

1 STATE OF IDAHO

2 DEPARTMENT OF WATER RESOURCES

3 ----- x
 4 RE: WATER ALLOCATION RULES AND :
 5 REGULATIONS HEARINGS. :
 6 :
 7 ----- x

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 10
 11 TRANSCRIPT OF PROCEEDINGS REQUESTED BY
 12 ATTORNEY GENERAL LAWRENCE WASDEN OF AUDIOTAPES HELD AND
 13 MAINTAINED BY THE DEPARTMENT OF WATER RESOURCES

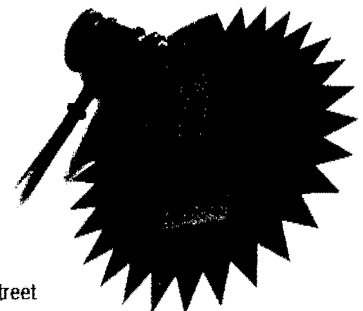
14 January 15, 1986, 7:20 p.m.

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

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22
23 Transcribed by
24 Frances J. Morris
25 CSR No. 696

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TED DIEHL
ROBERT BURKES
JOHN COURTNEY(phonetic)

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Page 2

1 APPEARANCES
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 3 TED DIEHL
 4 ROBERT BURKES
 5 JOHN COURTNEY(phonetic)
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1 TWIN FALLS, IDAHO
 2 January 15, 1986, 7:20 p.m.
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 4 THE HEARING OFFICER: So today is January
 5 15th, 1986. The time is 7:20. The place is the
 6 Vo-Tech Center or Vo-Tech Building at the College
 7 of Southern Idaho in Twin Falls.
 8 The roster of attendance indicates that
 9 Mr. Ted Diehl would like to make a statement at
 10 this time.
 11 MR. DIEHL: No, I will just ask some
 12 questions.
 13 THE HEARING OFFICER: You'll just pass on
 14 that, then?
 15 MR. DIEHL: (No audible response.)
 16 THE HEARING OFFICER: Mr. Burkes, do you
 17 want to make a statement?
 18 MR. BURKES: I think I might.
 19 THE HEARING OFFICER: Okay.
 20 MR. BURKES: My name is Robert Burkes. I am
 21 director of the North Side Canal Company from
 22 Jerome and also a director of the Idaho Water
 23 Users.
 24 I would like to speak in regard to the
 25 ruling on no irrigation wells will be allowed

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1 within four miles of the river between Milner Dam
 2 and Swan Falls. My objection is that the water
 3 that rises from the springs will furnish the trust
 4 water, plus also an access, that then can be filed
 5 on further downstream. In my particular area
 6 south of Wendell, there are farmers that are less
 7 than four miles from the river who have plans and
 8 have wanted to put in deep wells and have been
 9 held up because of the Idaho Power moratorium.
 10 But my argument is that it would be no different
 11 than pumping from the excess trust water than it
 12 would to be pumping from the aquifer. Just
 13 because a man's farm is within the limits of four
 14 miles and his neighbor across the mile road would
 15 be able to drill a well, they have to meet all
 16 these certain requirements, too. But I feel that
 17 those people are being discriminated against
 18 because they live less than four miles from the
 19 river. There isn't a great amount of acreage, but
 20 those that have plans feel like that this just
 21 isn't fair.
 22 Thank you.
 23 THE HEARING OFFICER: Could I ask a
 24 clarifying question on that? Mr. Burkes, would
 25 you feel that we should alter that for groundwater

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1 only or for surface water as well? Would it be
 2 both or just the one?
 3 MR. BURKES: Speaking for my people, all I'm
 4 concerned in is the groundwater, which, of course,
 5 in that reach of the river there are large springs
 6 that also go into the river. And those people
 7 making filings on that, that doesn't concern the
 8 people that I am involved with. And they feel
 9 that, just because they live within four miles of
 10 the river, that they should also be discriminated
 11 against, and, yet, that they should be allowed to
 12 put in deep wells for irrigation.
 13 THE HEARING OFFICER: Okay. Thank you.
 14 Appreciate your comment.
 15 Mr. Courtney(phonetic), do you have a
 16 comment for us?
 17 MR. COURTNEY: Well, under the
 18 circumstances, I will just hand these in.
 19 THE HEARING OFFICER: Well, we do want to
 20 make a record of this, so we appreciate you're
 21 doing that. Okay. We will have the record show
 22 that you have submitted a written statement of
 23 this as well.
 24 MR. COURTNEY: Okay. If everybody can take
 25 into considerations my last minute changes when I

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1 scribbled it out there.
 2 Ready?
 3 THE HEARING OFFICER: Yes, you bet.
 4 MR. COURTNEY: My name is John K. Courtney
 5 of Twin Falls, Idaho. And I am not comfortable
 6 with Rule 5, Section 3, Paragraph 9, if that's how
 7 you state it, now.
 8 THE HEARING OFFICER: I understand which one
 9 you're referring to.
 10 MR. COURTNEY: You understand what I am
 11 talking about. Okay. I didn't know how to state
 12 it because it's just by numbers.
 13 I interpret all water referred to under
 14 Rule 5, Section 3 as being trust water and that it
 15 does not include unappropriated or public water,
 16 which, in the past, has constituted a considerable
 17 amount of the Snake River flow especially during
 18 spring runoff. The questions are, is this
 19 Paragraph 9 unnecessary, impractical, and a
 20 miscarriage of justice from the standpoint that
 21 much of this water could as easily be diverted
 22 above Milner Dam or outside the four-mile limit
 23 considering that Idaho Power Company has filings
 24 for 17,250 cubic feet per second at their lower
 25 Salmon Falls plant?

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1 And question 2, would this Paragraph 9
 2 tend to tie up or discourage the use of water that
 3 would become, in regard to consumptive uses,
 4 unappropriated after passing through the Idaho
 5 Power Company's Bliss plant, that being the
 6 difference between the Bliss plant right for
 7 15,000 cubic feet per second and the Swan Falls
 8 plant right for 8,400 cubic feet per second? Many
 9 years in the past during the spring irrigation
 10 month of April, May, and June, there has been
 11 several thousand cubic feet per second of water
 12 flow registered at the Murphy Gage in excess of
 13 8,400 cubic feet per second.
 14 Question 3, would this Paragraph 9
 15 discriminate against citizens within the four
 16 miles from Snake River area between Milner Dam and
 17 Swan Falls Dam because of geographical location
 18 rather than their opportunity to reduce trust
 19 water flows?
 20 In conclusion, I wish it known that I
 21 have no animosity toward any parties concerned and
 22 am interested in the cause of justice and the
 23 amicable resolution of our water problems. I
 24 think there are future opportunities for Idahoans
 25 to conserve and utilize our water resources for

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1 the benefit of everyone and note that the term
 2 "unappropriated" above is used in regard to
 3 consumptive uses.
 4 Thank you.
 5 THE HEARING OFFICER: Thank you. We will
 6 research that, the question you're asking there,
 7 and consider that as we put together the rules
 8 that are to be adopted. I appreciate your drawing
 9 that to our attention.
 10 MR. COURTNEY: Okay.
 11 THE HEARING OFFICER: Thank you.
 12 MR. COURTNEY: Thank you.
 13 THE HEARING OFFICER: Are there others that
 14 would like to make a statement this evening?
 15 Okay. Hearing none, I would simply
 16 remind you of the hearing tomorrow in Boise and
 17 the opportunity to file written statements through
 18 the 27th of January. And at this point we will go
 19 off the record. And if you wish to ask questions
 20 and discuss the issues, we'd be happy to do that.
 21 (End of proceeding.)
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1 REPORTER'S CERTIFICATE

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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

Water Allocation Rules and Regulations Hearings 1/15/1986

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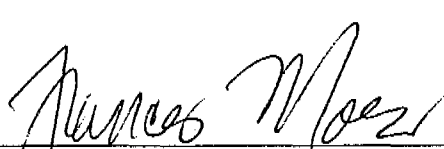
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