



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 12, 2018

Transmitted via E-mail and U.S. Mail

Gay Richardson
P.O. Box 314
Elk City, ID 83525
gayrichardson@idaho.net

Re: In the Matter of Application for Stream Channel Alteration Permit Nos. S82-20066 and S82-20067

Dear Mr. Richardson,

On November 6, 2017, the Idaho Department of Water Resources (“Department”) received an interrogatory from you regarding “regulations” that you allege have been “adopted” by the Department or the Idaho Water Resource Board. Subsequently, you and I discussed your question by phone and you clarified that the “regulations” you referenced were the conditions the Department includes on the Special Supplement for the South Fork of the Clearwater River (“SFCR”). Based on our conversation, I understand your question to be whether a court has examined whether the Special Supplement conditions are preempted by federal mining law. The answer to your question is no. The Department is not aware of a case in which a court has examined whether the Special Supplement conditions are preempted by federal law.

I believe this response contains an accurate representation of our phone call. If I misunderstood your question or incorrectly characterized your question, please let me know.

Sincerely,

Garrick L. Baxter
Deputy Attorney General

Gay Richardson
January 12, 2018
Page 2

cc: The Honorable John M. Melanson, c/o Kimi White
John Stickley (via e-mail and U.S. mail)
Aaron Golart (via e-mail)
Brian Patton (via e-mail)