

To the Department of Water Resources of the State of Idaho

RECEIVED

SEP 08 2009

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-32573 IN THE NAME OF M3 EAGLE LLC

NACGUA's and Alan Smith's (Eagle Pine Water User Association) Response to M3 Eagles' Motion To Designate Official Hearing Transcript and Notice of Lodging of Transcript dated August 21, 2009.

To Hearing Officer, Mr. Gary Spackman,

NACGUA is officially objecting to M3 Eagle's Motion To Designate Official Hearing Transcript and Notice of Lodging of Transcript dated August 21, 2009.

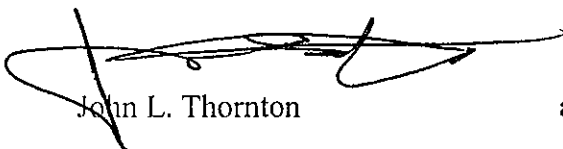
The official record of the Hearing was previously identified as the audio recording that was recorded on a daily basis by IDWR and posted to the IDWR website. The transcripts of M&M Court Reporting were taken solely at the pleasure of M3 Eagle and not of the Protestants nor of IDWR. Jeff Fereday stated a number of times during the Hearing that M3 was paying for and taking the M&M Court Reporting document for their benefit, therefore, not that of the official record. There has been no review of the M&M Court Reporting documents for their accuracy or authenticity by any of the numerous individuals that participated during the 17 days of the Hearing. During the entire Hearing there was no mention of the M&M Court Reporting document to be used as the official transcript let alone an exhibit. Why now?!

Based on the early depositions of David Head and John Thornton taken by M&M Court Reporting at the insistence of M3 Eagle, David Head and John Thornton were directed by M3 Eagle to review the depositions for their accuracy and certification (refer to the attached letter of M&M Court Reporting dated December 16, 2008). A similar letter was also sent to John L. Thornton. Our attorney at that time, Ms Jo Beeman, identified that based on Idaho Code under the Idaho Rules of Civil Procedure, we had 30 days plus 3 days from the date on the letter from M&M to review and sign your depositions, not the 20 days identified in the letter.

We suggest that it is not even feasible to have all of the individuals involved in the 17 days of the Hearing begin to review the massive M&M Court Reporting document for its accuracy and authenticity.

As identified during the initiation of the Hearing, let the official audio transcript serve as the sole transcript source for the official record.

Please note the following Certificate of Service dated September 3rd, 2009.
Verbal signing approval provided by both David Head and Alan Smith



John L. Thornton

and /s/ David Head and /s/ Alan Smith

Representing NACGUA

and Eagle Pines Water Users Association

Certificate of Service

I HEREBY CERTIFY that on this 4th day of September, 2009, a true and correct copy of the documents described below was served on the following parties as identified below.

NACGUA's and Alan Smith's (Eagle Pine Water User Association) Response to M3 Eagles' Motion To Designate Official Hearing Transcript and Notice of Lodging of Transcript dated August 21, 2009.

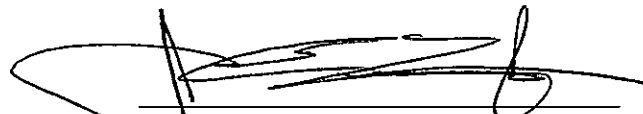
Idaho Department of Water Resources (via US Mail)
Attn: Gary Spackman
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720

John Westra (US Mail)
Western Regional Office
IDWR
2735 Airport Way
Boise, Idaho 83705

Norman L Edwards (Hand Delivered)
884 W. Becon Light Rd
Eagle, Idaho 83616

Alan Smith (Hand Delivered)
3135 Osprey Rd
Eagle, Idaho 83616

Jeff Fereday (Us Mail)
Givens Pursley LLP
601 W. Bannock St
PO Box 2720
Boise, Idaho 83701



John L. Thornton and or David Head
Representing NACGUA

**M
& M**
**Court Reporting
Service, Inc.**

Boise, Idaho
421 W. Franklin Street
P.O. Box 2636 83701-2636
208 345-9611
208 345-8800 (fax)
email m-and-m@gwest.net

SOUTHERN OFFICES
1 800 234-9611

Twin Falls, Idaho
208 734-1700
Pocatello, Idaho
208 232-5581
Ontario, Oregon
541 881-1700

NORTHERN OFFICES
1 800 879-1700

Coeur d'Alene, Idaho
208 879-1700
Spokane, Washington
509 455-4515

December 16, 2008

David Head
855 Stillwell Dr.
Eagle ID 83616-2527

**RE: In the Matter of Application for Permit No. 63-32573 in the Name
of M3 Eagle LLC**

Case No. 63-32573
Deponent: David Head
Taken on 12/9/2008
M & M Job No. 19055B4

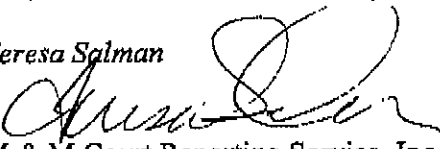
The testimony given by you is ready for review and signing at **M&M Court Reporting, 421 West Franklin Street, Boise, Idaho**. Please call 345-9611 to schedule-review of this deposition.

Due to the impending hearing, the executed certificates are to be completed no later than **January 9, 2009** or the privilege will be considered waived.

Thank you for your assistance.

Very truly yours,

Teresa Salzman


M & M Court Reporting Service, Inc.

Enclosures

pc: Jeffrey C. Fereday
File