

David R. Tuthill, Jr.
Manager, Innovative Mitigation Solutions, LLC
2918 N. El Rancho Pl.
Boise, ID 83704

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR) APPLICANT’S RESPONSES TO CITY OF
PERMIT NOS. 37-22682 AND 37-22852 IN) HAILEY’S FIRST SET OF
THE NAME OF INNOVATIVE) INTERROGATORIES AND REQUESTS
MITIGATION SOLUTIONS, LLC) FOR PRODUCTION

Innovative Mitigation Solutions, LLC provides these responses to City of Hailey’s First Set of Interrogatories and Requests for Production dated March 10, 2015. This document is correct and accurate to the best of the ability of the preparer. As described below, most of the documents requested are already part of the public record in this matter and are available at the website hosted by the Idaho Department of Water Resources. Additional documents have been added as Attachments to this document. These responses were prepared by David R. Tuthill, Jr. in his duties as Manager of Innovative Mitigation Solutions, LLC.

Further, as a general response to all Interrogatories and Requests for Production below, on January 30, 2015, this responder provided “Responses to Protestants’ First Discovery Requests” in this matter. Much of the information provided in the January 30, 2015 responses is applicable to the Interrogatories and Requests for Production identified by the City of Hailey. The January 30, 2015 responses, which are part of the record in this matter, are hereby incorporated into these responses to the City of Hailey. In addition Attachments A through H for the January 30, 2015 responses are hereby incorporated into these responses.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify the person providing responses to these discovery requests.

RESPONSE NO 1: David R. Tuthill, Jr., Manager of Innovative Mitigation Solutions, LLC.

INTERROGATORY NO. 2: Please identify each person whom you expect to call as a witness at the hearing in this matter, and for each person state the substance of his or her expected testimony.

RESPONSE NO. 2 At this stage we intend to call the following. The list might be adjusted by the time of the hearing. At this stage the Applicant has advised witnesses 1 and 2 below via email of the potential to be called as witnesses.

Witness 1: Mr. Doug Megargle, Idaho Department of Fish and Game. Mr. Megargle is an expert regarding the fishery resources in the Big Wood River.

Witness 2: Dr. James Bartolino, U.S. Geological Survey. Dr. Bartolino is an expert regarding the aquifers in the Big Wood River basin.

Witness 3: Dr. David R. Tuthill, Jr. will provide testimony on all of the other aspects of these applications.

INTERROGATORY NO. 3: Please identify every person you expect to call as an expert witness at the hearing of this matter, and for each such person, state:

- a. The qualifications upon which you intend to rely to establish said person as an expert witness;
 - b. The substance of the facts and opinions to which he or she is expected to testify;
- and
- c. Specifically and in detail the underlying facts and data upon which the expert's opinion and testimony is based.

RESPONSE NO. 3: All three witnesses are experts, as follows:

- a. Mr. McGargle is an expert in the fisheries of the Wood River Valley. Dr. Bartolino is an expert in the ground water assets of the Wood River Valley. Dr. Tuthill is an expert in administration of water rights in Idaho and is a Civil Engineer.
- b. The three experts are anticipated to testify in their respective areas of expertise.
- c. The underlying facts are as follows:
 1. The most critical time for fisheries in the Wood River Valley are the low flow periods of summer and winter.
 2. There is space in the aquifer for ground water recharge, as documented in Dr. Bartolino's reports.
 3. These applications are approvable based on Idaho water right law, policies and regulations.

INTERROGATORY NO. 4: Please identify each and every documentary, written or tangible item of evidence that you expect to introduce or use, or may use at the hearing of the above-described matter. Please provide sufficient detail (e.g., date, author, subject matter, etc.) so each such item may be identified and distinguished from other items of documentary, written or tangible evidence.

RESPONSE NO. 4: The only items in addition to those already a part of the record in this matter are two sets of hydrologic data, further described as follows:

- a. Data set of flows of the Big Wood River below Magic Dam, provided as Attachment A.

- b. Data set of flows of the Big Wood River at Hailey, ID, provided as Attachment B.

INTERROGATORY NO. 5: With respect to the statement in your response to Interrogatory No. 7 of Protestant's Discovery Requests that "the Big Wood River at times provides flows that are in excess of those needed to satisfy existing water rights, please identify:

- a. all documents, data, studies or analysis reviewed or relied upon by you to support such statement;
- b. the period of record on which the statement is based; and
- c. any Yield Analysis that has been performed for the water rights being sought in your Applications.

RESPONSE NO. 5: The quoted statement in Interrogatory No. 7 is based on two U.S. Geological Survey data sets, provided as Attachment A and Attachment B.

- a. The data sets have been downloaded from the U.S. Geological Survey website and are provided with this response.
- b. The periods of record are from 1911 until the present for the gage below Magic Dam and from 1915 to the present for the gage in Hailey.
- c. Yield Analysis has thus far been limited to qualitative assessments based on general review of the data.

INTERROGATORY NO. 6: Please identify any analysis that has been performed to estimate the duration that any water diverted to recharge under the requested water rights would remain in aquifer storage.

RESPONSE NO. 6: This analysis has been generally qualitative given the nature of use. Unlike irrigation, fish propagation and other uses that need minimum supplies to be viable, ground water recharge can be useful to the aquifer if water is applied to this use even one day in ten years. The Applicant sees much more opportunity than this for application of Big Wood River water to this beneficial use based on the record. Thus, a detailed quantitative analysis is not deemed warranted and has not been conducted.

INTERROGATORY NO. 7: Please describe how water delivered into the Hiawatha Canal under the requested water rights will be recharged, managed and monitored to prevent property damage due to canal overflow or seepage.

RESPONSE NO 7. Water delivered into the Hiawatha Canal already has to be managed and monitored to prevent property damage due to canal overflow and seepage. The canal manager will need to apply these same techniques if the canal is also used for ground water recharge.

INTERROGATORY NO. 8: Please identify those locations where recharge will occur.

RESPONSE NO. 8: The forty acre tracts where recharge will occur are identified on the two applications for permit. Within these tracts recharge will occur within the existing canal system, and in

some locations in additional sites where feasible. In out-of-canal sites there will be a greater requirement for water quality considerations, based on the historic perspective of the Idaho Department of Environmental Quality.

INTERROGATORY NO. 9: Please identify any analysis describing the capacity of the Hiawatha Canal to accept and convey water to the identified locations of recharge.

RESPONSE NO. 9: Ground water recharge has been conducted in many canals in Idaho, as encouraged and sponsored by the Idaho Water Resource Board. Unless a canal is fully lined it will lose water to the aquifer through canal bottom seepage. The Hiawatha Canal is no exception in this regard. Seepage amounts in the canal have not been quantified. If seepage due to managed aquifer recharge is even one gallon per minute, this seepage will be beneficial if properly managed.

INTERROGATORY NO. 10: With respect to the statement in your response to Interrogatory No. 6 of Protestants Discovery Requests that "Space is available in the aquifer for recharge, located where water levels in the aquifer are declining, and also in space in the aquifer above the historic levels," please describe how water recharged to the aquifer from the Hiawatha Canal will be managed and monitored to prevent damage to property from changed ground water levels.

RESPONSE NO. 10: As described in response no. 7 above, the Hiawatha Canal already has to be managed and monitored to prevent property damage due to canal overflow and seepage. The canal manager will need to apply these same techniques if the canal is also used for ground water recharge. It is possible that some reaches of the canal will need to be lined if additional recharge causes damage due to a higher water table. Canals across Idaho have faced this problem over the decades and canals have been lined or otherwise managed to prevent injury as required.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any and all documents and/or items of tangible evidence which you expect to introduce or use, or may use at the hearing of the above-described matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Attachments A and B below, added to the many documents that have already been made part of the record, and State of Idaho statutes, rules and case law, are all anticipated to be used in this hearing.

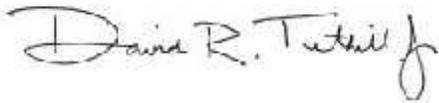
REQUEST FOR PRODUCTION NO. 2: Please produce any and all documents and/or items of tangible evidence seen, reviewed, maintained, generated or relied on by you or by any expert witness who will testify on your behalf at the hearing of this matter, including, but not limited to all documents which reflect, document or otherwise describe facts known and/or opinions held by any such expert witness.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: There are no additional documents to provide at this time.

REQUEST FOR PRODUCTION NO. 3: Please produce any and all documents and/or data, analysis and/or items of tangible evidence which were referred to, or contain information responsive or related to the above Interrogatories or your responses to them.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: There are no additional documents to provide at this time.

Dated this 9th day of April, 2015

A handwritten signature in black ink that reads "David R. Tuthill, Jr." The signature is written in a cursive style with a large initial 'D' and a small 'Jr.' at the end.

David R. Tuthill, Jr.

Manager, Innovative Mitigation Solutions, LLC

Attachment A: Excel workbook of data -- USGS 13142500 BIG WOOD RIVER BL MAGIC DAM

Attachment B: Excel workbook of data -- USGS 13139510 BIG WOOD RIVER AT HAILEY ID