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18976.7

Attorneys for 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 THE MATTER OF CREATING THE
UPPER SALMON RIVER BASIN WATER
DISTRICT (DESIGNATED AS WATER
DISTRICT NO. 170)

THOMPSON CREEK MINING COMPANY,

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

Case No. CV-2006-66

**NOTICE OF PETITION FOR JUDICIAL
REVIEW OF THE CREATION OF WATER
DISTRICT NO. 170**

NOTICE

On April 6, 2006 the Idaho Department of Water Resources (the "Department") issued its Amended Final Order Creating Water District No. 170 (also known as the Upper Salmon Water District). The purpose of this new water district is to administer water rights within the Department's Administrative Basins 71 and 72.

On May 5, 2006, Thompson Creek Mining Company ("Thompson Creek"), an owner of water rights within the affected area, filed a Petition for Judicial Review with the Custer County District Court challenging the Department's decision to create the new Water District No. 170. A copy of the Petition is included with this Notice as Attachment 1.¹

You are receiving this Notice because Thompson Creek is required by the Court to notify all water right holders within the affected area of its Petition, and Department records reflect that you own water rights within this affected area. A copy of the Court's Order is included with this Notice as Attachment 2.

If you would like to participate as a party to this proceeding, please complete the *Notice of Intent to Participate in Appeal* that is included with this Notice as Attachment 3 and mail it to the following address within forty-two (42) days of the postmarked date of this Notice:

Custer County Clerk
District Court
Seventh Judicial District
Post Office Box 385
Challis, Idaho 83226

¹ The Exhibits to the Thompson Creek *Petition for Judicial Review* are voluminous and are, therefore, not attached. If you wish to obtain copies of the Exhibits, please contact Debby Long by mail at Moffatt Thomas, Post Office Box 829, Boise, ID, 83701-0829; by phone at 208-385-5323; or by email at dll@moffatt.com.

In addition, if you decide to participate, please also send a copy of your completed

Notice of Intent to Participate in Appeal to the following addresses within the same time frame:

Thompson Creek Mining Company
c/o Scott Campbell
Moffatt, Thomas, Barrett, Rock & Fields, Chartered
Post Office Box 829
Boise, Idaho 83701-0829

Phillip J. Rassier
Deputy Attorney General
Idaho Department of Water Resources
Post Office Box 83720
Boise, ID 83720-0098

Please note that, should you decide not to participate in this proceeding, such decision will not affect your water rights or your ability to enforce those rights. The scope of this proceeding is limited to determining whether the creation of Water District No. 170 was proper. Accordingly, it is not necessary for you to participate in this proceeding in order to preserve or protect your water rights.

DATED this _____ day of _____, 2006.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 2006, I caused a true and correct copy of the foregoing **NOTICE OF PETITION FOR JUDICIAL REVIEW OF THE CREATION OF WATER DISTRICT NO. 170** to be served by the method indicated below, and addressed to the following:

Phillip J. Rassier
Deputy Attorney General
IDAHO DEPARTMENT OF WATER RESOURCES
Post Office Box 83720
Boise, Idaho 83720-0098
Fax: 208-287-6700

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

Scott L. Campbell

Fact Sheet

Judicial Review of Upper Salmon Water District

What is this all about?

On March 6, 2006, and April 7, 2006, the Idaho Department of Water Resources (IDWR) issued orders creating the Upper Salmon Water District, also known as Water District No. 170. The general purpose of this new water district is to administer water rights in IDWR's Administrative Basins 71 and 72. Thompson Creek Mining Company has filed a lawsuit challenging IDWR's creation of this new water district.

Why did I receive these materials?

If you received these materials, it is because IDWR records reflect that you own water rights in the area affected by the new water district. This gives you the legal right to participate in the lawsuit challenging the new water district.

Where and when will this lawsuit take place?

Because this is a lawsuit, it will be decided by a court. This case will be heard by the district court for Custer County, located in Challis. The Honorable James C. Herndon is the presiding judge. Generally speaking, this lawsuit will consist of the following steps:

- First, it is necessary to identify the parties to this proceeding. Right now, Thompson Creek Mining Company and IDWR are the only active parties. However, any affected water right owner that completes and timely submits a *Notice of Intent to Participate* will also become an active party to the proceeding.
- Once the parties have been identified, IDWR will submit its administrative record to the court. Basically, the administrative record consists of the information on which IDWR based its decision to create the new water district.
- After IDWR submits its administrative record, the parties will submit briefs to the court explaining why the decision to create the new water district should either be upheld or overturned.
- Once the court has reviewed the briefs, there will be a hearing at which the parties will have the opportunity to explain their positions to the court.
- After the hearing, the court will render its decision. It is possible that some parties to the proceeding may wish to appeal the court's decision to the Idaho Supreme Court.

Because this lawsuit is in its very early stages, it is difficult to predict the timing of these various steps. Right now, the most important date is the deadline for submitting the *Notice of Intent to Participate*, if you want to be a party to this proceeding.

Do I need to participate in order to keep or protect my water rights?

No. The goal of this proceeding is to simply determine whether the creation of the new water district was legally proper. While the creation of the new water district may result in increased

costs to affected water right owners, neither the water district nor this proceeding will affect the terms or validity of your water rights.

Why would I want to participate in this proceeding?

You may want to participate in this proceeding if you want your voice to be heard regarding whether the creation of the new water district was legally proper.

How do I participate?

In order to participate as a party to this proceeding, you must complete and submit the enclosed *Notice of Intent to Participate* form within 42 days of the date that these materials were *postmarked* to you. If you want to become a party to this proceeding, please carefully follow the instructions provided in the *Notice of Petition for Judicial Review*.

What would participation in this proceeding involve?

Ultimately, as a party to this proceeding, you would be asked to submit a legal brief to the court and participate in a hearing explaining why you believe the creation of the new water district was or was not legally proper. In addition, it is possible that participation would also require intermediate steps, such as submitting or responding to motions to the court and participating in motion hearings and status conferences.

Do I have to hire an attorney to participate?

Any person is entitled to represent themselves in court. However, because this is a court proceeding, to participate in a meaningful way would require an understanding of Idaho statutes, judicial case law, and court rules. In addition, participating would likely entail several “legal” tasks, such as the preparation of motions and briefs to the court. Accordingly, anyone that wishes to participate should strongly consider consulting an attorney.

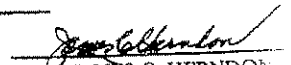
RECEIVED

SEP 21 2006
DEPARTMENT OF
WATER RESOURCES

RECEIVED
SEP 15 2006

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

September 18, 2006 AT


JAMES C. HERNDON
District Judge

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

IN THE MATTER OF CREATING THE
UPPER SALMON RIVER BASIN WATER
DISTRICT (DESIGNATED AS WATER
DISTRICT NO. 170)

Case No. CV-2006-66

THOMPSON CREEK MINING COMPANY,

Petitioner,

**ORDER APPROVING STIPULATION AND
JOINT MOTION FOR ORDER GOVERNING
SETTLEMENT OF ADMINISTRATIVE
RECORD**

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

Petitioner, Thompson Creek Mining Company ("Thompson Creek"), and
Respondent, Idaho Department of Water Resources (the "Department"), having moved this
Court for entry of an order approving a stipulated schedule for the preparation, lodging, objection
to, and settlement of the transcript and administrative record in this case, and good cause having
been shown therefor,

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the procedures and deadlines described in the parties' *Stipulation and Joint Motion for Order Governing Settlement of Administrative Record* are hereby approved and adopted and shall govern the timing of the preparation, lodging, objection to, and settlement of the transcript and administrative record in this case, unless such terms and deadlines are subsequently amended by the parties to this case and approved by this Court. The procedures and deadlines are:

(a) The Department shall prepare the transcript and administrative record in accordance with Idaho Code Sections 67-5249(2) and 67-5275(1)(b) and shall notify Thompson Creek, the Court, and any other parties of its lodging of the transcript and record within fourteen (14) days of the deadline for affected water users to submit their Notice of Intent to Participate.

(b) Once the Department has mailed its notice of the lodging of the transcript and record, Thompson Creek and any other parties will then have fourteen (14) days to submit any objections that they may have regarding the transcript and record directly to the Department. *See* I.R.C.P. 84(j).

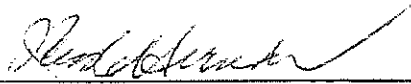
(c) In the event that neither Thompson Creek nor any other parties object to the transcript and record within the time frame described above in Paragraph 4(b), the transcript and record shall be deemed settled. *See* I.R.C.P. 84(j).

(d) In the event that Thompson Creek or any other parties timely object to the transcript and record, the Department will then have fourteen (14) days to act on such objections, and the Department's decision on the objections and any related materials become part of the record. *See* I.R.C.P. 84(j).

(e) The Department shall transmit the settled transcript and record, including its decision on any objections and any related materials, to the Court no later than forty-two (42) days after the deadline for affected water users to submit their Notice of Intent to Participate. *See* I.R.C.P. 84(k).

If Thompson Creek or any other parties still have any objections to the settled transcript and record submitted to the Court by the Department, they will then have twenty-one (21) days from the Department's submission of the settled transcript and administrative record to the Court to file a motion with the Court to augment the record pursuant to Idaho Code Section 67-5276. *See* I.R.C.P. 84(l).

DATED this 18th day of September, 2006.



James C. Herndon
District Judge, Seventh Judicial District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of September, 2006, I caused a true and correct copy of the foregoing **ORDER APPROVING STIPULATION AND JOINT MOTION FOR ORDER GOVERNING SETTLEMENT OF ADMINISTRATIVE RECORD** to be served by the method indicated below, and addressed to the following:

Phillip J. Rassier
Deputy Attorney General
IDAHO DEPARTMENT OF WATER RESOURCES
Post Office Box 83720
Boise, Idaho 83720-0098
Fax: 208-287-6700

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

Scott L. Campbell
Dylan B. Lawrence
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Boulevard, 10th Floor
Post Office Box 829
Boise, Idaho 83701-0829
Fax: 208-385-5384

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

By [Signature] for Deputy Clerk
Clerk of the District Court

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

September 27, 2006 AT


JAMES C. HERNDON
District Judge

**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 06-66

THOMPSON CREEK MINING COMPANY,

Petitioner,

**ORDER GOVERNING
JUDICIAL REVIEW**

vs.

IDAHO DEPARTMENT OF WATER RESOURCES,
an agency of the State of Idaho,

Respondent.


Petitioner, Thompson Creek Mining Company, having filed with the district court on May 5, 2006, a Petition for Judicial Review appealing a final order of the Idaho Department of Water Resources, pursuant to Idaho Code § 42-1701A and Chapter 52, Title 67, Idaho Code,

IT IS HEREBY ORDERED:

1. That the review of this case on appeal will be confined to the record as provided in I.R.C.P. 84(e) and I.C. § 67-5277, supplemented by any additional evidence taken pursuant to I.C. § 67-5276;

2. That a transcript of the relevant proceedings before the agency, as requested by petitioner, will be required and shall be prepared as provided in I.R.C.P. 84(g);
3. That the agency shall cause the agency record to be prepared in accordance with Rule 84(f) and filed with the district court following settlement of the transcript and record pursuant to I.R.C.P. 84(j), except as may be modified by order of the Court;
4. That pursuant to I.R.C.P. 84(p) and I.A.R. 34, and any orders of the Court, the brief of the petitioners shall be filed within 15 days of the date of notice that the agency transcript and record have been filed with the district court; the respondent's brief shall be filed within 28 days after service of petitioner's brief; any reply brief shall be filed within 21 days after service of the respondent's brief, provided that pursuant to I.A.R. 34(e) the deadlines for filing briefs may be extended for good cause shown, and that the filing of a motion to augment the administrative record in accordance with I.R.C.P. 84(l) by any party shall constitute "good cause" to extend such deadlines for the purposes of I.A.R. 34(e); and
5. That after all briefs are filed, any party may notice the matter for oral argument pursuant to I.R.C.P. 84(q), or the court may set the matter for argument.

DATED this 26th day of September, 2006.



 James C. Herndon
 District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the following described document on the persons listed below by mailing in the United States mail, first class, with the correct postage affixed thereto on this 27th day of September 2006.

Document Served: **ORDER GOVERNING JUDICIAL REVIEW**

SCOTT CAMPBELL
DYLAN B. LAWRENCE
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
P.O. Box 829
Boise, Idaho 83701-0829

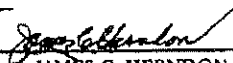
PHILLIP J. RASSIER
SUSAN E. HAMLIN NYGARD
CHRIS M. BROMLEY
Deputy Attorneys General
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

CLERK OF THE DISTRICT COURT
Ethel m Peck

By Laura Baker, Deputy

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

September 26, 2006 AT


JAMES C. HERNDON
District Judge

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 06-66

THOMPSON CREEK MINING COMPANY,

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER RESOURCES,
an agency of the State of Idaho,

Respondent.

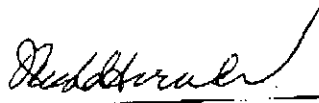
**ORDER REQUIRING NOTICE
OF INTENT TO PARTICIPATE
IN APPEAL**

Petitioner, Thompson Creek Mining Company ("Thompson Creek"), and Respondent, Idaho Department of Water Resources ("IDWR"), having moved this Court for entry of an order requiring that any holders of water rights subject to administration within Department of Water Resources Water District No. 170 who desire to participate in this appeal must file with the Court a notice of appearance indicating an intent to participate in this proceeding for judicial review, and good cause having been shown therefor,

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that holders of water rights subject to administration within Department of Water Resources Water District No. 170 who desire to participate in this appeal must file a notice of intent to participate in this case within forty-two (42) days of the Petitioner Thompson Creek serving upon them a copy of its *Notice of Petition for Judicial Review of the Creation of Water District No. 170* and a copy of this *Order Requiring Notice of Intent to Participate in Appeal*. Any person filing a notice of intent to participate in this case with the Court in accordance with this order is required to serve a copy of the notice upon counsel for Thompson Creek Mining Company and counsel for the Idaho Department of Water Resources.

DATED this 26th day of September, 2006.



James C. Herndon
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the following described document on the persons listed below by mailing in the United States mail, first class, with the correct postage affixed thereto on this 27th day of September, 2006.

Document Served: ORDER REQUIRING NOTICE OF INTENT TO PARTICIPATE IN APPEAL

SCOTT CAMPBELL
DYLAN B. LAWRENCE
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
P.O. Box 829
Boise, Idaho 83701-0829

PHILLIP J. RASSIER
SUSAN E. HAMLIN NYGARD
CHRIS M. BROMLEY
Deputy Attorneys General
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

CLERK OF THE DISTRICT COURT
Ethel M Beck
By Luna Baker, Deputy

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

IN THE MATTER OF CREATING THE
UPPER SALMON RIVER BASIN WATER
DISTRICT (DESIGNATED AS WATER
DISTRICT NO. 170)

Case No. CV-2006-66

THOMPSON CREEK MINING COMPANY,

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

NOTICE OF INTENT TO PARTICIPATE

I, _____ hereby certify:

(i) that I (or the person or entity on whose behalf I am acting as an attorney or duly appointed personal representative) currently own the following water right(s) within the Idaho Department of Water Resources (the "Department") Administrative Basins 71 and 72:

(please list water right number(s)) _____

(ii) that I (or the person or entity on whose behalf I am acting as an attorney or duly appointed personal representative) have received a copy of the Notice informing me that Thompson Creek Mining Company has filed a Petition for Judicial Review challenging the Department's formation of the new Water District No. 170; and

(iii) that I (or the person or entity on whose behalf I am acting as an attorney or duly appointed personal representative) wish to participate as a party to this proceeding.

Dated this _____ day of _____, 2006.

Signature

Please print:

Name _____

Name of owner of water rights (if different than above) _____

Mailing address _____

Telephone _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 2006, I caused a true and correct copy of the foregoing **NOTICE OF INTENT TO PARTICIPATE** to be served by the method indicated below, and addressed to the following:

Phillip J. Rassier
Deputy Attorney General
IDAHO DEPARTMENT OF WATER RESOURCES
Post Office Box 83720
Boise, Idaho 83720-0098
Fax: 208-287-6700

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Boise, Idaho 83701-0829
Fax: 208-385-5384

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- Hand Delivered
- Overnight Mail
- Facsimile

Signature