STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RE: WATER ALLOCATION RULES AND REGULATIONS HEARINGS.

TRANSCRIPT OF PROCEEDINGS REQUESTED BY
ATTORNEY GENERAL LAWRENCE WASDEN OF AUDIOTAPES HELD AND MAINTAINED BY THE DEPARTMENT OF WATER RESOURCES
January 15, 1986, 7:20 p.m.

MINI-AUDITORIUM, COLLEGE OF SOUTHERN IDAHO TWIN FALLS, IDAHO

Transcribed by
Frances J. Morris
CSR No. 696
APE X A R A N C E S

TED DIEHL
ROBERT BURKES
JOHN COURTNEY (phonetic)

******
TWIN FALLS, IDAHO
January 15, 1986, 7:20 p.m.

THE HEARING OFFICER: So today is January 15th, 1986. The time is 7:20. The place is the Vo-Tech Center or Vo-Tech Building at the College of Southern Idaho in Twin Falls.

The roster of attendance indicates that Mr. Ted Diehl would like to make a statement at this time.

MR. DIEHL: No, I will just ask some questions.

THE HEARING OFFICER: You'll just pass on that, then?

MR. DIEHL: (No audible response.)

THE HEARING OFFICER: Mr. Burkes, do you want to make a statement?

MR. BURKES: I think I might.

THE HEARING OFFICER: Okay.

MR. BURKES: My name is Robert Burkes. I am director of the North Side Canal Company from Jerome and also a director of the Idaho Water Users.

I would like to speak in regard to the ruling on no irrigation wells will be allowed within four miles of the river between Milner Dam and Swan Falls. My objection is that the water that rises from the springs will furnish the trust water, plus also an access, that then can be filed on further downstream. In my particular area south of Wendell, there are farmers that are less than four miles from the river who have plans and have wanted to put in deep wells and have been held up because of the Idaho Power moratorium. But my argument is that it would be no different than pumping from the excess trust water than it would to be pumping from the aquifer. Just because a man's farm is within the limits of four miles and his neighbor across the mile road would be able to drill a well, they have to meet all these certain requirements, too. But I feel that those people are being discriminated against because they live less than four miles from the river. There isn't a great amount of acreage, but those that have plans feel like that this just isn't fair.

Thank you.

THE HEARING OFFICER: Could I ask a clarifying question on that? Mr. Burkes, would you feel that we should alter that for groundwater...
only or for surface water as well? Would it be both or just the one?

MR. BURKES: Speaking for my people, all I'm concerned in is the groundwater, which, of course, in that reach of the river there are large springs that also go into the river. And those people making filings on that, that doesn't concern the people that I am involved with. And they feel that, just because they live within four miles of the river, that they should also be discriminated against, and, yet, that they should be allowed to put in deep wells for irrigation.

THE HEARING OFFICER: Okay. Thank you. Appreciate your comment.

Mr. Courtney(phonetic), do you have a comment for us?

MR. COURTNEY: Well, under the circumstances, I will just hand these in. THE HEARING OFFICER: Well, we do want to make a record of this, so we appreciate you're doing that. Okay. We will have the record show that you have submitted a written statement of this as well.

MR. COURTNEY: Okay. If everybody can take into considerations my last minute changes when I scribbled it out there.

Page 6

Page 7

And question 2, would this Paragraph 9 tend to tie up or discourage the use of water that would become, in regard to consumptive uses, unappropriated after passing through the Idaho Power Company's Bliss plant, that being the difference between the Bliss plant right for 15,000 cubic feet per second and the Swan Falls plant right for 8,400 cubic feet per second? Many years in the past during the spring irrigation month of April, May, and June, there has been several thousand cubic feet per second of water flow registered at the Murphy Gage in excess of 8,400 cubic feet per second.

Question 3, would this Paragraph 9 discriminate against citizens within the four miles from Snake River area between Milner Dam and Swan Falls Dam because of geographical location rather than their opportunity to reduce trust water flows?

In conclusion, I wish it known that I have no animosity toward any parties concerned and am interested in the cause of justice and the amicable resolution of our water problems. I think there are future opportunities for Idahoans to conserve and utilize our water resources for the benefit of everyone and note that the term "unappropriated" above is used in regard to consumptive uses. Thank you.

THE HEARING OFFICER: Thank you. We will research that, the question you're asking there, and consider that as we put together the rules that are to be adopted. I appreciate your drawing that to our attention.

MR. COURTNEY: Okay.

THE HEARING OFFICER: Thank you.

MR. COURTNEY: Thank you.

THE HEARING OFFICER: Are there others that would like to make a statement this evening? Okay. Hearing none, I would simply remind you of the hearing tomorrow in Boise and the opportunity to file written statements through the 27th of January. And at this point we will go off the record. And if you wish to ask questions and discuss the issues, we'd be happy to do that. (End of proceeding.)

REPORTER'S CERTIFICATE

I, Frances J. Morris, Court Reporter, a Notary Public, do hereby certify:

That I am the reporter who transcribed the proceedings in the form of digital recording in the above-entitled action in machine shorthand and thereafter the same was reduced into typewriting under my direct supervision; and

That the foregoing transcript contains a full, true, and accurate record of the proceedings to the extent they were audible and intelligible in the above and foregoing cause, which was heard in various cities at Twin Falls, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand this ______ day of ________ 2008.

Frances J. Morris, Court Reporter
CSR No. 696
supervision 9:10
surface 5:1
Swan 4:2 7:7,17

T 9:1,1,1
take 5:24
talking 6:11
Ted 2:3 3:9
tend 7:2
term 8:1
Thank 4:22 5:13 8:4,5,11 8:12
think 3:18 7:24
thousand 7:11
tie 7:2
time 3:5,10
today 3:4
tomorrow 8:16
transcribed 1:23 9:6
transcript 1:11 9:11
ttrue 9:12
trust 4:3,11 6:14 7:18
Twin 1:18 3:1,7 6:5 9:15
typewriting 9:10

unappropriated 6:15 7:4
understand 6:8,10
unnecessary 6:19
use 7:2
Users 3:23
uses 7:3 8:3
utilize 7:25

various 9:15
Vo-Tech 3:6,6

want 3:17 5:19
wanted 4:8
WASDEN 1:12
water 1:2,4,13 3:22 4:2,4 4:11 5:1 6:13,14,15,21 7:2,11,19,23,25
wells 3:25 4:8 5:12
Wendell 4:6
WHEREOF 9:16
wish 7:20 8:19
WITNESS 9:16
written 5:22 8:17

x 1:3,6

years 7:9
REPORTER’S CERTIFICATE

I, Frances J. Morris, Court Reporter, a Notary Public, do hereby certify:

That I am the reporter who transcribed the proceedings in the form of digital recording in the above-entitled action in machine shorthand and thereafter the same was reduced into typewriting under my direct supervision; and

That the foregoing transcript contains a full, true, and accurate record of the proceedings to the extent they were audible and intelligible in the above and foregoing cause, which was heard in various cities at Twin Falls, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of October 2008.

[Signature]

Frances J. Morris, Court Reporter
CSR No. 696