

RECEIVED

JUL 27 2012

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

DEPARTMENT OF
WATER RESOURCES

W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
FREDERICK J. HAHN, III
PATRICK N. GEORGE
SCOTT J. SMITH
JOSHUA D. JOHNSON
DAVID E. ALEXANDER
STEPHEN J. MUHONEN
CANDICE M. MCHUGH
CAROL TIPPI VOLYN
JONATHAN M. VOLYN
THOMAS J. BUDGE
BRENT L. WHITING
DAVE BAGLEY
JASON E. FLAIG
FERRELL S. RYAN, III
AARON A. CRARY
JOHN J. BULGER
BRETT R. CAHOON
BOYD J. HAWKINS*

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

WWW.RACINELAW.NET

SENDER'S E-MAIL ADDRESS:

BOISE OFFICE
101 SOUTH CAPITOL
BOULEVARD, SUITE 300
BOISE, ID 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE
477 SHOUP AVENUE
SUITE 107
POST OFFICE BOX 50698
IDAHO FALLS, IDAHO 83405
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

ALL OFFICES TOLL FREE
(877) 232-6101

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL
JONATHAN S. BYINGTON, OF COUNSEL
JEFFREY A. WARR, OF COUNSEL

*LICENSED ONLY IN UTAH

July 25, 2012

Gary Spackman, Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Adoption of ESPAM Version 2.0

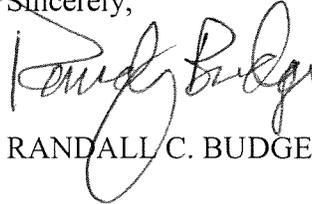
Dear Director Spackman:

We understand that the Eastern Snake Plain Hydrology Committee (Committee) has been asked to issue a joint statement endorsing the release and use of Version 2.0 of the Eastern Snake Plain Aquifer Model (ESPAM2). We also understand that the Committee has had some difficulty arriving at a consensus statement, primarily because of concerns by some members that such a statement may be later construed as an opinion or policy position that ESPAM2 is appropriate for any and all hydrologic analyses that the Department or some other user may identify. As is clear from our previous communications to you regarding matters of model application, we feel strongly that the Committee should not be placed in the position of recommending policy positions and that such recommendations are more appropriately made by water user stakeholders on the ESPA.

We recognize the significant efforts and resources that have been devoted to improving the ESPAM, and that it is necessary to bring this phase of model improvement to closure. However, we also believe that despite these improvements ESPAM2 remains a regional groundwater model with limitations in its applicability and uncertainty in its predictions. These limitations and uncertainties stem from a variety of sources, including its simplified conceptual representation of a complex aquifer and the accuracy of its input data and assumptions. The application of the model must recognize these limitations and uncertainties, especially if it is used as a basis for administrative curtailment that is wholly certain for the curtailed water right.

We urge you to weigh these considerations carefully in the Department's application of ESPAM2, and to recognize the limitations and uncertainties in the model by adopting appropriate bounds on its use.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall C. Budge". The signature is written in a cursive style with a large, looping initial "R".

RANDALL C. BUDGE

RCB:rr