

PROTESTANT'S EXHIBITS

FEB 21 2007

DEPARTMENT OF
WATER RESOURCES

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

**IN THE MATTER OF APPLICATION FOR) PROTESTANTS
AMENDMENT 72669) EXHIBIT
FOR PERMIT NO 95-9045) DOCUMENTS
IN THE NAME OF BLACK ROCK UTILITIES)
INC.)**

EXHIBIT B

Interests of Petitioners, Basis of Petition and Relief Sought

A. Interests of Petitioners

The Coalition for Positive Rural Impact at Rockford Bay and Loffs Bay is a collective representation of the local public interest and community area surrounding the Black Rock and Black Rock North developments and golf courses. Our mission is to address the preservation and enhancement of Kootenai County's unique rural character and environment.

The area residents rely upon area surface and ground water for drinking, irrigation and recreation. The Coalition, which includes several area Neighborhood Associations, numerous community residents and many county citizens share concerns regarding the water management practices utilized by Black Rock Development and Black Rock Utilities at Club Black Rock and at the Black Rock North Developments.

The Coalition believes that there is the possibility of impacting and injuring other water rights due to the high volume of water that the permit allows, especially during summer low water flows into Lake Coeur d' Alene and out to the Spokane River. The Coalition believes it is possible that the water supply is insufficient to support the 2.5 cfs without affecting lake levels in and around Rockford and Loffs Bays as well as the Spokane River. A permit to appropriate and amend a water right with this volume should not be granted unless it is based on sound scientific data.

B. Basis of Petition

The proposed water amendment may potentially injure other water rights and has not been proven or evidenced otherwise. The local public interest is and will be directly affected by the proposed water amendment application and has numerous concerns on the local and regional effects of such use and consumption on a public water resource.

The local community is and will continue to be adversely affected by water management and storm water management practices by Black Rock Development and Black Rock Utilities on the Club Black Rock and Black Rock North project sites. Management decisions that diminish or harm Coeur d' Alene Lake water quality or quantity, its inflows and outflows, the Rathdrum Prairie-Spokane Valley Aquifer and other hydraulically connected water resources, including, but not limited to, the Spokane and Little Spokane Rivers, in addition to local area ground water supplies may potentially contribute to water quality degradation, harming fish and wildlife

habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, as well as human health issues.

Local residents have concerns over lagoon sewage discharges and spills. There have been DEQ permit violations involving the wastewater system. Neighbors believe it is a threat to public health and that the lagoon is contaminating area ground and surface water resources.

Another concern is that the migration of nutrients such as nitrogen and phosphorus to Coeur d'Alene Lake from the application of fertilizers on the golf courses. These nutrients in the lake could lead to the suspension of the toxic metals currently captured in the non-suspended sediments on the bottom of the Lake. Furthermore, golf course fertilizers, herbicides and pesticides could contribute to tributary, stream and lake water quality problems, which may include the violation of water quality standards.

The local community believes that the proposed use of this water amendment application is in conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have and the effects of such use on the public water resource. The local community has concerns and will present argument that Black Rock Development as Black Rock Utilities at Club Black Rock and at the Black Rock North Developments are poor stewards of surface and ground water resources. This conflict and interest is three fold: water quality contamination, water consumption, withdrawal amount and application, and the equitable and just usage of a water resource allocation.

The Coalition believes that granting a permit to appropriate water to irrigate three (3) golf courses, assorted ponds, waterfalls and water features and another 325 non-full time residential properties from a public resource; Lake Coeur d'Alene conflicts with local public interest. It is in the public interest to safeguard water quantity and quality in Lake Coeur d'Alene and this amendment is contrary to safeguarding practices and is contrary to the conservation of water resources.

1. Contamination

Since the establishment of Club Black Rock in 1999, there have been ongoing issues with Black Rock Development regarding ground and surface water contamination. Over the years there have been numerous documented violations, questionable water management and storm water practices with this development, which will be, demonstrated by exhibit documentation and in part, the following:

The circumstances concerning Black Rock water management practices have begun to escalate over the past year. In the past several months the water contamination and pollution complaints by local residents has increased dramatically. Area residents have contacted DEQ and EPA on almost a weekly basis with documents, photographs and even water testing paid for by area residents.

Black Rock has a long documented history of water quality degradation. There have been numerous violations involving their sewage and lagoon system. The first violation happening during construction in 2001 and another incident and violation during the summer of 2004 that Gary Gaffney at the Department of Environmental Quality (DEQ) noted as "pretty serious." A

DEQ memorandum dated December 15, 2005, noted that during 2004, DEQ numerous complaints concerning stream runoff, well vault flooding and fecal coliform contaminates found in well water down gradient from Club Black Rock. DEQ received additional complaints that streams emanating from Black Rock were flowing all summer long in drainages that previous to Black Rock had been seasonal. However, DEQ did not investigate these complaints.

Furthermore, in the same DEQ memo it noted that increased nitrates could be detected in the surface water drainages below Black Rock following golf course fertilization and Black Rock indicated that the development has influenced surface water. However, Black Rock was unwilling to share their own storm water study with DEQ, as Black Rock was not comfortable with DEQ's "ability to protect business confidential information".

In a DEQ letter to Black Rock Utilities, dated July 29, 2005 from Gary Gaffney notes that there was saturated and ponding conditions around the lagoon and these conditions were in violation of the WLAP (Wastewater Land Application Permit) for this facility.

In a subsequent letter from Gary Gaffney of DEQ to Black Rock Utilities, dated August 15, 2005, Mr. Gaffney noted that a follow-up site visit revealed another area with irrigation runoff and commented "Please be advised that further violation of permit conditions may result in formal enforcement action."

In a Coeur d' Alene Press Article "Neighbors Take Black Rock Irrigation to Task" dated August 17, 2005, Gary Gaffney from DEQ noted that standing ponds near the sewer lagoon violated the permit because all treated water needed to remain in the lagoon or be absorbed into the ground. Mr. Gaffney is quoted as stating: " Obviously, they've had a problem because it's pretty hard to conceal." Adding; "We can elect to go to enforcement or try to be cooperative and work with them, Usually, the first step is to work with them."

A more recent violation occurred on August 25, 2006, when there was a breach at the sewage lagoon at Black Rock and 500 gallons of wastewater ran down the ditches. Gary Gaffney of DEQ notified Black Rock and "corrective measures" were to be pursued.

During the month of October, 2006, numerous complaint calls and letters by community residents were made to DEQ and EPA concerning a creek located off Rockford Bay Road that prior to the Black Rock Development was strictly seasonal. Now, the local community has dubbed it "Holiday/After Hours Creek" and the flow has been documented by area residents as being noticeably and reliably higher during nights, weekends and on holidays. There is existing DEQ documentation of residents of area lakeshore homes complaining about drinking water that is as " thick as mud". Other residents have concerns about increased contaminates in the runoff which at times has also caused considerable erosion and rising shallow ground water.

In November and through December, 2006, DEQ has been notified of downed silt fences with a high volume of muddy discharge running over the silt fences and hay bales. This occurred at the Black Rock North Expansion site in and near Stimson Creek runoff, which runs directly into Lake Coeur d' Alene.

In Mid- February, 2007, the Corp of Engineers, and DEQ agencies received phone calls from local area residents related to concerns of creeks being diverted and muddy creek runoff on the Black Rock North construction Site.

Currently, in North Idaho there is NO AGENCY that knows how large golf course developments impact Coeur d' Alene Lake, as well as surface and ground water resources, by erosion, water pollution and contaminates.

The contamination and water degradation stemming from the Black Rock Development is not an isolated issue-their contaminates potentially affect all regional water resources. Several tributaries, streams and Stimson Creek travel through Black Rock Development and flow directly into Pilot Rock Bay, Loffs Bay and Rockford Bay of Coeur d' Alene Lake and these waterways are in the "line of fire" for contributing to the degradation of Coeur d' Alene Lake water quality.

2. Water consumption, withdrawal amount and application.

In previous discussions with IDWR over the effect of lake withdrawals on downstream flows, we have been advised that there is a direct relationship between lake withdrawal and stream flow in the Spokane River. We remain concerned that the cumulative effect of withdrawals from the lake will ultimately have a negative impact on Spokane River flows. In conversations with David Tuthill, the director of IDWR, he has voiced concerns that the minimum dam flows during the month of August are not always adequate and IDWR is currently working on reviewing this issue with Avista documentation.

These issues will be further demonstrated by exhibit documentation and a presentation at the hearing.

3. The equitable and just usage of a water resource allocation.

This matter will be demonstrated by exhibit documentation and a presentation at the hearing.

C. Relief Sought

The Rockford Bay and Loffs Bay Community believes that our water resources need to be managed with researched facts and relevant data. The Coalition is concerned about the long-term health and viability of lake Coeur d' Alene for all of the local residents. In fact, Coeur d' Alene Lake and the Spokane Valley-Rathdrum Prairie Aquifer is the most economical supply of water in our region. According to the 2000 Federal census, over 430,000 people live in Spokane County and over 117,000 live in Kootenai County. It is estimated that about 60% of the combined populations use the Aquifer as their water supply and over 750,000 people in our region people rely on it for their drinking water. Water quality trends have shown a gradual increase of contaminates reaching area drinking water sources.

The Rockford Bay and Loffs Bay Communities believe that water stewardship practices should be nonnegotiable as water quality should be responsibly protected in addition to the just and equitable entitlement of water resource allocations being granted using relevant applicant experience, qualifications, history and information as well as current relevant data relating to available water resources.

Our argument as to the validity, entitlement and determining a fair and rational resolution to this water permit application will be further presented at hearing.

June Bergquist
Dept of Environmental Quality

Exhibit CR-1

RECEIVED

DEC 18 2006
12-13-06

DEQ-Coeur d'Alene
Regional Office

Dear June,

Thank you for taking the time this morning to listen to my concerns and file them as a complaint. The sediment load and high run-off in the waterways along Loffe Bay Road at the Black Rock site were quite alarming this morning. The straw bales and silt fence next to the road where Les Schertzman's driveway comes off of Loffe Bay Rd were completely covered and over-run with water as I was driving by to work at about 8am. Stinson Creek, where it passes under Loffe Bay Rd near Pilot Rock Rd, was also muddy in the extreme today. Excavation at the site has been ongoing this week with the digging of a large hole on the North side of Loffe Bay Rd across from where they are still pumping on the south side trying to deal with that mess.

I did speak with Rob Grandenetti at the EPA this morning to express my concerns. I hope you are able to get out there for some water samples today! If it would be at all possible or helpful, I would be

willing to collect samples in accordance with whatever guidelines are necessary. I do have a Bachelor's degree from the University of Colorado with a major in Biology (Environmental, Population, and Organismic division), so I believe I would be considered qualified, and I would volunteer my time. I am a concerned citizen and would be willing to help monitor the situation, since I live in the immediate area it might prove convenient.

Thank you again for your assistance.
Sincerely,

Mary Rogers

Mary Rogers

5219 W. Reality Loop

Col'A, Ad. 83814

208-667-2153 Hm

208-755-3171 Cell

Exhibit G (2) pgs

THE VISION PROPERTY GOLF COURSE LIFESTYLE CONTACT

PROPERTY

Black Rock Phase II

A second course by another award-winning course architect, a second fully-appointed Clubhouse, and a Clubhouse just for kids? Who could want more?



Land for Sale Homes for Sale Amenities Development Map

Black Rock | Black Rock Phase II | The Ridge at Sunup Bay

Our members love their homes at Black Rock, but we thought we'd make it even better.

Second Golf Course

As recently published in Executive Golfer, Tom Weiskopf, a PGA tour standout, "is famous for creating enjoyable courses and enveloping the splendor surrounding it." Weiskopf himself says, "This course will have a traditional feel with big trees, wide fairways, and soft contours with different bunkering and a green contouring style. Even from the tees, this course will have a different sighting and feel. Two of the holes, the 5th and the 18th, will also feature two green complexes. This is a great opportunity to create something special following the success of the first course."

Equestrian Center

Miles of riding trails will be accessible from the center. Boarding will be available for horses. The facility will have both indoor and outdoor riding facilities.

Kootenai Cabin

This will be the "home away from home" for kids and teens at Black Rock. Supervised activities will be planned for their enjoyment as well as a variety of amenities to keep them busy. A lake for fishing, basketball court, tennis court, sand volleyball, and pool will keep them wondering with so many choices "what will we do next?" We are also looking in to the possibility of adding a zip-line and rock climbing wall.

Construction is underway for an additional 1,000 acres at The Club at Black Rock. It will offer larger homesites, turn-key options similar to the cabins and cottages; a second golf course; a second clubhouse; an 18-hole putting (equestrian center with miles of riding trails) facility with a scenic nine hole par-3 clubhouse for children with supervised lake for fishing.

For more information contact:

Terry Bloskey, Director of Sales—208-7

Debbie Long, Sales Consultant—208-8

Tanner Bickelhaupt, Sales Consultant—



[Click image to enlarge illustration of Kootenai Cabin.](#)

Second Clubhouse

Black Rock's second clubhouse will be very open, bright, natural, uplifting and accessible. Its rich woods, extensive stone veneer, large windows, inspiring vistas, entry hall, multiple hearths, intimate gathering areas, expansive decks and terraces and harmonious overall character assure the Clubhouse is a place members can embrace.

The overall ambiance of the Clubhouse interior is distinctively Pacific Northwest-natural, sunny, informal, casual and relaxed so that you, your family and your guests always feel that you truly belong here. It will offer a distinctive, relaxed, yet invigorating environment - an agreeable reprieve from the demands of everyday life. The atmosphere will be easy to enjoy-comfortable, convenient, casual. Whether relaxing with family members, dining with friends and acquaintances, recounting the day's round with your foursome in the mixed grille, Black Rock is all about experiencing the club life in a friendly, cordial, welcoming environment.

Picnic Pavilion

Located at the highest point on the property, this pavilion is a fantastic spot for a picnic or just to take in the view. Make plans for a healthy hike or take a leisurely horseback ride to this spot you will visit again and again.

Homesites

Larger estate-sized lots and parcels will be available for custom homes as well as turn-key options similar to the Member Cabins and Golf Cottages.



[Click image to enlarge illustration of the Black Rock Golf Course.](#)

CK-3

RECEIVED

JAN 17 2005

DEQ-Coeur d'Alene
Regional Office

January 9, 2006

June Bergquist
Dept of Environmental Quality
State of Idaho
2110 N. Ironwood Parkway
CDA, ID 83814

Dear Ms. Bergquist:

Thank you for the letter summarizing the activity that the Department of Environmental Quality has had with the Blackrock Development at Rockford Bay.

From your letter, I got the impression that you believed that we had lost interest in the issue that we had initially raised with the Blackrock Development at Rockford Bay, but I want to assure you that we are still concerned about the current situation.

The response that we received from you after your initial investigation of the situation suggested that there was not much more to be done from your department's area because the bacterial levels in the run-off did not exceed accepted standards. However, we have continued to be concerned about the amount of run-off and how it has become a year round phenomenon. Even though the bacteria levels did not exceed acceptable standards, with the stream now running year round that obviously makes for increased drainage of bacteria into the lake.

This run-off only began during the summer of 2003 after the Blackrock Development was under way. This year round run-off clearly stems from the Blackrock property as it is clearly evident that the water imminates from the hillside just above the Rockford Bay Road on the Blackrock property. This continuous outflow from the hillside travels down hill between our property and that owned by the Black family. The suggestion by the Blackrock Development that any bacteria in the water is coming from our drain field is doubtful because our driveway is situated between the stream and our drain field and there is no surface water that crosses over our driveway to contribute to that run-off. I cannot speak specifically for the property of the Black family as they have not mentioned any problems that they have experienced with their drain field. They too have expressed concerns about this year round run-off and the additional bacteria that is going into the lake as well as the erosion that it is causing on our beach.

We have sent one or two letters to Mr. Hassel and have not received any response from him after the initial investigation of the problem in late 2003, early 2004. We have also had the water re-evaluated for chemicals, specifically fertilizers, and there is some evidence of increased phosphates in the run-off. We do not apply any fertilizer on our property and are concerned about the possibility that the phosphates are coming from the Blackrock Development and the golf course there.

I appreciate the DEQ's continuing monitoring of this problem.

Sincerely,



Gordon Decker

GWD:clg



Mr. Gordon Decker
61 W. 21st Ave.
Spokane, WA 99203

ROCKFORD BAY SUMMER HOMES ASSOCIATION INC

November 2004

Exhibit CR-4

Minutes of the annual meeting held November 21 2004

Attending:

Briggs

Pete

Ann

Tara

Mosely

Betty

Terry

Ostheller

Bobbie

Jay

Tawnya

Espe

Ella

Laura

The Meeting was held at the Briggs summer home
President Pete Briggs called the meeting to order
Minutes from 2003 were read

Old Business

Community Area

Pete donated a sprinkler for the community area

Indian Boundaries

Terry checked at the County Assessors office and found the lake south of Black Rock is
Reservation

It is possible to be taxed but everyone was sure this is held up in the courts

Run Off

Jay found out that the Health Department is aware and looking into it
Pete suggested samples be taken from the creek this summer and everyone agreed
that the samples be sent to an independent for testing

Beach Taxes

Pete confirmed that taxes basically stayed the same as last year

Dock

The water was never high enough to turn the dock
Everyone will watch and when the water comes up high enough this will be done

Taxes & Expenses

See attached Page

All members paid all taxes and expenses at the meeting

New Business

Fire hose

All attending agreed that a new fire hose is needed
Pete will check prices etc

Meeting was adjourned

Peter A Briggs
President

① Talked to Sean Ellison - Ke tenai County Health District
Exhibit CR-5
October, 2006

② Terrence and Elizabeth Mosely at 7272 Tribal Camp Lane belong to Rockford Bay Summer Homes (a non-profit homeowners association).

③ Since the development of the Black Rock Resort, the creek bed that runs alongside the property has been a seasonal run-off creek bed for the previous 40 years.

④. In the past 3 years, we have noticed stream runoff during the summer months. Prior to the Black Rock development, there was no summer runoff.

⑤ In October of 2006, we were alerted by Carol and Nick Muzik that extreme stream discharge was occurring at night, depositing sand at the waters edge. Signed on this 28th day of October, 2006 by:

Terrence Mosely
TERRENCE MOSELY

Elizabeth Mosely
ELIZABETH MOSELY

Exhibit CP 6
(3) Pgs.

pg 1
Carol Muzik

After 3 months of little or no rain on October 9th we noticed an increased water flow in the seasonal stream next to Moseley's. This stream is normally dry unless we have high rains and spring run off. All neighbors bordering this stream have noted increased run off "especially at night" in the summer when there is no rain. This comes down directly from ponds that were in place at the Black Rock area well before Black Rock was there. After taking pictures I called Black Rock golf course and was told by Lonnie at Black Rock that it was due to a broken sprinkler head. These flows were many gallons per second and do not suggest a broken sprinkler head. The flows diminished in the next few days but continue at a gallon per second as of October 26th. Flows also have continued since (as of November 9, 2006). We have recently received rain, and this week especially on Tuesday November 7th the flows were very dirty and at as high of flows as we took pictures of on October 9th.

In the pictures you can tell there was a high water flow by looking at the wet pattern at the stream outflow area, and noting that there is water in the Moseley's front yard. They do not have water in their yard unless the creek flows are extremely high.

As Kathy McNelis, Nick and Carol Muzik were standing observing the stream flow between the Moseley's and the Briggs' homes we also observed the creek wall falling into the water. This was high up on the creek wall and we realized that it too was wet after a high water outflow. Note the pictures where the outflow into the lake is saturated with water in the sand and dirt well above where the water level currently is in the photo. The water level had dropped but it was milky looking and it was observed the same out in the lake water as noted in the pictures.

All of us who have 10 - 40 + years out here at Rockford Bay know this is a seasonal stream. This is easily verified by the Briggs family, the Moseleys, the Osthelers, and numerous others.

Here are our concerns:

- We are concerned that we are getting a continuous flow of water from Black Rock that was not there before Black Rock arrived.
- We are concerned that there is increased sediment from the water flow into the lake. This is a cause for study. Black Rock's long culvert system does not allow sediment to properly filter back into the earth before reaching the lake.
- We are also concerned that nitrates from fertilizers and other components from the golf course, that we are unaware of, are potentially washing down into our bay.

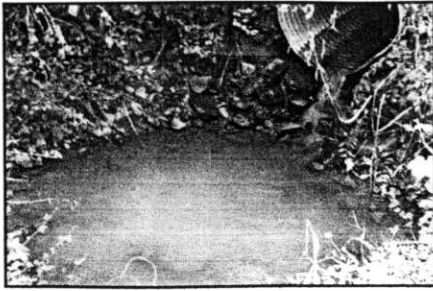
• We are also concerned that nothing is really getting done despite multiple requests from other neighbors regarding other important issues. Other neighbors down the road are experiencing well contamination that had not happened before Black Rock arrived-that we are aware of. This is in the area below the swale pond which is just east and below where B.R.'s fence begins on Rockford Bay Road. The real source, not animal feces contamination as Black Rock says, needs to be addressed by DEQ.

Carol & Nick Morin

Rockford Bay Seasonal Stream Flow Pictures

October 9th, 2006, 1mile east of marina

PA-3



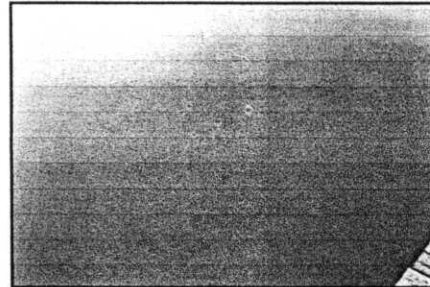
October 9th sudden flow (2 days after it began) with milky flow. Creek normally dry. No rain in 3 months!



Outflow of seasonal creek. Note wet sediment indicating high water flow in previous days.



Close up of outflow area where sediment has built up over rock and is wet from previous high water flow



Milky water in lake to left of outflow of seasonal stream



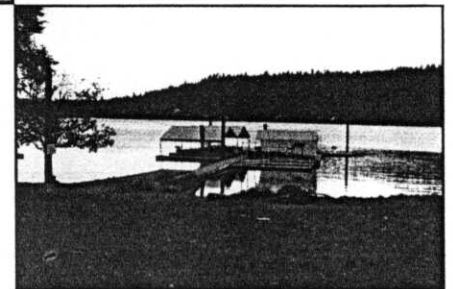
Clear water out from milky outflow



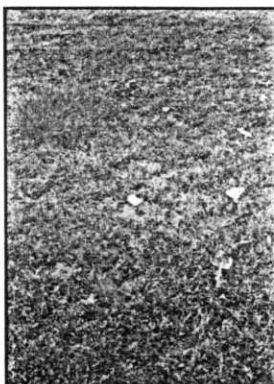
Close up of water flow in seasonal stream



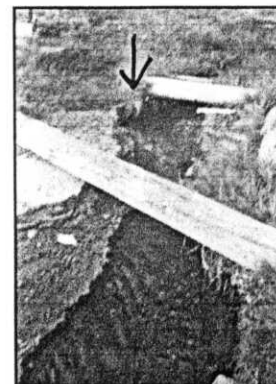
Stream running between Moseleys and Briggs'.



Rockford Bay Terrace Community Beach just east of outflow. Multiple water systems drawing from the lake here.



Flooding of water in Moseley's yard on 10/09/06 from seasonal stream flow.



Sloughing of creek side into water noted on left side of creek just this side of bridge which is noted in the upper half of the picture

NOTIFICATION OF ADJACENT PROPERTY OWNERS

AFFIDAVIT

RECEIVED

CASE NO

PUD-037-99, Z-703-99, Z-704-99

FEB 21 2007

FILE NAME

Black Rock

DEPARTMENT OF
WATER RESOURCES

APPLICANT NAME

Black Rock Investments Inc. - 40 Frame & Smetana

COUNTY PLANNER

Sandy Meehan

HEARING DATE

November 8, 1999

***The adjacent property owners must receive the notices at least 15 days prior to the hearing date.

NOTICES NEED TO BE MAILED BY AND NO LATER THAN THIS DATE: October 21, 1999

ATTENTION APPLICANT -- PLEASE READ --

The following information will benefit you in completing the necessary requirements for mailing public notices to the *surrounding and adjacent property owners within 300 feet of the property lines associated with your project*. Follow the steps enclosed. Included in this packet: Checklist for the Steps of the Process, Set of Instructions-STEPS 1, 2, 3, and an Affidavit of Mailing

IMPORTANT NOTICE

MAKE SURE THAT YOU HAVE THOROUGHLY CHECKED THE PROPERTY OWNERS YOU ARE NOTICING ABOUT YOUR PROJECT. EVEN IF ONE PROPERTY OWNER IS MISSED FROM THE NOTICING PROCESS, AND THEY SHOULD CONTACT THE KOOTENAI COUNTY PLANNING DEPARTMENT OR SHOW UP AT YOUR SCHEDULED HEARING STATING THAT THEY WERE NOT NOTICED ABOUT THE PROJECT, YOUR HEARING WILL BE POSTPONED TO A LATER DATE.

THEREFORE, THE RESPONSIBILITY IS YOURS!

IMPORTANT: YOU ARE REQUIRED TO FURNISH THE PLANNING DEPARTMENT WITH THESE ITEMS ONE WEEK PRIOR TO YOUR HEARING: (PLEASE INDICATE THE CASE NUMBER AND NAME)

1) Assessor's Map

2) Mailing List

3) Copy of Labels

4) Notarized Affidavit

(The Green Return-Receipt Cards need to be returned to the Planning Department at your scheduled hearing.)

Office Use Only:

Sue Baker

Mailed certified or given to:

PUD-037-99, Z-703-99, Z-704-99
BLACK ROCK INVESTMENTS INC
C/O FRAME & SMETANA
603 N. 4TH STREET
COEUR D'ALENE, ID 83814

Date staff mailed: 10-19-99

Handed to 523
clerk - Wetzel & Wetzel

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kootenai County Planning Commission will conduct a public hearing at or after the hour of 6:00 p.m. on November 8, 1999, in Room 1A of the Kootenai County Administration Building located at 451 Government Way, Coeur d'Alene, Idaho, to consider the following: **CASE NO. PUD-037-99**, a request from Black Rock Investments, Inc. c/o Frame and Smetana, P.A. for preliminary approval of The Club at Black Rock, a planned unit development on 654.66 acres of land in the Restricted Residential and Rural zones. The proposal includes plans to construct a golf course, clubhouse, equestrian center, convenience store, and other related structures and uses along with 381 residential units. The proposal includes an area that is subject of an application for a rezone from Rural to High Density Residential and is noticed for public hearing on the same evening as **CASE NO. Z-704-99**. The proposal also includes an area that is subject of an application for a rezone from Rural to Commercial and is noticed for public hearing on the same evening as **CASE NO. Z-703-99**. The site is described as an area of land situated on the north side of Rockford Bay, Lake Coeur d'Alene, which includes portions of Sections 8, 9, 16, and 17, all in Township 48 North, Range 4 West. The site is located off of Loff's Bay Road, approximately 1 mile east of its intersection with Rockford Bay Road and extends to the intersection of Black Rock Road and is bordered by Rockford Bay Road to the south. The individual parcel numbers for the land subject to this request are:

48N04W-08-6800	Section 8	Township 48 North	Range 4 West	40.00 acres
48N04W-08-8000	Section 8	Township 48 North	Range 4 West	167.08
48N04W-08-8600	Section 8	Township 48 North	Range 4 West	40.00
48N04W-08-9200	Section 8	Township 48 North	Range 4 West	50.00
48N04W-09-3970	Section 9	Township 48 North	Range 4 West	83.45
48N04W-09-4600	Section 9	Township 48 North	Range 4 West	67.63
48N04W-09-5800	Section 9	Township 48 North	Range 4 West	10.00
48N04W-09-6800	Section 9	Township 48 North	Range 4 West	80.00
48N04W-16-0900	Section 16	Township 48 North	Range 4 West	2.29
48N04W-16-2800	Section 16	Township 48 North	Range 4 West	79.40
48N04W-16-3650	Section 16	Township 48 North	Range 4 West	34.27
48N04W-17-0050	Section 17	Township 48 North	Range 4 West	10.00
48N04W-17-0075	Section 17	Township 48 North	Range 4 West	10.00
Total :				674.12 gross acres

Further information may be obtained from the Kootenai County Planning Department, 451 Government Way, P.O. Box 9000, Coeur d'Alene, Idaho, 83816-9000, (208) 666-8268.

Publish date: Friday, October 22, 1999

Exhibit E

KOOTENAI COUNTY BUILDING & PLANNING DEPT • 451 GOV'T WAY • COEUR D'ALENE, ID 83814

NOTICE OF PUBLIC HEARING

The Kootenai County Hearing Examiner will hold a public hearing to consider
any and all comments on the following:

Case No. S-873P-06, a request by Black Rock North Development Inc., to create 325 residential lots on approximately 1,000 acres as part of the Black Rock North Planned Unit Development. Planned within this development is low to high density residential uses as well as a golf course, clubhouse, open space and other amenities. The site is located on both sides of Loff's Bay Road north of the existing Black Rock Development. The site is described as a portion of Section 33, Township 49 North, Range 4 West and portions of Sections 4, 5, 8 and 9, Township 48 North, Range 4 West, B.M., Kootenai County, Idaho. All written comments must be submitted ten days prior to the hearing date. If you require special accommodations, please contact the Kootenai County Building and Planning Department seven (7) days prior to the public hearing. Further information may be obtained from the Kootenai County Building and Planning Department located at 451 Government Way, Coeur d'Alene, ID 83816-9000, (208) 446-1070.

(PLEASE SEE MAP ON BACK)

**The public hearing will begin at 6:00 p.m., Thursday, March 1, 2007
in Room 1 of the Kootenai County Administration Building located at
451 Government Way, Coeur d'Alene, Idaho.**

1. Check the appropriate boxes and return to the Building and Planning Department before 4:00 p.m.
on February 19, 2007. Please include your name and address on any correspondence.

- ☐ Neutral;
☐ Comments (over):
☐ Support the Applicant's request;
☐ Do not support the Applicant's request.

CASE NUMBER: S-873P-06

FILE NAME: Black Rock North Development

- &/or 2. Phone (208-446-1070) or visit our office with
your comments.

Name and Address:

- &/or 3. E-mail mmussman@kcgov.us

- &/or 4. Fax your comments to 208-446-1071.

- &/or 5. Attend the public hearing.

Exhibit # 1

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DEPARTMENT OF
WATER RESOURCES

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The Club at Black Rock

Project Background

Marshall Chesrown grew up in the Inland Empire, attending school in the Spokane Valley and visited Lake Coeur d'Alene often. Later, as an adult following a very successful business career, was inspired to return to Kootenai County because of its combination of natural beauty and variety of landscape. Marshall's purchase of the 650 acre Rockford Bay parcel from the Pring family began a long time dream to return to the Coeur d'Alene area and develop a preeminent golf course and equestrian community.

A design team was assembled in 1998 and after several site visits the true uniqueness of the site was recognized. The team was struck by the combination of rolling grassy hills, forested land, natural areas, wildlife, fifty-foot cliffs, and spectacular views of Lake Coeur d'Alene. Marshall's vision was that such a marvelous site should be made available to more than merely a handful of owners. He wanted to develop the property in a responsible and high quality way, enhancing its natural attributes and making this unique area available to residents of Rockford Bay and visitors to the area. The design team committed themselves to responsible planning and seeing this vision become a reality.

Those sentiments led to a planning process, which first looked at the natural environment of the property and established a means of enhancing and protecting it. Next the requirements of a preeminent 18 hole golf course were considered and then the development of the remaining land into a quality residential community which would blend harmoniously with the environment. The proposed plan is the outgrowth of extensive thoughtful consideration and planning. It is based on input from governmental and county agencies, environmental assessment, a wildlife management plan, civil engineering efforts, an excellent golf course design and sensitive land planning.

From the inception of the project there have been five basic planning objectives for The Club at Black Rock:

- preserve and enhance natural areas and wildlife habitat
- set aside extensive open space
- offer an exceptional golf course that is open to public play
- create a unique residential neighborhood that provides a variety of housing opportunities with golf course and equestrian lots
- provide an extensive trail system throughout the project

These planning objectives rest on a long-term commitment to good land stewardship that respects the land and responds to the natural characteristics of the property. This

commitment to an environmental stewardship is coupled with a commitment to the creation of a high quality community that is conducive to an active and enriching life style for all residents.

In addition to the five basic planning objectives, the planning and development team was directed to evaluate the opportunities and constraints inherent in the property, to conduct an environmental assessment, and to propose a development concept and implementation strategy that would be environmentally sensitive, marketable, and economically viable.

The Club at Black Rock is envisioned to be a community nestled into the natural setting allowing its residents to enjoy a comfortable active lifestyle that embraces both the environment and responds to the allure of the grass lands, forest and wildlife. Design guidelines will be developed to preserve and enhance this unique site and desired outdoor lifestyle. The design guidelines and neighborhood covenants will perpetuate the commitment to good land stewardship, while creating architectural styles that encourage materials native to the region and responsive to the climate. The goal of the design guidelines will be the creation of a community that encourages individuality within a defined and appropriate range of architectural styles. The character of The Club at Black Rock will be casual drawing inspiration from the lodge design of buildings in the region that have a look of belonging to the land rather than imposing their structure on the land. These design guidelines will build upon the land use plan in creating a community that simultaneously welcomes and fits comfortably into its natural surroundings.

The Club at Black Rock is approximately 650 acres. There are two classifications of open space that have been delineated for the project. The first is general open space at 153 acres, which is 24% of the total project. The second is the golf course, clubhouse golf maintenance and related convenience uses area at 229 acres, which is 35% of the total project. These areas combine for 59% open space. They contribute to the preservation of environmentally sensitive areas, migration corridors for wildlife, as well as trail systems for humans.

The golf course is completely adapted to the favorable topography of the site, which allows for protection and incorporation of the sensitive areas into the course design. There will be less than ½ acre impact on the jurisdictional wetlands. Enhancement and/or creation of wetlands are planned as mitigation to the impacted areas. The golf course provides a "park-like" window at the entry off Loffs Bay Road. The main entrance will feature a waterscape with rock falls and a controlled access point. A dramatic view corridor will be created traveling south between two small buttes overlooking hole # 15 to the lake beyond. The clubhouse facilities are sited on a promontory in the central portion of the site providing unparalleled 360-degree views. Due to the configuration of the golf course and typography of the site, residential areas are located along the 5 steep drainage channels and on the cliffs over looking the lake. Additional housing sites have been carefully placed to respect watersheds and forest with emphases placed on minimal disruption caused from grading of streets.

The equestrian and/or other recreation facilities and lots are planned with separate access off Loffs Bay Road on the west side of the development. Open pasture with grazing will compliment the rural nature of this part of the site, and again provide a pastoral setting along the edge of the development. Loffs Bay Road will be the transition into The Red Hog Mountain area. A trail system will provide both a trail and open space environment that encourages equestrian and pedestrian movement. The trails have been located to have minimal interface with the golf course while providing connections from north to south and east to west. Additionally connections are shown to a proposed bus shelter for school children at the corner of Black Rock Road and Loffs Bay Road. Trails are a critical component of the plan, which will allow circulation throughout the development while providing a linkage to the beach parcel on the lake.

The development of The Club at Black Rock is not only seen as an opportunity but also as an obligation to foster and protect the natural gifts of this parcel of land and to preserve them for future generations. It is envisioned that the beauty of this setting with its exceptional views across Lake Coeur d'Alene will be preserved throughout the development.

Exhibit I

REQUEST FOR WATER MORATORIUM

(10) pages

Coalition for Positive Rural Impact at Rockford Bay and Loffs Bay

Jai Nelson, Spokesperson
15192 Gate 7 Ridge Road
Coeur d' Alene ID 83814

Department of Water Resources of the State of Idaho

David Tuthill, Director
P.O. Box 83720
Boise, Idaho 83720-0098

Department of Water Resources of the State of Idaho

Robert G. Haynes, Regional Supervisor
7600 Mineral Drive, Suite 100
Coeur d' Alene, ID 83814

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

IN THE MATTER OF APPLICATION FOR	)	REQUEST FOR A WATER
AMENDMENT 72669	)	PERMIT MORATORIUM
FOR PERMIT NO 95-9045	)	
IN THE NAME OF BLACK ROCK UTILITIES INC.	)	

Pursuant to **Idaho Statute Title 67, Chapter 67-6523 EMERGENCY**
ORDINANCES AND MORATORIUMS, Idaho Statute Title 42, Chapter 42-1805
DIRECTOR OF DEPARTMENT OF WATER RESOURCES, ADDITIONAL DUTIES SECTION 7
and Idaho Statute Title 42, Chapter 42-1805 DIRECTOR OF DEPARTMENT OF
WATER RESOURCES, ADDITIONAL DUTIES, SECTION 3 and Idaho Statute Title 42,
Chapter 42-250 APPRIOPRIATION OF WATER—PERMITS, CERTIFICATES AND
LICENCES—SURVEY, WATER CONSERVATION, The Coalition for Positive Rural Impact at
Rockford Bay and Loffs Bay respectfully requests a WATER MORATORIUM of any and
all water permit and water permit amendment action by the Coeur d' Alene regional

REQUEST FOR WATER MORATORIUM

office related to the withdrawal of water from Coeur d' Alene Lake, along with its inflows and outflows, to allow time for a definitive qualitative and quantitative study to be undertaken and completed.

Specifically, we are requesting an immediate WATER MORATORIUM along with an order for a comprehensive water budget study to accurately quantify if surface and ground water, inflows and outflows allow for additional permits and to determine if the cumulative effect of existing, proposed permits and amendment permits will be in conflict with the local public interest and if the local public interest in the area will be directly affected by a proposed water use. This study will act as a foundation for all pending and future water permit action to see if a surface or ground water withdrawal will potentially injure other water rights and if so will provide proof or evidence to that end.

It is our argument that because NO STATE or PUBLIC AGENCY knows the cumulative amount of water being withdrawn from Coeur d' Alene Lake and because NO AGENCY knows how large developments impact Coeur d' Alene Lake with erosion and contaminates it is absolutely imperative to develop a comprehensive water budget and pollutants study. It is our argument that water quality, water consumption and environmental impact must be predetermined in order to allow for logical and rationale permit allocations and approvals by Department of Water Resources of the State of Idaho (IDWR). It is urgently essential to develop a study in order to quantify the level of development that is feasible in and around Coeur d' Alene Lake and therefore

REQUEST FOR WATER MORATORIUM

permissible without significantly affecting current Coeur d' Alene Lake water levels and quality.

Accordingly, on May 1, 2006, The Coalition for Positive Rural Impact at Rockford Bay and Loffs Bay requested that the IDWR analyze existing and future developments, water districts, current and proposed golf courses currently withdrawing or scheduled to pump irrigation and/or utilize domestic water from the Coeur d' Alene Lake Basin and subsequent water consumption requirements. Accordingly, it was requested that data collection begin immediately and the utilization of an analysis to compile a record as to the *cumulative* usage and short and long-term effects of this *cumulative* usage on local surface and ground water supplies and power supply resources.

As the natural landscape in Kootenai County is urbanized, more and more impervious area shifts the water cycle from its natural balance. This shift results in impacts to both water quantity and water quality; specifically, increased runoff discharges into receiving waters over a shorter time frame, decreased infiltration for ground water recharge/stream base flows, and more pollution generated by land uses commonly associated with development and golf course subdivisions. These developments all have the potential to impact down slope residences, their drinking water supplies and surface water quality.

It is important to recognize that drainage divisions of the natural landscape or watershed boundaries do not follow the jurisdictional boundaries of society. Surface

water is interconnected to ground water and vice versa, making the study and protection of one integral to the protection of the other. Changes in land use drive changes in local water quality. The most common non-point source pollutants are derived from 1) a multitude of pollutants derived from activities associated with impervious surfaces (i.e. asphalt/concrete), and 2) the transport of fine sediment from construction site activities. These pertinent sources need to be studied and addressed in an accurate database.

A major change in land use around the Coeur d' Alene Lake basin has been the construction and expansion of large residential golf course developments. There is extensive documentation with the Idaho Department of Environmental Quality (DEQ) that large residential golf course developments have not been good stewards of our water resources. There is documentation filed at DEQ relative to numerous complaints from residents down slope from two specific golf course developments, Gozzer Ranch and Club Black Rock. These complainants believe that water quality impact to their drinking water as well as pollutants and erosion flowing into Coeur d' Alene Lake stems from these developments. Homeowners insist there is a connection between degraded water quality coinciding with development activity of these two large golf course subdivisions.

Currently, in North Idaho there is NO AGENCY that knows how large golf course developments impact Coeur d' Alene Lake, as well as surface and ground water resources, by erosion, water pollution and contaminates. No agency knows the

cumulative issues and effects of these developments on our environment and on public health. Additionally, the water consumption allotted and utilized by these golf course developments for "water features", ponds and golf course irrigation *per capita resident* is, at a minimum, suspect of being ethically justifiable.

A cumulative study on qualitative and quantitative surface and ground water data would aid in predicting the potential for water quality impacts, assess the effectiveness of current storm water, golf course fertilization and pesticide maintenance practices and wastewater management practices and set policies for improvements. This crucial study would be utilized to support water-budget models, decision-support systems, ground-water and surface-water hydraulic models, implementation for the Coeur d' Alene Lake Management Plan and as a basis for the future issuance of water withdrawal permits and actions related to permits.

In order to establish a water budget for the lake it will be necessary to accurately quantify inflows and outflows, change in storage, precipitation, climate changes, evaporation, ground water exchange and all withdrawals and return flows. All major and significant inflows and outflows as well as lake levels for calculating change in storage will need to be monitored and measured. A database of environmental (hydrologic and geologic), cultural and demographic and climatic variables are required in order to accurately assess and quantify Coeur d' Alene Lake's water budget and assess the affects of cumulative withdrawals on lake levels.

REQUEST FOR WATER MORATORIUM

Stream flow data is required, as well as contributing drainages, a water-use dataset needs to be developed based on the current inventory of public-supply wells, large industrial and domestic self-supply wells need to be inventoried, golf courses, gated communities and resort communities need to be inventoried for well water usage, irrigation as well as water features and pond usage. A data layer is required which extrapolates golf-course developments as this layer would be used for water-quality (nutrients/pesticides) conditions for future land-use planning around the lake.

Data on the extent of aquifers having a hydrologic connection to the lake requires study. The Coeur d' Alene Lake-Spokane River-Spokane Valley-Rathdrum Prairie Aquifer interchange and relationship is complex. There is a strong relationship between the Aquifer and Coeur d' Alene Lake to the Spokane River throughout its length to the confluence of the Little Spokane River.

Lake Coeur d' Alene, its streams and tributaries are the main contributor to the Spokane River. The lower the flow in the Spokane River the less water gets into the Aquifer. The flow in the River during late summer is very low. This flow is critical to maintain human consumption and use, support diverse plant and wildlife populations as well as minimum water flows are necessary to dilute the treated effluent discharging from wastewater treatment plants at Coeur d' Alene, Hayden, Post Falls, Liberty Lake, and the City of Spokane.

REQUEST FOR WATER MORATORIUM

The Aquifer receives a large percentage of its water from surface and subsurface flow from surrounding regional water sources. These regions are known as "aquifer recharge areas". In Idaho, the aquifer recharge areas are called Critical Aquifer Recharge Areas (CARAs) CARAs were officially recognized by the State of Idaho in 1990. Coeur d' Alene Lake acts to moderate the water flow between the Critical Aquifer Recharge Areas and the Aquifer. Human activities and land uses on the Critical Aquifer Recharge Areas have a significant and measurable affect on the quantity and quality of water in the Aquifer. As Coeur d' Lake flows into the Spokane River portions of the river lose water to the Aquifer as water percolates out of the river bottom. The flow in the Aquifer increases as water from surrounding watersheds percolate into the ground. Hence, the flow in the Aquifer decreases as these watersheds are reduced. Using groundwater as a water supply effects not only the amount of water in the Aquifer, but also the flow in the Spokane River from Coeur d' Alene Lake.

Newspaper articles from the 1890's relate that area residents believed the Spokane Valley-Rathdrum Prairie Aquifer was an "inexhaustible supply of pure water." This belief continued until the 1980's. Currently, studies and models suggest that during periods of high water demand a large percentage of the Aquifer flow is being withdrawn. The current available supply is believed to be adequate, but the supply is NOT inexhaustible.

Coeur d' Alene Lake and the Spokane Valley-Rathdrum Prairie Aquifer is the most economical supply of drinking water for well over 750,000 people in our region. According to the 2000 Federal census, over 430,000 people live in Spokane County and

REQUEST FOR WATER MORATORIUM

over 117,000 live in Kootenai County. It is estimated that about 60% of the combined populations use the Aquifer as their water supply and another 170,000 people rely on it for their drinking water.

The quality of Aquifer water is currently high, yet water quality trends have shown a gradual increase of contaminants. The ground water supply is highly susceptible to pollution because of the porosity of the glacial gravels, shallow soils, and shallow water table. Pollutants such as coliform bacteria, nitrates, and volatile organic compounds have been detected in ground water samples. Surface water is also highly vulnerable to contamination. Human-generated surface contamination is a reality-contamination incidents are costly, time consuming and technically difficult to manage. Prevention efforts are much more cost effective than clean-up efforts.

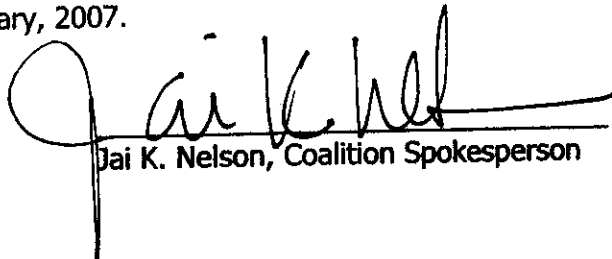
As current water quality trends have shown a gradual increase of contaminants reaching area drinking water sources, this alarming and escalating trend of increased contamination indicates that surface and ground water resources must be promptly and responsibly protected from further contamination. As a state and public agency, the IDWR is obliged to manage water resources, fairly allocate aquatic resources and protect the public interest. To do so without a database is imprudent and unreasonable. The most judicious and reasonable approach is to order an immediate WATER MORATORIUM and mandate a definitive and comprehensive qualitative and quantitative water budget study of the Coeur d' Alene Lake basin along with the inflows, outflows and the Spokane Valley-Rathdrum Prairie Aquifer.

REQUEST FOR WATER MORATORIUM

The Coalition for Positive Rural Impact at Rockford Bay and Loffs Bay is requesting a WATER MORATORIUM based on the above factual information and the key issue that any permit action prior to the completion of a definitive study will only serve to exacerbate qualitative and quantitative water issues.

Consequently, we are requesting that any and all action on permits, applications, amendments or permit issuance be temporarily suspended to protect the public interest. Furthermore, we request that the WATER MORTTORIUM be issued immediately and go into effect no later than February 1, 2007.

Dated this 20th day of January, 2007.



Jai K. Nelson, Coalition Spokesperson

References:

The Spokane Valley-Rathdrum Prairie Aquifer Atlas, 2004 Update.

State of Idaho Division of Environmental Quality; Environmental Planning Tools and Techniques, Linking Land Use to Water Quality Through Community-Based Decision Making, July, 1997.

IDWR GIS Water Budget Database for Coeur d' Alene Lake, September 21, 2006.

Department of Environmental Quality Study Proposal; Land Use Change and Runoff Characteristics Coeur d' Alene Lake Area, March 27, 2006.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **REQUEST FOR A WATER PERMIT MORATORIUM** addressed to the person(s) as shown below on the date set forth below at the Department of Water Resources of the State of Idaho by the following method or methods:

[X] By mailing full, true and correct copies thereof, in sealed, first-class postage-prepaid envelopes, addressed to the person(s) as shown below, the last know address of the person(s) with the United States Post Office at Coeur d' Alene, Idaho on the date set forth below.

Department of Water Resources of the State of Idaho

David Tuthill, Director

P.O. Box 83720

Boise, Idaho 83720-0098

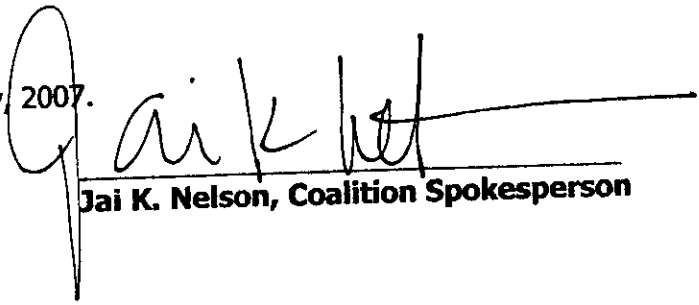
Department of Water Resources of the State of Idaho

Robert G. Haynes, Regional Supervisor

7600 Mineral Drive, Suite 100

Coeur d' Alene, ID 83814

Dated this 20th day of January, 2007.


Jai K. Nelson, Coalition Spokesperson