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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Appellant Thompson Creek Mining Company

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER

IN RE: IDAHO DEPARTMENT OF WATER
RESOURCES AMENDED FINAL ORDER
CREATING WATER DISTRICT NO. 170

Case No. CV-2006-66

THOMPSON CREEK MINING COMPANY,

Petitioner/Appellant,

NOTICE OF APPEAL

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

TO: THE ABOVE-NAMED RESPONDENT, THE IDAHO DEPARTMENT OF
WATER RESOURCES, AND ITS ATTORNEYS, LAWRENCE G. WASDEN,
CLIVE J. STRONG, PHILLIP J. RASSIER, AND GARRICK L. BAXTER,
P.O. BOX 83720, BOISE, ID 83720-0098, AND THE CLERK OF THE
ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant, Thompson Creek Mining Company

("Thompson Creek"), appeals against the above-named respondent, the Idaho Department of

Water Resources (“IDWR”), to the Idaho Supreme Court from the Memorandum Decision, entered in the above-entitled action on the 22nd day of February 2008, Honorable Judge Brent J. Moss presiding.

2. That Thompson Creek has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(f) I.A.R.

3. The following is a preliminary statement of the issues on appeal. In accordance with I.A.R. 17(f), such list shall not prevent Thompson Creek from asserting other issues on appeal. On appeal, Thompson Creek contends the District Court incorrectly decided the following issues:

(a) Whether the Director’s failure to record and provide a transcript of the entire hearing regarding the creation of WD170 violates statutory procedural requirements and Due Process principles;

(b) Whether the Director was biased in favor of creating WD170, in violation of Due Process principles;

(c) Whether the Director’s representations to the public that he was required to create WD170 pursuant to a previous agreement violates Due Process principles;

(d) Whether the agency record contains substantial evidence that WD170 is “required in order to properly administer uses of the water resource,” as required by Section 42-604 of the Idaho Code;

(e) Whether the organizational structure and attributes ascribed to WD170 by the Director violate Idaho’s water district statutes in Title 42, Chapter 6 of the Idaho Code;

(f) Whether the procedure employed by the Director in creating WD170 was arbitrary, capricious, or an abuse of discretion;

(g) Whether Thompson Creek should be excluded from administration under WD170, given the previous judicial stipulations in the Snake River Basin Adjudication involving Thompson Creek, the federal government, and the state of Idaho; and

(h) Whether substantial rights of Thompson Creek have been prejudiced by the Director's creation of WD170.

4. No order has been entered sealing all or any portion of the record.

5. (a) Is a reporter's transcript requested? Yes.

(b) The appellant requests the preparation of the entire reporter's standard transcript as defined in Rule 25(c) I.A.R., including and supplemented by the following:

(i) Expedited Telephonic Hearing on Thompson Creek's Motion to Augment Record and Motion for Extension of Time for Filing Brief, held May 16, 2007, before the Honorable Brent J. Moss.

(ii) Oral Argument, held November 21, 2007, before the Honorable Brent J. Moss.

6. The appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.:

(a) Thompson Creek's Petition for Judicial Review, filed on or about May 1, 2006;

(b) Notice of Appearance of Deputy Attorneys General Rassier, Nygard, and Bromley, filed on or about June 1, 2006;

- (c) Stipulation and Joint Motion for Order Governing Settlement of Administrative Record, filed on or about September 13, 2006;
- (d) Joint Motion for Order Requiring Notice of Intent to Participate in Appeal, filed on or about September 13, 2006;
- (e) Order Approving Stipulation and Joint Motion for Order Governing Settlement of Administrative Record, filed on or about September 18, 2006;
- (f) Order Requiring Notice of Intent to Participate in Appeal, filed on or about September 26, 2006;
- (g) Order Governing Judicial Review, filed on or about September 27, 2006;
- (h) Motion to Clarify Service List, Memorandum in Support thereof, Notice of Hearing thereon, and Notice of Service thereof, filed on or about October 25 2006;
- (i) Memorandum in Response to Motion to Clarify Service List, filed on or about November 13, 2006;
- (j) Reply to Memorandum in Response to Motion to Clarify Service List, filed on or about November 16, 2006;
- (k) Joint Stipulation for Order Clarifying Service List, filed on or about November 20, 2006;
- (l) Order Denying Petitioner's Motion to Clarify Service List, filed on or about December 14, 2006;
- (m) Notice of Petition for Judicial Review of the Creation of Water District No. 170, including attachments and exhibits thereto, filed on or about January 30, 2007;

(n) Notice of Intent to Participate in Appeal, filed by Reed Larsen on behalf of K.F. & Lilian B. Morgan Revocable Trust on or about March 12, 2007;

(o) Notice of Lodging of Transcript and Record, filed on or about March 21, 2007;

(p) Notice of Hearing, filed on or about March 22, 2007;

(q) Objection to Administrative Record Lodged by the Department of Water Resources, including Exhibits A-I, L, M, O, P, S, and T thereto, filed on or about April 3, 2007;

(r) Transcript of Hearing Conducted November 9, 2005, Challis, Idaho, Before Presiding Officer Karl J. Dreher, Director, Idaho Department of Water Resources, and Notice of Filing thereof, filed on or about April 17, 2007;

(s) Agency's Record on Appeal (pp. 1-239), Table of Contents thereto, Agency's Certificate thereof, and Notice of Filing thereof, filed on or about April 17, 2007;

(t) Addendum to Agency's Record on Appeal (pp. 240-288), Table of Contents thereto, Agency's Certificate thereof, and Notice of Filing thereof, filed on or about April 17, 2007;

(u) Notice of Hearing, filed on or about April 23, 2007;

(v) Motion to Augment Record and Motion for Extension of Time for Filing Brief, Memorandum in Support thereof, and Affidavit of Scott L. Campbell in support thereof, filed on or about April 26, 2007;¹

¹ It is not necessary to include the exhibits to the Memorandum in Support of Motion to Augment Record and Motion for Extension of Time for Filing Brief. They are the same as the exhibits to the Objection to Administrative Record Lodged by the Department of Water

(w) Second Addendum to Agency's Record on Appeal (pp. 284-380²), Table of Contents thereto, Agency's Certificate thereof, and Notice of Filing thereof, filed on or about May 10, 2007;

(x) IDWR's Response to Motions to Augment Record and for Extension of Time for Filing Brief, filed on or about May 10, 2007;

(y) Notice of Expedited Telephonic Hearing on Motion to Augment and Motion for Extension of Time for Filing Brief, filed on or about May 14, 2007;

(z) Order Granting Thompson Creek's Motion for Extension of Time and Denying Thompson Creek's Motion to Augment Record, filed on or about May 21, 2007;

(aa) Petitioner's Brief filed on or about June 4, 2007, including Exhibits A-F thereto;

(bb) Motion for Extension of Time to File Respondent IDWR's Brief, and Affidavit of Phillip J. Rassier in support thereof, filed on or about June 29, 2007;

(cc) Order Granting Motion for Extension of Time to File Respondent IDWR's Brief, filed on or about July 10, 2007;

(dd) Brief for Respondent Idaho Department of Water Resources filed on or about July 30, 2007;

(ee) Notice of Incorporating Brief of Respondent Idaho Department of Water Resources by Reference for Lilian B. Morgan and the K.F. and Lilian B. Morgan Revocable Trust, filed on or about August 3, 2007;

Resources, filed on or about April 3, 2007, and the Motion and Memorandum in Support thereof specifically incorporate the exhibits to the Objection by reference.

² Through an apparent page numbering error by the Department, there appear to be two different sets of pages 284-288 of the Department's administrative record. Please ensure that the court clerk's record includes both sets.

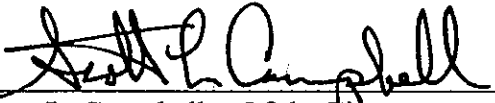
- (ff) Petitioner's Reply Brief filed on August 17, 2007;
- (gg) Notice of Hearing, filed on or about August 27, 2007;
- (hh) Notice of Hearing, filed on or about September 25, 2007;
- (ii) Notice of Hearing—Rescheduled Time, filed on or about October 12, 2007;
- (jj) Affidavit of Tiffiny Hudak, including Exhibit A thereto, filed on or about November 19, 2007;
- (kk) Notice to Appear Telephonically at Hearing, filed on or about November 20, 2007; and
- (ll) Memorandum Decision entered by the Honorable Brent J. Moss on February 22, 2008.

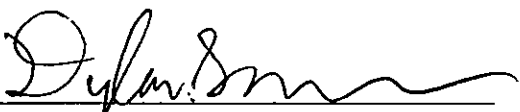
7. I certify:

- (a) That a copy of this notice of appeal has been served on the reporter.
- (b) That the clerk of the district court has been paid the estimated fee for preparation of the reporter's transcript.
- (c) That the estimated fee for preparation of the clerk's record has been paid.
- (d) That the appellate filing fee has been paid.
- (e) That service has been made upon all parties required to be served pursuant to Rule 20, including the attorney general of Idaho pursuant to Section 67-1401(1), Idaho Code.

DATED this 1st day of April, 2008.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Scott L. Campbell – Of the Firm
Attorneys for Appellant Thompson Creek
Mining Company

By 
Dylan B. Lawrence – Of the Firm
Attorneys for Appellant Thompson Creek
Mining Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of April, 2008, I caused a true and correct copy of the foregoing NOTICE OF APPEAL to be served by the method indicated below, and addressed to the following:

Lawrence G. Wasden
Attorney General
Clive J. Strong
Deputy Attorney General
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 83720
Boise, ID 3720-0010

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Phillip J. Rassier
Garrick L. Baxter
Deputy Attorneys General
IDAHO DEPARTMENT OF WATER RESOURCES
Idaho Water Center
322 E. Front Street, 6th Floor
P.O. Box 83720
Boise, ID 83720-0098
Fax: 208-287-6700


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 Hand Delivered
 Overnight Mail
 Facsimile

Reed W. Larsen
COOPER & LARSEN
151 North 3rd Avenue, 2nd Floor
P.O. Box 4229
Pocatello, ID 83205-4229
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David Marlow
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District Court, Seventh Judicial District
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 Hand Delivered
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 Facsimile



Dylan B. Lawrence