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DEPARTMENT OF
WATER RESOURCES

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December 31, 2008

Mr. Aaron Marshall
Senior Water Resource Agent
Water Allocation Bureau
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Application to Lease Water Right Nos. 94-4217 and 94-4244 to
Water Supply Bank/Idaho Dept of Environmental Quality

Dear Mr. Marshall:

I am belatedly responding to your letter of March 20, 2008, directed to Ms. Toni Hardesty, Director of DEQ. I apologize for the extreme delay in responding. When Eagle Crest elected to file for a diversion from Government Creek as the source of irrigation water for their golf course, my client's application became somewhat reduced in its priority. However, I am retiring from the practice of law effective December 31, 2008, and I want to attempt to answer as many of your questions as possible in conjunction with turning this matter over to Deputy Attorney General Susan Hamlin. It is my understanding that she is a deputy attorney general assigned to DEQ.

As stated in the 1983 claim to a water right, the 10 cfs was used for industrial purposes at both the smelter and the mine. Bunker Limited partnership acquired the smelter from Gulf Resources in 1982 and attempted to reopen the smelter which had been closed since 1981. Bunker Limited used the water for fire suppression, dust control, and other operational uses. In 1983, the site area was declared a super fund site. Bunker Limited backed out of their acquisition, and

the site reverted back to the Pintlar Corporation as the alter ego of Gulf Resources.

Title remained vested in Pintlar/Gulf Resources until 1995. During that period of time, water from Government Creek continued to be used for fire suppression and dust control. There were actually two fires in the early 1990's that were fought using water from Government Creek.

The EPA super fund cleanup commenced in 1994, and EPA began to use the water for dust control, compaction, and equipment decontamination. That use continued until just recently. The United States (EPA), gained title to the site in 1995. The EPA owned and controlled the smelter site until September of 2007, when it was deeded the DEQ under the provisions of federal law. However, local governments have used the water from Government Creek for dust control, street washing, and compaction since 1994. These uses have continued since DEQ acquired title.

In 2007, with the permission of DEQ, Eagle Crest began using water from Government Creek for dust control and preliminary irrigation associated with the construction of their golf course.

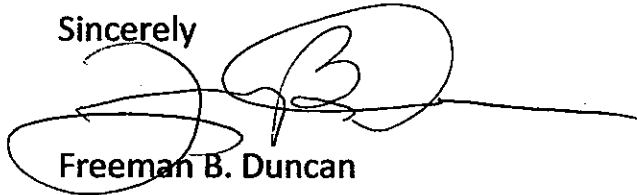
From 1981 when Gulf Resources closed the Bunker Hill Smelter to today, the water diverted under right rights 94-4217 and 94-4244 have consistently been used for fire suppression, dust control, construction compaction, and equipment decontamination. My investigation indicates that there has not been a five year lapse in such use.

With reference to the availability of water to fill the water rights, the flow in Government Creek is admittedly seasonal. As Eagle Crest improves and uses its diversion, information concerning flow should become more available. I assume that this will also be an issue in the adjudication.

It is my understanding that the North Idaho water rights adjudication has been officially commenced by the court, and the filings will begin as early as February. I assume that Susan Hamlin will be assisting DEQ with the filing of an accomplished transfer claim in the adjudication. Since that claim and the water bank application will deal with similar factual elements, I will leave it up to Ms. Hamlin and you to decide how to proceed with the water bank application.

Again, the purpose of this letter was to download the information that I have accumulated, as I ride off into the sunset. That is not to say that I will not be available to you and Ms. Hamlin for any questions that I can answer. My phone number is (208) 659-0244.

Sincerely

A handwritten signature in black ink, appearing to be 'F. B. Duncan', with a long horizontal line extending to the right. The signature is written over the printed name 'Freeman B. Duncan'.

Freeman B. Duncan

Cc: client