
Idaho Department of Water Resources
7600 Mineral Drive, Suite 100
Coeur d'Alene, ID 83815
Fax: (208) 762-2819
Email: bob.haynes@idwr.idaho.gov

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Christopher H. Meyer

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Attorneys for Applicant Black Rock Utilities, Inc.

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

In the Matter of Application to Amend Water
Permit No. 95-9045 in the Name of the Black
Rock Utilities (Application No. 74780)

**BLACK ROCK'S NOTICE REGARDING
EXHIBITS AND EXCHANGE OF
EXHIBIT 62**

Black Rock Utilities, Inc. ("Black Rock") submits this Notice for purposes of clarification with respect to the current status of exhibits.

At the hearing conducted in Coeur d'Alene on January 27, 2009, it was agreed that the parties would not object to the authenticity of any exhibits that had been exchanged as of that date.

In order to save time and without objection from the parties, the Hearing Officer instructed that all exhibits (BR1 through BR61 and P1 through P4) would be accepted into evidence en masse subject to the following two limitations: First, either party may raise a specific objection to an exhibit (on grounds other than authenticity) when it is first discussed by a



witness. Second, any exhibits that are not presented to and discussed by a witness will not be deemed admitted and will not be part of the record.

Later in the hearing, the Hearing Officer ruled that exhibits and testimony with respect to ground water management and wastewater management are beyond the scope of this hearing.¹ Accordingly, many of the exhibits that Black Rock was prepared to offer will not be offered. Exhibits that fall outside the scope of the hearing per these rulings, and thus may not be offered, are as follows: BR4, BR5, BR6, BR8, BR9, BR10, BR11, BR12, BR13, BR18, BR25, BR26, BR27, BR33, and P4.²

Certain of Black Rock's exhibits are duplicative with other exhibits, and are so identified in the penultimate column of the attached exhibit list. The duplicative exhibits, which should be excluded from the record are: BR21, BR29, BR30, and BR56.

During the Black Rock's examination of Mr. King, counsel for Black Rock withdrew the offer of BR 35, when it was determined that foundational assumptions for the exhibit were incorrect. See Tr. 1-217-2009 at 33.

¹ "Spackman: OK. I will rule on that particular motion and the ruling is with respect to the waste water system, and I guess that would be waste water coming from the homes and the uses inside those homes, that is a separate system, water is provided separately and it is not at issue in this particular hearing. And we won't explore that in any further testimony. Meyer: Your Honor, just for purposes of clarification it would also include waste water from the club house and restaurants and that sort of thing. Spackman: Yes." Tr. 1-27-2009 at 66. "Spackman: Well, the Department of Water Resources has a responsibility to ensure in its approvals that water quality standards and laws are not, of the State of Idaho, are not violated and in this particular case, the intrusion, I guess, occasionally of storm waters into these features for the purpose of some sort of retention, in my opinion, is not closely related enough to this proposal, Ms. Nelson, that I want to consider any additional information related to that subject. And so, as a result, I will restrict testimony related to that subject in this particular hearing. OK? Alright." Tr. 1-27-2009 at 77. "Nelson: OK, well maybe I need clarification because you said you were going to restrict and restrict in as far as what? Spackman: Well, testimony about the storm water management, as described by Mr. Ariss. My ruling was that that storm water and the regulation of that storm water, with respect to environmental rules, even though that water will intrude occasionally, perhaps on these ponds, that it is, it is remote enough from the Department's consideration of these applications for amendment that I will restrict and prevent in the presentation of testimony evidence about storm water, storm water use. I do not [unintelligible] storm water runoff as it relates to this application for amendment. That was the ruling." Tr. 1-27-2009 at 77.

² P4, of course, is Protestant's exhibit and has not been offered. We include it here because it plainly falls within the Hearing Officer's exclusionary rulings.

In order to assist the parties and to avoid any confusion, Black Rock is appending hereto a summary of all exhibits for both Black Rock and Protestant with notations indicating the current status of each exhibit. Exhibits that have been discussed by a witness and which do not fall within the Hearing Officer's exclusionary rules with respect to the scope of the hearing are indicated by identifying the name of the witness who first discussed that exhibit. In other words, if a witness's name appears in the penultimate column, that exhibit is admitted as of the first hearing. Exhibits that are excluded pursuant to the Hearing Officer's exclusionary rulings are also noted in that penultimate column. Exhibits with a blank in that column may still be offered (subject to possible objections on grounds other than authenticity) when the hearing continues on February 25, 2009.

The Hearing Officer also ruled the small version of exhibits BR30, BR 34, BR36, and BR44 that are included within the loose leaf binder of Black Rock's official exhibits will be the official exhibits and that the large blow-ups of those exhibits may be used as visual aids during the hearing but will not be part of the record. These exhibits are noted in the final column of the attached exhibit list.

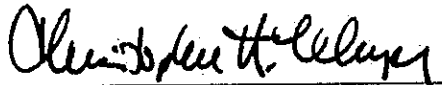
Black Rock hopes that this Notice will be helpful to the Hearing Officer and to the parties in identifying the current status of each exhibit, identifying any dispute or misunderstanding (if there are any), and thus expediting the continuation of the hearing.

Finally, Black Rock submits herewith a copy of *Black Rock's First Set of Discovery to Coalition for Positive Rural Development* (Sept. 10, 2008), which Black Rock designates as Exhibit BR62.

DATED this 23rd day of February, 2009.

Respectfully submitted,

GIVENS PURSLEY LLP

By 
Christopher H. Meyer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of February, 2009, the foregoing was filed, served, or copied as follows:

DOCUMENT FILED:

Mr. Gary L. Spackman
Administrator, Water Management Division
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
Fax: (208) 287-6700
Email: Gary.Spackman@idwr.idaho.gov

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Spokesperson/Coordinator
Coalition for Positive Rural Growth
15192 Gate 7 Ridge Road
Coeur d'Alene, ID 83814
Email: jaikandcadence@yahoo.com

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Christopher H. Meyer

Black Rock's Exhibit List

Exhibit No.	Date of Exhibit	Author	Description of Exhibit	Date of Exhibit Exchange	Status of Exhibit: Offered Through Witness; Excluded As Beyond Scope; or Duplicative	Large Illustrative Copy Available
BR1	4/13/00	IDWR / H2O Well Service	Jai Nelson Well Driller's Report #1	1/19/09	Scott King	
BR2	6/26/00	IDWR / H2O Well Service	Jai Nelson Well Driller's Report #2	1/19/09	Scott King	
BR3	7/21/00	IDWR / H2O Well Service	Jai Nelson Well Driller's Report #3	1/19/09	Scott King	
BR4	6/10/03	EPA	NOV and Request for Information regarding stormwater management (section 308) issued to Black Rock.	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR5	3/24/06	TechCon, Inc.	Stormwater Baseline Evaluation - Black Rock North	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR6	12/5/06	EPA (Kimberly A. Ogle)	Letter forwarding proposed Expedited Settlement Agreement.	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR7	2/16/07	Idaho Fish & Game	Email correspondence to Mark Mussman re: 1/10/06 letter to Staci Ames, Kootenai County Planning Dept. and 12/22/06 letter to Mark Mussman, Kootenai County Building & Planning Dept.	1/19/09		
BR8	2/22/07	EPA	Information Request regarding stormwater management ("308 Order")	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR9	3/2/07	John Ortmann, Black Rock Development	Cover letter with attached storm water sample map (accompanying Stormwater Baseline Evaluation by TechCon, Inc. (dated Mar. 24, 2006))	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR10	3/20/07	CENTRA Consulting, Inc.	Draft Storm Water Monitoring & Quality Assurance Plan and appendices (with cover letter from Chas Arris)	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR11	3/22/07	EPA and Black Rock	Expedited Settlement Agreement approved by EPA. Payment of \$2,700.	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR12	5/21/07	CENTRA Consulting, Inc.	Revised Storm Water Prevention Pollution Plan	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR13	6/1/07	Taylor Engineering, Inc. with revisions by CENTRA Consulting, Inc.	Temporary Runoff Control for the Black Rock North Golf Course Grading and Construction Access Haul Roads	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR14	6/4/07	IDWR	IDWR Preliminary Order on Permit No. 95-09045	11/21/08	Scott King	
BR15	7/27/07	IDWR	IDWR Amendment of Permit No. 95-09045	11/21/08	Scott King	
BR16	7/27/07	IDWR	IDWR Permit to Appropriate Water No. 95-09045 Digital Boundary for Black Rock Utilities Inc.	11/21/08		
BR17	7/30/07	Shelley Keen, IDWR	Amendment of Permit Approval Notice from Shelley W. Keen (IDWR) to Black Rock Utilities Inc. regarding Permit No. 95-09045	11/21/08		
BR18	1/31/08	JUB	2007 Annual Wastewater-Land Application Site Performance Report	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	

Black Rock's Exhibit List

Exhibit No.	Date of Exhibit	Author	Description of Exhibit	Date of Exhibit Exchange	Status of Exhibit: Offered Through Witness; Excluded As Beyond Scope; or Duplicative	Large Illustrative Copy Available
BR19	4/14/08	Black Rock/IDWR	Black Rock Utilities Application for Amendment of a Permit for Permit No. 95-9045	11/21/08	Scott King	
BR20	4/14/08	Black Rock	Exhibit A to Black Rock Utilities Application for Amendment of a Permit for Permit No. 95-9045: Map [with handwritten notes]	11/21/08	Scott King	
BR21	4/14/08	Black Rock	Exhibit B to Black Rock Utilities Application for Amendment of a Permit for Permit No. 95-9045: Ponds and Water Features	11/21/08	Duplicative with BR19	
BR22	5/12/08	Idaho Fish & Game	BRN Private Pond Permits	1/19/09		
BR23	8/11/08	Idaho Fish & Game	Email correspondence from Mark Mussman (Kootenai County) to Kyle Capps re: Black Rock North tour	1/19/09		
BR24	8/26/08	IDWR	Black Rock Water Bank Agreement 2008	1/19/09		
BR25	9/18/08	EPA (Michael A. Bussell)	NOV and Request for Information (section 308) issued to Black Rock, issued in response to 3-27-2008 inspection.	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR26	10/1/08	Black Rock (John Ortmann)	Representative example of BR's monthly reports to EPA	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR27	10/8/08	Black Rock (Kyle Capps)	Letter responding to EPA's 308 Information Request of 9-18-2008.	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR28	10/9/08	Black Rock (Chris Meyer)	Black Rock's Submission of Updated Information Regarding Water Features and Request for Clarification regarding Permit No. 95-9045	11/21/08	Scott King	
BR29	10/9/08	Black Rock (Chris Meyer; SPF)	Exhibit F to Black Rock's Submission of Updated Information Regarding Water Features and Request for Clarification regarding Permit No. 95-9045 (Changes to Spreadsheet)	11/21/08	Duplicative with BR28	
BR30	10/9/08	Black Rock (Chris Meyer)	Map from page 7 of Black Rock's Submission of Updated Information Regarding Water Features and Request for Clarification regarding Permit No. 95-9045	11/21/08	Duplicative with BR28	Yes
BR31	11/20/08	SPF (Scott King)	Memorandum from Scott King to File - Black Rock Development regarding ETIdaho Station Selection (with attached ETIdaho Stations Northern Idaho Map)	11/21/08	Scott King	
BR32	11/21/08	SPF	Black Rock Utilities Inc. Amendment of Permit No. 95-9045 "Change Map"	11/21/08		
BR33	12/29/08	EPA (Kimberly A. Ogle)	Letter to Black Rock responding to Black Rock's response to 308 Information Request. No penalty. Black Rock may stop turbidity monitoring after Spring 2009 if no further exceedences.	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	
BR34	1/16/09	SPF	2006 aerial photo with Black Rock boundary and Jai Nelson's Well location	1/19/09	Scott King	Yes

Black Rock's Exhibit List

Exhibit No.	Date of Exhibit	Author	Description of Exhibit	Date of Exhibit Exchange	Status of Exhibit: Offered Through Witness; Excluded As Beyond Scope; or Duplicative	Large Illustrative Copy Available
BR35	1/16/09	SPF	Jai Nelson water level analysis table	1/19/09	Withdrawn by Counsel for Black Rock (1-27-09 Tr. at 33)	
BR36	1/16/09	SPF	USGS Quadrangle Map with Black Rock boundary and Jai Nelson's Well location	1/19/09	Scott King	Yes
BR37	1/16/09	SPF	USGS Quadrangle Map with Black Rock boundary and POD for 95-9045	1/19/09	Scott King	
BR38	1/16/09	IDWR (query by SPF)	Water right search - Jai Nelson Section	1/19/09	Scott King	
BR39	1/16/09	IDWR (query by SPF)	Well log search - Jai Nelson Section	1/19/09	Scott King	
BR40	1/9/09	Terry W. Pickel, Assistant Water Superintendent, Coeur	Email correspondence from Terry Pickel to Kyle Capps re water feature	1/19/09		
BR41	1/8/09	Terry Werner, Post Falls	Email correspondence from Terry Werner to Kyle Capps re water feature	1/19/09		
BR42		Chas Ariss	Resume of Chas Ariss	1/19/09	Chas Ariss	
BR43		Black Rock	List of documents produced by Black Rock in response to Jai Nelson's discovery requests (provided on CD to the hearing officer)	1/19/09		
BR44		Taylor Engineering, Inc.	Irrigated Acreage Summary Map for the Club @ Black Rock and Black Rock North by Taylor Engineering, Inc.	11/21/08	Scott King	Yes
BR45		Black Rock (Kyle Capps)	Photographs of ponds	11/21/08		
BR46		Black Rock (Kyle Capps)	Photos of aesthetic water features operated by other municipal providers	1/19/09		
BR47		James S. De Smel	Resume of James S. De Smel, P.E., P.G.	11/21/08		
BR48		Richard A. Agueros	Resume of Richard A. Agueros	11/21/08		
BR49		Scott King	Resume of Scott N. King, P.E.	11/21/08	Scott King	
BR50		Black Rock (SPF)	Screen prints from ETIdaho website: Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho	11/21/08	Scott King	
BR51		Black Rock (SPF)	Table: Black Rock Utilities Annual Pond Evaporation (based on ETIdaho)	11/21/08	Scott King	
BR52		Black Rock (SPF)	Table: ETIdaho Open Water – evapotranspiration in shallow systems (ponds, streams) at three stations	11/21/08	Scott King	
BR53	10/20/00	IDWR	Original Permit No. 95-9045	1/27/09	Scott King	

Black Rock's Exhibit List

Exhibit No.	Date of Exhibit	Author	Description of Exhibit	Date of Exhibit Exchange	Status of Exhibit: Offered Through Witness; Excluded As Beyond Scope; or Duplicative	Large Illustrative Copy Available
BR54	3/8/06	Black Rock Utilities	Application for Amendment of Permit (1st App.)	1/27/09	Scott King	
BR55	1/6/09	Black Rock Utilities	Black Rock's Second Submission of Updated Information regarding Water Features	1/27/09	Scott King	
BR56	1/6/09	Black Rock Utilities	Exhibit B to Second Submission of Updated Information regarding Water Features (Updated Map)	1/27/09	Duplicative with BR55	
BR57	10/29/08	Black Rock Utilities	Stipulation for Conditional Withdrawal of Protest	1/27/09	Scott King	
BR58	11/5/08	Black Rock Utilities	Black Rock's Submission of Proposed Conditions	1/27/09	Scott King	
BR59	10/24/08	Coalition for Positive Rural Impact	Protestants' Answers to First Set of Interrogatories and Request for Production of Documents	1/27/09		
BR60	12/29/08	Coalition for Positive Rural Impact	Protestants' Supplemental Answers to Interrogatories	1/27/09	Scott King	
BR61	1/12/09	Coalition for Positive Rural Impact	Protestants' Second Supplemental Answers to Interrogatories	1/27/09		
BR62	9/10/08	Black Rock Utilities	First Set of Discovery to Coalition	2/23/09	To be offered at 2-25-09 hearing	
P1	8/17/08	Cliff Harris, Cd'A Press	Newspaper article entitled "Water Shortage Crisis To Be the World's Biggest Risk"	1/19/09		
P2	9/28/08	Unknown	Photographs of ponds	1/19/09		
P3			Website downloads of photographs and drawing from Black Rock website	1/19/09		
P4	2/20/07	www.blackrockidaho.co Gary Gaffney, IDEQ	Email from Gary Gaffney to June Bergquist and Roger Tinkey	1/19/09	Excluded as beyond scope (1-27-09 Tr. at 66, 69, and 71).	

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Michael P. Lawrence, Idaho State Bar No. 7288
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www.givenspursley.com
Attorneys for Applicant Black Rock Utilities, Inc.

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

In Re Application for Amendment of Permit
for Water Right No. 95-9045 (Application
No. 74780)

**BLACK ROCK'S FIRST SET OF
DISCOVERY TO COALITION FOR
POSITIVE RURAL DEVELOPMENT**

TO: Coalition for Positive Rural Development, in care of Jai K. Nelson.

PLEASE TAKE NOTICE that Black Rock Utilities, Inc., by and through its counsel,
hereby requires you to respond to the following Discovery Requests.

INSTRUCTIONS

These Discovery Requests are issued to you pursuant to the Hearing Officer's Order,
IDWR's Rules of Procedure (IDAPA §§ 37.01.01.001.02 and 37.01.01.520 through
37.01.01.532), and Rules 33, 34, and 36 of the Idaho Rules of Civil Procedure, which are
incorporated by reference in the Department's Rules (IDAPA § 37.01.01.520.02). Pursuant to
the Hearing Officer's Order, your responses are due on or before October 6, 2008.

Your responses to these Discovery Requests must be made under oath.

In responding to these Discovery Requests, please base your responses on all information available to the Coalition and its members, including information in the possession of the Coalition's attorneys, experts, and consultants, not merely information based on the personal knowledge of the person completing the responses.

If you cannot respond to these Discovery Requests in full after exercising due diligence to secure the information to do so, so state and respond to the extent possible, specifying your inability to respond to the remainder, and providing whatever information, documents, and knowledge you have concerning the unanswered portion.

All of these Discovery Requests are deemed continuing and require supplementation to the extent that Rule 26(e) of the Idaho Rules of Civil Procedure requires such.

Materials that you have produced pursuant to the Hearing Officer's Order need not be produced again in response to these Discovery Requests.

DEFINITIONS

As used herein, the following terms have the following meanings:

1. "Applicant" means Black Rock Utilities, Inc.
2. "Coalition" means the Coalition for Positive Rural Impact.
3. "Discovery Requests" means these Interrogatories and Requests for Production.
4. "Hearing Officer's Order" means the *Notice of Hearing, Order Authorizing Discovery and Prehearing Order* of September 3, 2008 as amended by any subsequent order of the Hearing Officer, if any.
5. "IDWR" and the "Department" both mean the Idaho Department of Water Resources.
6. "KEA" means the Kootenai Environmental Alliance.

7. "Order Approving Amendment" means the *Preliminary Order* issued by the Department's Hearing Officer, Gary Spackman, on June 4, 2007.
8. "Pending Application" means the Applicant's *Application for Amendment of Permit* (No. 95-9045), dated April 10, 2008, which was assigned Application No. 74780.
9. "Protest" means the protest filed by the Coalition in this matter, dated June 23, 2008.
10. "You" or "your" refers to the Coalition.

REQUESTS FOR PRODUCTION AND INTERROGATORIES

Please note: The sub-headings set out below are provided solely for the convenience of the reader. They are not intended in any way to modify or limit the discovery requests, nor are they intended to serve as a guide for the interpretation of the discovery requests.

Information About the Coalition

REQUEST FOR PRODUCTION NO. 1. Please produce all current documentation (articles, bylaws, Secretary of State registration, etc.) showing the current corporate or other organizational status of the Coalition.

REQUEST FOR PRODUCTION NO. 2. Please produce documentation identifying the name and position of each current officer of the Coalition.

REQUEST FOR PRODUCTION NO. 3. Please produce a copy of any and all minutes or other records of meetings and actions of the Coalition, from January 1, 2007 to the present, which contain any reference to The Club at Black Rock, Black Rock North, the Applicant, the Applicant's water rights, the Pending Application, or the Coalition's Protest.

REQUEST FOR PRODUCTION NO. 4. Please produce copies of all press releases, announcements, advertisements, petitions, memoranda, letters, emails, videos, and other communications to or from the Coalition that address or reference The Club at Black Rock, Black Rock North, the Applicant, the Applicant's water rights, the Pending Application, or the Coalition's Protest. This production request is limited to those documents that have been addressed, released, or made available to the Coalition's membership, to the public, or to the press from May 1, 2006 to the present.

Injury to Water Rights

INTERROGATORY NO. 1. Please identify each water right (including water right permits and domestic exempt water rights) owned by the Coalition or by a member of the Coalition which the Coalition contends may be injured or otherwise adversely affected by the Pending Application if it is approved.

INTERROGATORY NO. 2. For each water right identified in Interrogatory No. 1, please state the owner, the legal basis of the right (e.g., license, permit, decree, or domestic exemption), the IDWR water right number (if any), how the water right will be injured by the Pending Application if it is approved, and what evidence supports this assertion.

Local Public Interest

INTERROGATORY NO. 3. Please explain specifically and in detail each way in which the changes in water rights described in the Pending Application will conflict with the Local Public Interest (which is defined in Idaho Code § 42-202B(3) as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource").

INTERROGATORY NO. 4. Please identify, describe, and explain any and all evidence that supports your contention the Pending Application will conflict with the Local Public Interest.

Conditions

INTERROGATORY NO. 5. Please explain in detail why each of the conditions proposed by the Applicant in the letter from Applicant's counsel of August 28, 2008 addressed jointly to the Kootenai Environmental Alliance and the Coalition for Positive Rural Growth are not adequate to satisfy the requirements set out in Idaho Code § 42-211.

INTERROGATORY NO. 6. Please state what condition(s), amendment(s) to the permit, or other limitations you believe must be imposed by IDWR in order to lawfully approve the Pending Application.

Additional Issues

INTERROGATORY NO. 7. To the extent not fully disclosed by your earlier responses, please identify and explain in detail any other basis or bases for your contention that the Pending Application should not be approved and identify the facts and evidence supporting your contention.

Your Witnesses and Evidence

INTERROGATORY NO. 8. For each person you have identified or will identify as an expert witness pursuant to the Hearing Officer's Order, please state the name and address of each such witness and include for each such witness, as provided in Idaho Rule of Civil Procedure 26(b)(4)(A)(i), a complete statement of all opinions to be expressed and the basis and reasons therefore, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions, any qualifications of the witness

including a list of all publications authored by the witness within the preceding ten years, the compensation to be paid for the testimony, and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

INTERROGATORY NO. 9. Please state the name and address of each person you intend to call as a lay witness at the trial of this matter, and for each such person state the substance of the facts and opinions to which he or she is expected to testify and set forth specifically and in detail the underlying facts and data upon which the opinion and testimony is based.

REQUEST FOR PRODUCTION NO. 5. Please produce all documents, exhibits, and/or other items of tangible evidence which you expect to introduce or use, or may use, at the hearing in this matter.

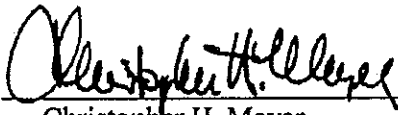
REQUEST FOR PRODUCTION NO. 6. Please provide copies of any documents (excluding documents available from the websites of IDWR) that you relied on to respond to these Discovery Requests.

DATED this 10th day of September 2008.

Respectfully submitted,

GIVENS PURSLEY LLP

By


Christopher H. Meyer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of September, 2008, the foregoing was filed, served, or copied as follows:

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Kootenai Environmental Alliance
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Jai K. Nelson, RN
Spokesperson/Coordinator
Coalition for Positive Rural Growth
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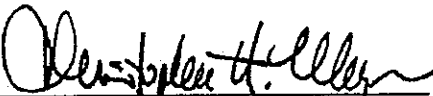
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Gary L. Spackman
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Christopher H. Meyer