March 9, 2004

Scott Campbell
Moffatt Thomas Barrett Rock & Fields, Chtd.
P.O. Box 829
Boise, ID 83701-0829

Re: Measuring Requirement for Dr. Lynn Reno's Groundwater Diversion and Conference Call of November 4, 2003

Dear Mr. Campbell:

On November 4, 2003, a conference call was conducted between the Idaho Department of Water Resources ("IDWR"), you and your client, Dr. Lynn Reno regarding IDWR's request to Dr. Reno to install a measuring device on his ground water diversion that is used pursuant to water right no.s 34-7245B and 34-13555. IDWR had requested that Dr. Reno install a measuring device on his ground water diversion via correspondence dated May 14, 2003 and September 17, 2003. Gary Spackman and I represented IDWR during the November 4th phone conference. The conference call was held in response to your petition of October 3, 2003 requesting a hearing before IDWR to contest the measuring device requirement. We discussed the objective of the measuring device requirement and some measurement alternatives that would alleviate the need to install and maintain a permanent device. This letter outlines the alternative measurement and regulatory action that we discussed. This alternative approach may be summarized as follows:

1) IDWR and/or Water District 34 staff together will measure any or all mainlines from the Reno-Unger well that are used to distribute water to those lands authorized as the irrigated place of use under Dr. Reno's ground water rights, 34-7245B and 34-13555. The Reno mainline or mainlines will be measured using a portable ultrasonic flow meter owned by either IDWR and/or Water District 34. IDWR and/or Water District 34 will measure flows in the Reno mainline(s) under all the possible operating scenarios or conditions from the Reno-Unger well, including operating conditions with flows in the Unger mainlines. The cooperation of both Dr. Reno and Mr. Unger or representatives of Mr. Unger will be necessary to conduct these flow measurements. Dr. Reno shall be responsible for getting the cooperation of Mr. Unger and coordinating a date with IDWR and the water district in which a flow examination of the well can be made. The flow examination should be made no later than May 28, 2004. IDWR and/or water district staff shall measure and record the maximum discharge to the Reno mainline(s) (averaged over at least a ten-minute period). This maximum flow will be assumed as a constant flow rate from the well to Reno for the entire irrigation season. This flow combined with the flow delivered to Dr. Reno's water right at the Upper Fish Hatchery Canal shall not exceed 1.96 cfs, which is the combined

amount authorized by Reno's ground water rights (34-7245B and 34-13555) and Reno's right diverted from Warm Springs Creek at the Upper Fish Hatchery Canal (34-470A). When Reno is diverting water from both the Reno-Unger well and the Upper Fish Hatchery Canal, the watermaster must limit the delivery of water at the Upper Fish Hatchery Canal to the amount as follows:

Amount at Canal = (1.96 cfs) – (Maximum measured flow to Reno mainline) *

* Based on discharge measurements made on Reno mainline from Reno-Unger well at start of the irrigation season. This flow should be re-measured or re-determined at least every two-years.

2) At any time Dr. Reno or his lessee or operator calls for full delivery of water right no. 34-470A at the Upper Fish Hatchery Canal, the watermaster shall take steps necessary to assure that the Reno mainline from the Reno-Unger well is shut off. Specifically, the watermaster shall close and lock the Reno mainline from the Reno-Unger well whenever the full amount of water right 34-470A is called for and delivered. A lockable valve must be installed and maintained on the Reno mainline so that the watermaster can control the flow to the mainline pursuant to this condition.

3) IDWR, in coordination with the watermaster, may evaluate this alternative measurement and regulatory method at any time during the irrigation season to assure that the Reno water rights are properly delivered and that the method is not causing injury to other water rights.

IDWR is willing to consider implementing the above outlined measurement and regulatory method beginning in 2004 in lieu of requiring installation of a measuring device on the Reno-Unger well. It is my understanding based on recent correspondence from you that Dr. Reno accepts this alternative proposal and conditions as outlined above. Please forward any further comments you or your client may have regarding this issue to me on or before March 25, 2004. You may contact me directly at 208-327-7864 if you have questions concerning this matter.

Respectfully,

Tim Luke
Water Distribution Section

cc: Dr. Lynn D. Reno
Robert Duke, Water District 34 Watermaster
Scott Johnson
David Stoecklein