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APR 28 2006  
DEPARTMENT OF  
WATER RESOURCES

*Attorneys for Idaho Ground Water Appropriators, Inc.*

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF  
WATER TO VARIOUS WATER RIGHTS  
HELD BY OR FOR THE BENEFIT OF A & B  
IRRIGATION DISTRICT, AMERICAN FALLS  
RESERVOIR DISTRICT #2, BURLEY  
IRRIGATION DISTRICT, MILNER  
IRRIGATION DISTRICT, MINIDOKA  
IRRIGATION DISTRICT, NORTH SIDE  
CANAL COMPANY, and TWIN FALLS  
CANAL COMPANY

**AFFIDAVIT OF BRAD V. SNEED IN  
SUPPORT OF IGWA AND  
POCATELLO'S JOINT RESPONSE  
TO THE SURFACE WATER  
COALITION'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

STATE OF IDAHO            )  
  ) ss.  
COUNTY OF ADA         )

Bradley V. Sneed, being first duly sworn on oath, deposes and hereby states as follows:

1. I am one of the attorneys of record for Idaho Ground Water Appropriators, Inc. ("IGWA"), in the above-captioned matter before the Idaho Department of Water Resources.

2. On September 20, 2005, counsel for IGWA and the City of Pocatello ("Pocatello") deposed Randy E. Bingham at the United Electric Building, 1330 21<sup>st</sup> Street, Heyburn, Idaho. As of September 20, 2005, Randy E. Bingham was the manager of the Burley Irrigation District.

**AFFIDAVIT OF BRAD V. SNEED IN SUPPORT OF IGWA AND POCATELLO'S JOINT RESPONSE TO THE SURFACE WATER COALITION'S MOTION FOR PARTIAL SUMMARY JUDGMENT - 1**

3. Attached hereto as Exhibit A is a true and correct copy of excerpts from the transcript of the deposition of Randy E. Bingham taken on September 20, 2005.

4. On September 20, 2005, counsel for IGWA and Pocatello deposed Billy R. Thompson at the United Electric Building, 1330 21<sup>st</sup> Street, Heyburn, Idaho. As of September 20, 2005, Billy R. Thompson was the manager of the Minidoka Irrigation District.

5. Attached hereto as Exhibit B is a true and correct copy of excerpts from the transcript of the deposition of Billy R. Thompson taken on September 20, 2005.

6. On September 22, 2005, counsel for IGWA and Pocatello deposed Vince Alberdi at the offices of Magic Valley Bank, 113 Main Avenue West, Twin Falls, Idaho. As of September 22, 2005, Vince Alberdi was the general manager of the Twin Falls Canal Company.

7. Attached hereto as Exhibit C is a true and correct copy of excerpts from the transcript of the deposition of Vince Alberdi taken on September 22, 2005.

8. On September 23, 2005, counsel for IGWA and Pocatello deposed Jay Barlogi at the offices of Magic Valley Bank, 113 Main Avenue West, Twin Falls, Idaho. As of September 23, 2005, Jay Barlogi was the Eastern Division Watermaster for the Twin Falls Canal Company.

9. Attached hereto as Exhibit D is a true and correct copy of excerpts from the transcript of the deposition of Jay Barlogi taken on September 23, 2005.

10. On October 20, 2005, counsel for IGWA and Pocatello deposed Dan Temple at the offices of A & B Irrigation District, 414 11<sup>th</sup> Street, Rupert, Idaho. As of October 20, 2005, Dan Temple was the general manager for the A & B Irrigation District.

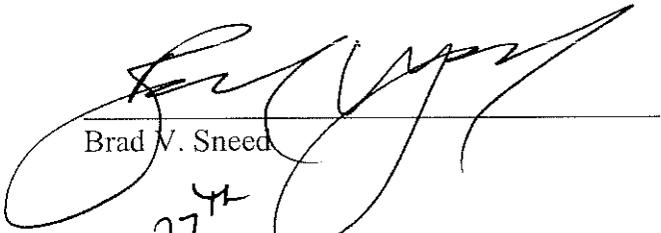
11. Attached hereto as Exhibit E is a true and correct copy of excerpts from the transcript of the deposition of Dan Temple taken on October 20, 2005.

12. On October 21, 2005, counsel for IGWA and Pocatello deposed Lynn Harmon at the offices of American Falls Reservoir District No. 2, 112 South Apple, Shoshone, Idaho. As of

October 21, 2005, Lynn Harmon was the general manager for the American Falls Reservoir District #2.

13. Attached hereto as Exhibit F is a true and correct copy of excerpts from the transcript of the deposition of Lynn Harmon taken on October 21, 2005.

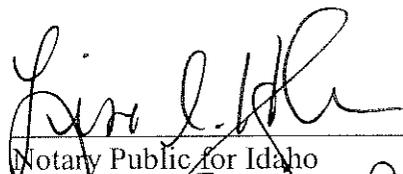
DATED this 27<sup>th</sup> day of April, 2006.

  
\_\_\_\_\_  
Brad V. Sneed

SUBSCRIBED AND SWORN TO before me this 27<sup>th</sup> day of April, 2006.

[seal]



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Bowling Green Idaho  
My commission expires 3-22-2007

CERTIFICATE OF SERVICE

I hereby certify that on this 28<sup>th</sup> day of April 2006, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

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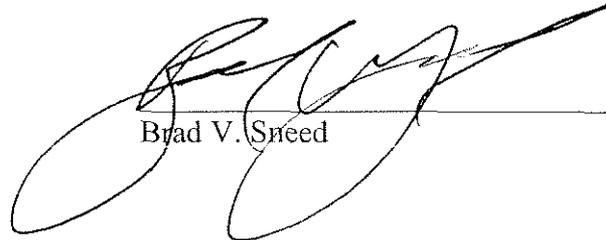
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 Hand Delivery  
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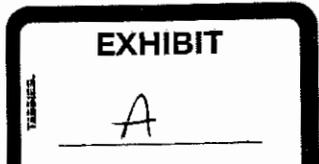
Brad V. Sneed

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF )  
WATER TO VARIOUS WATER RIGHTS )  
HELD BY OR FOR THE BENEFIT OF A & B )  
IRRIGATION DISTRICT, AMERICAN FALLS )  
RESERVOIR DISTRICT #2, BURLEY )  
IRRIGATION DISTRICT, MILNER )  
IRRIGATION DISTRICT, MINIDOKA )  
IRRIGATION DISTRICT, NORTH SIDE )  
CANAL COMPANY, and TWIN FALLS )  
CANAL COMPANY )

DEPOSITION OF RANDY E. BINGHAM  
VOLUME 1  
SEPTEMBER 20, 2005  
HEYBURN, IDAHO



1 Q. You don't serve any hydroelectric facilities  
 2 on your system, do you?  
 3 A. No.  
 4 Q. Can you describe the reasons why you  
 5 instituted the delivery call against Ground Water users in  
 6 this case?  
 7 A. Um, we believe that Ground Water users affect  
 8 the American Falls springs, therefore affecting our storage  
 9 in American Falls. It also affects reach gains between  
 10 American Falls and Minidoka Dam, which affects our natural  
 11 flow.  
 12 Q. And this has been going on for decades, in  
 13 your view, or is it just recent, or do you have a time  
 14 frame to describe this phenomenon?  
 15 A. Well, we can see natural flow days -- the days  
 16 that we are on natural flow has declined. Um, now, it has  
 17 not -- it was increasing through the '60s, but it is  
 18 declining at this point.  
 19 Q. I think you testified to the effect you've not  
 20 had any patrons who have been short of water in 2005; isn't  
 21 that correct?  
 22 A. That's correct.  
 23 Q. Do you have a list of patrons who were forced  
 24 to dry up lands, or not irrigate to begin with in other  
 25 years, due to lack of adequate supply?

1 produced to us?  
 2 A. Not that I am aware of.  
 3 Q. Okay. We have had other dry periods in the  
 4 past, as you're well aware. Can you describe what BID did  
 5 in any of those earlier periods such as the period around  
 6 1988, 1977, '61, the 1930s? Do you have any information on  
 7 how BID managed in those dry spells?  
 8 A. Uh, I don't have personal knowledge, uh, a  
 9 little history, but I don't know exactly how they managed  
 10 their water supply at that time.  
 11 Q. Is there anyone else in the company who might  
 12 have some personal knowledge or any records with regard to,  
 13 let's say, 1988 or 1977?  
 14 A. Uh, not that I know of.  
 15 Q. So what is Burley's goal in the current  
 16 delivery call?  
 17 A. Um, our goal is to have the aquifer restored  
 18 sufficient to supply water at the American Falls springs.  
 19 Q. And do you feel that this can be done only  
 20 through curtailment of scores -- hundreds or even thousands  
 21 of groundwater wells?  
 22 A. There are probably a -- multiple ways to solve  
 23 the problem.  
 24 Q. Would preventing the additional development of  
 25 irrigated farmland using groundwater from the Eastern Snake

1 A. No. I don't.  
 2 Q. Have you any documents or other records that  
 3 show what the natural flow days have been for the District?  
 4 A. Yes. I do.  
 5 Q. And have those been made available to us?  
 6 A. I -- yes, they (indicating) have.  
 7 Q. And you're pointing to P-5 there?  
 8 A. Well, I'm pointing to the document that I have  
 9 that was in the photocopy box, so it was provided to you.  
 10 Q. Could you just read the caption on that?  
 11 A. "Burley Irrigation District Water History  
 12 Diversion History."  
 13 Q. The Director's Order of May 2nd of this year,  
 14 which has been referred to earlier this morning, noted that  
 15 you have not provided information about crop losses; not  
 16 only your district, but the others involved in the  
 17 Coalition.  
 18 Do you have any information now, since the  
 19 May 2nd Order, on that subject?  
 20 A. No. I don't.  
 21 Q. I take it you have no information about the  
 22 financial cost to BID or to any patron due to a shortage?  
 23 A. That's correct. I don't have any.  
 24 Q. Do you have any studies, reports, or other  
 25 analyses concerning this shortage, other than those you've

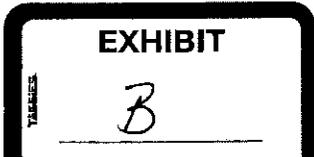
1 Plain Aquifer be one of those goals or measures?  
 2 A. To not allow any further development --  
 3 Q. Correct.  
 4 A. -- is that your question? I would hope that  
 5 would be part of it.  
 6 Q. Have you evaluated or discussed the situation  
 7 of water spilling past Milner, unused by the canal  
 8 companies in irrigation districts, and how curtailment of  
 9 groundwater might affect that?  
 10 A. I haven't discussed that with anyone.  
 11 Q. Have you evaluated the Replacement Water Plan  
 12 that some of the Ground Water users, through the Idaho  
 13 groundwater Appropriators, have submitted to the Director  
 14 in this case?  
 15 A. No. I haven't.  
 16 MR. FEREDAY: Can we go off the record for  
 17 just a moment?  
 18 (Private discussion off the record  
 19 between Mr. Fereday and Mr. Brendecke.)  
 20 MR. FEREDAY: We can go back on the record.  
 21 Q. (BY MR. FEREDAY) Mr. Bingham, the normal  
 22 allocation per acre for your patrons appears to be  
 23 somewhere around four acre feet per acre; is that right?  
 24 A. That was the number the Bureau of Reclamation  
 25 assigned to us in the '20s.

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
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IRRIGATION DISTRICT, MINIDOKA )  
IRRIGATION DISTRICT, NORTH SIDE )  
CANAL COMPANY, and TWIN FALLS )  
CANAL COMPANY )

DEPOSITION OF BILLY R. THOMPSON  
VOLUME 1  
SEPTEMBER 20, 2005  
HEYBURN, IDAHO



1 Q. -- changing weather patterns? So your  
2 predictions are based strictly on past use and averaging  
3 out past use?

4 A. Right. By the time I start that projection  
5 process, the runoff has occurred. We've reached the  
6 maximum date of accrual. And it's hard to project weather  
7 conditions; what they're going to be three to four months  
8 out. So I don't take that into consideration.

9 Q. How, based on these projections, do you have  
10 any idea that you're looking at a shortage if you're  
11 relying on averages?

12 A. Well, fortunately, our storage is such that we  
13 usually have enough water to finish the season out. Um,  
14 but there are some years when you've got to just kind of  
15 make a forecast -- a preliminary forecast as to where  
16 you're going to be. Uh, I don't know if that answers your  
17 question.

18 Q. Have you been short in the past?

19 A. Yes. In 1992 we were short.

20 Q. Did you place a call in 1992?

21 A. No.

22 Q. Why not?

23 A. I wasn't the manager at that time. I couldn't  
24 tell you.

25 Q. When did you take over the position of

1 manager?

2 A. '94.

3 Q. In your estimation, how short are you this  
4 year?

5 A. In regards to finishing the crop out?

6 Q. Yes. Supplying water to the landowners within  
7 your District?

8 A. We're not going to be short this year.

9 Q. Does the amount of shortage that you see vary  
10 seasonally, and does it vary based on other factors?

11 A. It can. Yes.

12 Q. What are those factors?

13 A. Weather plays a big part of it, the amount of  
14 carryover storage you're allowed to accrue, um -- there's  
15 several -- several different things.

16 Q. So you have enough storage to mitigate  
17 shortages to your natural flow water supply?

18 A. Yes. This year.

19 Q. Did you last year?

20 A. Yes.

21 Q. Did you the year before?

22 A. Yes.

23 Q. Did you the year before?

24 A. Yes.

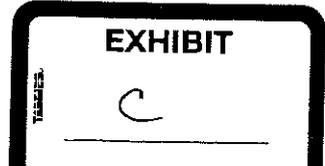
25 Q. Did you the year before?

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
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RESERVOIR DISTRICT #2, BURLEY )  
IRRIGATION DISTRICT, MILNER )  
IRRIGATION DISTRICT, MINIDOKA )  
IRRIGATION DISTRICT, NORTH SIDE )  
CANAL COMPANY, and TWIN FALLS )  
CANAL COMPANY )  
)

DEPOSITION OF VINCE ALBERDI  
SEPTEMBER 22, 2005  
TWIN FALLS, IDAHO



1 that the number of shares that are on a given piece of  
2 parc- -- a parcel of property are equal to what he would  
3 have if he had service rights. Which they are -- I can't  
4 remember, you know, when they're not, but I wanted to  
5 clarify that.

6 (Private discussion off the record  
7 between Mr. Fereday and Mr. Brendecke.)

8 Q. (BY MR. FEREDAY) I think you testified that  
9 with regard to laterals or ditches serving subdivisions,  
10 you just simply measure at the lateral, and then the  
11 subdivision takes care of its own deliveries from there;  
12 isn't that right?

13 A. That's correct. They pressurize or gravity  
14 run it through the subdivision. And we have some of each.

15 Q. Okay. Great. You have records of a share of  
16 transfer transactions that we have obtained, I think, back  
17 to 1990. I assume they go back further than that; is that  
18 correct?

19 A. I would have to check on that. I don't know.

20 Q. Okay. With regard to your injury that you  
21 believe you have suffered, or are suffering, isn't it a  
22 fact that 2005 is not a year in which you have suffered  
23 injury to your water rights? Isn't that a fact?

24 A. No.

25 Q. You have suffered injury?

1 A. We have suffered.

2 Q. You have suffered injury?

3 A. We have suffered injury this year in our water  
4 right.

5 Q. And what is that injury?

6 A. We started diverting storage water on the 2nd  
7 of July, which I'm sure you realize is pretty late in the  
8 season. Typically, we go to storage, uh, much earlier.  
9 Typically, we go on by the middle of June, and sometimes  
10 earlier. But it's clear into the 2nd of July when we  
11 started diverting any storage.

12 And the storage requirements for the project  
13 concluded two days ago unprecedented -- unacceptable,  
14 baloney. That natural flow right is depleting at a rate --  
15 used to we would be back in the natural flow in August. In  
16 August we hit all time lows on natural flow. So did we  
17 suffer any shortage? Mr. Fereday, we did.

18 Q. Your answer, then, is making --

19 A. Yes.

20 Q. Is "yes." And it's making the point that  
21 because you had to run storage from July 2nd to  
22 September 20 --

23 A. September 20.

24 Q. -- you suffered injury, that you should not  
25 have had to run storage that long; is that correct?

1 A. That's correct.

2 Q. And every other year you've always been able  
3 to run storage for a lesser period of time?

4 A. I think the record will show that in August  
5 we -- the natural flow levels come back up to the point  
6 where our storage requirements are minimal.

7 Q. Are you saying that you diverted no natural  
8 flow after July 2nd, 2005?

9 A. No. No. No. We diverted less natural flow  
10 through that.

11 Q. My question was whether you were saying that  
12 you diverted no natural flow at all after July 2nd, 2005?

13 A. We diverted natural flow after 2005.

14 Q. After July 2nd?

15 A. After July 2nd.

16 Q. You did?

17 A. We did.

18 Q. But your testimony is it just wasn't enough?

19 A. That's correct.

20 Q. With regard to lands that have been excluded,  
21 I don't think I asked you whether you have records of those  
22 excluded lands.

23 Are those excluded lands noted in minutes or  
24 in some other document that the Board maintains?

25 A. Define "excluded" acres.

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IRRIGATION DISTRICT, NORTH SIDE )  
CANAL COMPANY, and TWIN FALLS )  
CANAL COMPANY )

DEPOSITION OF JAY BARLOGI  
SEPTEMBER 23, 2005  
TWIN FALLS, IDAHO

## DEPOSITION OF JAY BARLOGI

BE IT REMEMBERED that the deposition of  
JAY BARLOGI was taken by the attorneys for Idaho  
Ground Water Appropriators, Inc., and City of Pocatello,  
at the offices of Magic Valley Bank, 113 Main Avenue West,  
2nd floor conference room, Twin Falls, Idaho, before  
Jeanne M. Hirmer, a Court Reporter (Idaho Certified  
Shorthand Reporter Number 318) and Notary Public in and for  
the County of Ada, State of Idaho, on Friday, the 23rd day  
of September, 2005, commencing at the hour of 9:05 a.m. in  
the above-entitled matter.

## APPEARANCES:

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For Idaho Dairymen's Association:	MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD. Attorneys at Law By: Scott L. Campbell 101 South Capitol Boulevard Tenth Floor Boise, Idaho 83702

## A P P E A R A N C E S (Continued)

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Also present:	Gregory K. Sullivan Senior Water Resources Engineer Spronk Water Engineers, Inc. 1000 Logan Street Denver, Colorado 80203-3011
	Charles M. Brendecke, Ph.D., PE Hydrosphere, President 1002 Walnut Suite 200 Boulder, Colorado 80302

I N D E X  
E X A M I N A T I O N

JAY BARLOGI	PAGE
By: Ms. Klahn	5, 116
Mr. Fereday	88, 119
Mr. Campbell	116
Mr. Thompson	118

## E X H I B I T S

NO.	DESCRIPTION	PAGE
21	Multi-page document entitled "Ride #6 Lateral #46"	37
22	Copy of plat map entitled "Section 8, Township 10 south, range 14 east"	76
23	Copy of plat map entitled "Section 1, Township 11 south, range 18 east"	78
24	Copy of plat map	79
25	One-page document entitled "Milner Canal, Murtaugh Canal, Forks Flow"	85
26	Two-page document entitled "Twin Falls Canal Company," dated "October 23, 2002"	104
27	Letter entitled "Twin Falls Canal Company, Water Supply Update," dated "June 2, 2004"	104
28	One-page document entitled "Notice To Stockholders Twin Falls Canal Company Water Status"	104
REQUESTED INFORMATION:		
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	83	10
	87	18
	106	25
	112	10

1 Q. We are, obviously, going to look there, too.  
 2 But if you have other data that's company-generated, we  
 3 would like to have it.  
 4 A. Sure.  
 5 Q. So I understand your caveat to that.  
 6 MS. KLAHN: So if you could just check -- it  
 7 sounds like maybe they aren't there, but if you could check  
 8 that would be helpful.  
 9 MR. THOMPSON: Yes.  
 10 Q. (BY MS. KLAHN) And that raises an interesting  
 11 question. During the last couple of years, of course, the  
 12 water supply, some have said, has not been as abundant as  
 13 it has in years past.  
 14 Are you personally familiar with situations  
 15 where crops have failed, or people have -- you know, gone  
 16 out of business, or whatever, because of shortages in water  
 17 supply, in the time that you have been working for the  
 18 company?  
 19 A. Crop failure, no. Uh, people go out of  
 20 business. Obviously, there's a lot of farmers that go out  
 21 of business. The reason behind that I don't know.  
 22 Substitution crops are a big deal now. A  
 23 couple of years ago it was almost solid grain through the  
 24 project. I mean it wasn't, but it was an awful lot of  
 25 grain and low-value crops, but yet low-water demand crops.

1 The reasons people go out of business, I don't have any  
 2 idea, you know -- poor management, low water supply. I  
 3 don't know.  
 4 Q. And we talked earlier this morning about the  
 5 difference in your job between a half-inch delivery year  
 6 and a 5/8ths-inch delivery year, and one of the things you  
 7 told me was that one of the measures that farmers might  
 8 take, which impacts your job, would be to do irrigation  
 9 sets for 12 hours instead of 24 hours.  
 10 Are there any other measures that farmers take  
 11 in half-inch years to help them spread a smaller water  
 12 supply more effectively?  
 13 A. Cropping is definitely one of them. You see  
 14 less -- less potatoes and more wheat. They renozzle their  
 15 sprinklers. The sprinkler companies, when they design a  
 16 pivot to run for 80 inches, it takes 80 inches. And when  
 17 that 80 drops down to 70 inches, they call because their  
 18 pond is going down. So when you go to a half-inch  
 19 conversion, they have to renozzle those and put a half-inch  
 20 package on them, so to speak.  
 21 Again, they run shorter sets and use a lot  
 22 more people to shuffle water around in the ground quicker.  
 23 Right off the top of my head, those are the things I'm  
 24 thinking of.  
 25 Q. Okay. Well, yesterday, as you know, we got

1 copies of this (indicating) book from the company.  
 2 We're going to go through every single one of  
 3 these. I'm just kidding.  
 4 All I want to do is look at a couple of sample  
 5 ones and have you help me understand how these fit together  
 6 and what kind of information -- let me start with this.  
 7 Are you familiar with this book?  
 8 A. Yes, ma'am.  
 9 Q. Okay. I want to have you help me understand  
 10 what we should expect to find on here and what we should  
 11 not expect to find on here. This is the only copy we have.  
 12 MS. KLAHN: Can your copier upstairs run big  
 13 copies like this? It's like 11 by 17.  
 14 MR. THOMPSON: I don't know if we've got that  
 15 size.  
 16 MS. KLAHN: Let's put a sticky note on it,  
 17 rather than tag it, for now.  
 18 (To the Court Reporter): Can we put an  
 19 exhibit number on the sticky note --  
 20 THE COURT REPORTER: Sure.  
 21 MS. KLAHN: -- so we can try and get a copy of  
 22 this? In fact, we may even give it to you like this,  
 23 Jeanne, and you can mail us back the original.  
 24 THE COURT REPORTER: Okay.  
 25

1 (Exhibit No. 22 was marked  
 2 for identification.)  
 3 Q. (BY MS. KLAHN) Let's call this Exhibit 22.  
 4 Would you identify that, Mr. Bariogi?  
 5 A. This is a copy of our plat book; Section 8,  
 6 Township 10 south, and Range 14 east.  
 7 Q. Okay. And on that exhibit -- I just want to  
 8 stand up and look over your shoulder here, there's a couple  
 9 of -- there are a number of annotations.  
 10 Can you describe, first of all, what the  
 11 annotations that have a number and then an "A" following  
 12 them mean? So for instance, I'm looking at the middle of  
 13 the page that says (reading) 80A, dash 5B, dash 24 (end  
 14 reading).  
 15 Can you tell me what that means?  
 16 A. I am going to assume that that's 80 acres.  
 17 Uh, the 5B, that water is a pertinent to lateral 5B,  
 18 Gate 24. And you can see lateral 5B here, and that  
 19 apparently used to be Gate 20 and now has been renamed  
 20 Gate 24. And that is apparently where the water comes from  
 21 that's appurtenant to that 80 acres.  
 22 Q. And then in that same square that has  
 23 (reading) 80A, dash 5B, dash 24 (end reading) at the top is  
 24 an annotation that says "Water Trends by Board April 1971."  
 25 Do you see that?

1 Q. Do you know anything about that?

2 A. I do not. No. I have heard of the CH2M Hill

3 study. When I got there, they were in the process of --

4 of, uh, lowering the canal bottom. But as far as the --

5 no. I know very little about it.

6 Q. Do you know whether several thousand acres

7 beyond the end of the existing project were put under

8 irrigation from the company in whole or in part?

9 A. It is my understanding of that project, and of

10 that study, that the issue at the time was there were water

11 users down there in that area that had appurtenant water

12 rights. And the geography of our system was such that we

13 couldn't get them the water that they had coming, and they

14 were forever coming to Twin to complain about that. And

15 that was the purpose of all of this; was to be able to

16 divert the water down to them and get it to them that they

17 had.

18 Q. Can you describe who those water users are

19 or -- name?

20 A. I am not familiar with many of them on a

21 first-name basis, but it is the Castleford area.

22 Q. Do you know any of the names down there of

23 those irrigators?

24 A. Oh. I know Michael Guerry is down there. No.

25 I mean, I don't know them very well.

1 Q. G-U-E-R-R-Y?

2 A. G-U-E-R-R-Y; something like that.

3 Q. I take it that the statement "acres beyond the

4 end of the existing project" is not quite accurate from

5 your testimony. Would that be the case?

6 A. I am guessing. I have no idea.

7 Q. My question is: Because your testimony was

8 you understood that those people were shareholders with

9 appurtenant water rights, that presumably they would be

10 within the existing project?

11 A. That was my understanding. Yes.

12 Q. The third bulleted item notes that, quote,

13 "Over the years the project has battled with getting enough

14 water to the end of the canal system," close quote.

15 Do you see that as a correct statement?

16 A. This is what I have been told. Yes.

17 Q. What about your experience?

18 A. In my experience we have had no problem. We

19 get them their water. However, the changes had been made

20 before I got into this position.

21 Q. Do you know whether the company has a copy of

22 this 1980 study that's mentioned in this "To whom It May

23 Concern" letter?

24 A. I -- I would assume so.

25 Q. And if the company does have that, could you

1 make that available to us?

2 A. I'll refer to counsel on all that.

3 Q. Referring now to Exhibit 27, this is the

4 June 2004 letter to water users from Vince Albardi and

5 Dan Shewmaker.

6 Is this an example of the type of

7 communication that the Board -- or the management makes to

8 shareholders with regard to a decision to cut water from

9 5/8ths to 1/2?

10 A. This is -- yeah. This is one example.

11 Q. How many examples have you seen in recent

12 years of that kind of a cut to 1/2?

13 A. Well, I don't know about numbers of examples.

14 We try, in various ways, to make sure we inform our water

15 user what's going on. I know Vince is on TV quite a bit.

16 We've schedule him to town meetings at times. We send

17 these things out and get word out to the ditch riders.

18 Q. Were you at either of these town meetings in

19 Twin Falls or Buhl that are mentioned in this exhibit?

20 A. Yes, sir. I was at both of them.

21 Q. What were the comments from the shareholders

22 at those town meetings concerning their water supplies,

23 their ability to irrigate, crop loss, or issues such as

24 that?

25 A. Um, there was a general tone for the deal that

1 they were very frustrated in not having their full

2 allotment of water year after year.

3 Q. Did anyone mention the loss of crops or other

4 injury?

5 A. Not to my recollection -- other injury, yes.

6 Not loss of crops.

7 Q. What other injury did they mention?

8 A. They discussed and talked about the, uh,

9 planting of grain rather than crops that they would like to

10 grow, and all felt very injured.

11 Q. Turning now to Exhibit 28, this is hand dated

12 at the top "1992." But other than that, it was not clear

13 who this came from or what date it was sent on.

14 Do you recognize this?

15 A. I do not. No.

16 Q. It's a Notice To Stockholders, "Water is still

17 being delivered at 1/2 inch per share --" it says.

18 This is another example, I take it, of this

19 same type of notice, in your view?

20 A. Uh (reviewing document) -- you know, in '92 I

21 would be speculating to assume it was anything. I have no

22 idea what went on up in the office at that time. I was not

23 involved at this level then.

24 Q. Do you know how your water management

25 practices in Twin Falls Canal Company differ, if at all,

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF )  
WATER TO VARIOUS WATER RIGHTS )  
HELD BY OR FOR THE BENEFIT OF A & B )  
IRRIGATION DISTRICT, AMERICAN FALLS )  
RESERVOIR DISTRICT #2, BURLEY )  
IRRIGATION DISTRICT, MILNER )  
IRRIGATION DISTRICT, MINIDOKA )  
IRRIGATION DISTRICT, NORTH SIDE )  
CANAL COMPANY, and TWIN FALLS )  
CANAL COMPANY. )

DEPOSITION OF DAN TEMPLE  
OCTOBER 20, 2005  
RUPERT, IDAHO

1 was there, then.

2 Q. (BY MS. KLAHN) Okay. All right. Did you  
3 have to pay that back to Burley this year?

4 A. I believe that right filled. I don't know if  
5 in its entirety.

6 Q. You haven't paid it to date anyway?

7 A. Yes. If we had -- if we had to pay any of it,  
8 it would have been paid back at the very first before our  
9 allocation.

10 MS. KLAHN: Oh. I see. Okay.

11 (Private discussion off the record  
12 between Ms. Klahn and Mr. Sullivan.)

13 Q. (BY MS. KLAHN) So is that an accounting  
14 matter? In other words, at the beginning of the season you  
15 have whatever you have in American Falls, and Burley's  
16 rights are whatever they are and the water you owe them is  
17 booked into their account but no water really changes  
18 hands, if you will, until later in the season when you find  
19 out if it's there or not?

20 A. That's handled by Water District 01.

21 Q. Okay.

22 A. They take care of that through the agreements.

23 Q. Okay. Did you get all of your storage rights  
24 this year? Were they filled?

25 A. A complete fill? No.

1 Q. Of American Falls?

2 A. American Falls, I believe so.

3 Q. Okay. Did you get some out of Palisades?

4 A. Yes. We acquired some in Palisades.

5 (Private discussion off the record  
6 between Ms. Klahn and Mr. Sullivan.)

7 Q. (BY MS. KLAHN) Did you enter into any other  
8 leases or exchanges at the beginning of 2005, in  
9 anticipation that you would be short?

10 A. No.

11 Q. You didn't apply to the Rental Pool or  
12 anything?

13 A. I don't believe -- I believe the way that  
14 ended up, there was no water available so we did not apply.

15 Q. Well, I think a lot of people applied in the  
16 hopes there would be water, so I just wondered if you did?

17 A. I can't remember.

18 MS. KLAHN: Okay.

19 (Private discussion off the record  
20 between Mr. Ling and the deponent.)

21 (Private discussion off the record  
22 between Ms. Klahn and Mr. Sullivan.)

23 THE WITNESS: I do remember we was prepared to  
24 ask for water and then we had till late June and July  
25 before the request actually had to be in. It kept raining

1 and kept raining, so we did not have to apply.

2 Q. (BY MS. KLAHN) Okay. I'm looking for the  
3 exhibit -- here it is. April -- let me just make sure this  
4 is right. Let's look at Exhibit 15, Mr. Temple.

5 I need to find my copy of that so I can talk  
6 about it too.

7 Going back to the end of that exhibit --

8 MS. KLAHN (To the Court Reporter): Do we have  
9 the March 15th submission by the Surface Water Coalition to  
10 the Director in the record as an exhibit?

11 MR. LING: It's Exhibit 14.

12 Q. (BY MS. KLAHN) Let's start with Exhibit 14,  
13 because that was earlier in time. And in the back of that  
14 exhibit is something called Exhibit D. And behind it is  
15 some information from A & B Irrigation District on  
16 irrigation methods. Keep going back till you get to the  
17 tables.

18 A. In D?

19 Q. In Exhibit 14. Then go back to the one called  
20 "Exhibit D." There's too many exhibits here. There you  
21 go.

22 Are you familiar with this information that's  
23 in this table?

24 A. Yes.

25 Q. Did you help with putting this table together?

1 Q. We talked about that this morning, didn't we?

2 A. I believe so.

3 Q. I think your testimony is that this year that  
4 farmers in Unit A were expecting short water so they  
5 planted different crops?

6 A. That is correct.

7 Q. Did the farmers in Unit B have a similar kind  
8 of concern? They're still getting three acre-feet, aren't  
9 they?

10 A. With the exception of problematic areas,  
11 especially in the west end of the deep well division of B,  
12 they probably have moved some of their row crop to other  
13 lands with wells that are stronger and put the grains --  
14 lesser consumptive crops out under some of those wells with  
15 concerns.

16 Q. Do you know of anybody this year -- I'm sorry.  
17 Let's talk about last year, because this year turned out to  
18 be a good water year, didn't it, overall?

19 A. We ended up getting by.

20 Q. Last year was a short-water year, would you  
21 agree?

22 A. For Unit A, yes.

23 Q. Did Mr. Fereday ask you this morning whether  
24 you were aware of any people who had crop losses on Unit A  
25 last year? I can't remember.

1           A.     He had asked me, but it was only hearsay. I  
2 have no proof.

3           Q.     Now, if you turn the page -- we're back in  
4 Exhibit 15. If you turn the page this says "Crop Report  
5 Summary" for the years 2001 and 2002 only.

6                     What's the source of this information?

7           A.     (Reviewing document.) Roger and I worked on  
8 this, and I believe we was just trying to take a history of  
9 the crops grown -- total crops grown per acre, and then  
10 took the percentage of the A lands and applied that  
11 acres -- or that amount of crop grown to them, I believe,  
12 is what -- (reviewing document.) That's all I can remember  
13 of it.

14          Q.     The notes make it seem that there are records.  
15 If you look at that fourth sentence in the notes it says  
16 "No records are available for lands in Unit A alone for  
17 other years." Which, I mean, it kind of implies you might  
18 have had records.

19          A.     (Reviewing document.)

20                     (Private discussion off the record  
21                     between Ms. Klahn and Mr. Sullivan.)

22                     (Private discussion off the record  
23                     between Mr. Ling and the deponent.)

24          Q.     (BY MS. KLAHN) I'm sorry?

25          A.     I don't believe there's any crop reports for

1 those years. I would have to research that a little bit.  
2 But they indicate that we had no records available in '98  
3 through 2000. No. There they are. I've got the wrong  
4 years again. 2002, 2001. So we took those --

5 Q. They are on the front page?

6 A. I got my years wrong. But there was no  
7 separation between -- of the crops between A and B lands in  
8 the summary. So we just took it by a percentage of the  
9 acres in the A. So the number of acres devoted to each  
10 crop in Unit A follows closely to the percent devoted in  
11 each crop district-wide.

12 Q. Well, let's just walk through that for a  
13 minute. If you look at oats for 2001 and 2002 and compare  
14 the two pages, the main sheet I assume must reflect all  
15 lands under the District; the one with the years from 1990  
16 forward. Oats in 2002 is 483 and in 2001 it's 253.

17 On the second sheet, which is only lands for  
18 division A, oats is zero. And oats in '02 seems to be the  
19 whole amount. I'm just trying to see where --

20 A. Well, I believe we was just estimating it.  
21 And I don't recall -- mostly on that small amount of acres  
22 we just carried the whole thing over. If you look at the  
23 barley column on 2002, the 4,500 acres, that's probably  
24 somewhere in the neighborhood of the 19 or 20 percent of  
25 the -- the 22,000 that was in barley.

1 Q. That's what you recall but you're not sure?

2 A. That's what I recall, but I'm not sure.

3 (Private discussion off the record  
4 between Ms. Klahn and Mr. Sullivan.)

5 Q. (BY MS. KLAHN) Well, do you think that the  
6 table that has the crop summary for Unit A lands would be  
7 the best estimate if we wanted to -- if we were trying to  
8 understand what crops had been grown in 2001 and 2002 in  
9 Unit A? Or would you rely on the bigger table as far as --  
10 you know, if you're telling somebody which numbers you  
11 thought were more reliable as for Unit A only?

12 MR. LING: What bigger table are you referring  
13 to?

14 MS. KLAHN: This (indicating).

15 MR. LING: The bigger table is for  
16 District-wide.

17 MS. KLAHN: Correct. The second table is for  
18 Unit A lands, and he says he's not quite sure how he got  
19 the numbers. And all I'm saying is which table does he  
20 think for '01 and '02 better reflect crops grown on Unit A?

21 MR. LING: Table 1 doesn't show Unit A  
22 separate from Unit . . .

23 MS. KLAHN: On a percentage base it does,  
24 right? That's what he testified is that you and he took  
25 the main table there with the data from 1990 to 2002, and

1 for some reason broke it out for '01 and '02 by multiplying  
2 it times the percentage of acres that were Unit A.

3 MR. LING: I guess I don't understand the  
4 question. Perhaps, Dan, with --

5 THE WITNESS: Well, to your question which  
6 table -- and I don't remember the reason for this. I think  
7 maybe the Director's report was one -- specifically just  
8 unit -- the Director's request was just Unit A which we did  
9 not have.

10 The cropping pattern across the project until  
11 '04 and '05 was probably pretty consistent, a mix of all  
12 crops across the project wide. Maybe a few more beans in  
13 Unit A than B in an example.

14 So the best we could do -- to my recollection,  
15 we just took it -- the total crops on an acre basis and  
16 figured out what percentage of the Unit A lands were of the  
17 total District lands, and then applied that percentage  
18 to the total crops.

19 Q. (BY MS. KLAHN) Okay. Well, I'm going to  
20 represent to you. I'm looking at pasture 411 acres in  
21 2002. Doing rough math, say it's 20 percent. 20 percent  
22 of 411 would be 80 acres. If you flip over, pasture is  
23 115. I understand your recollection and I understand your  
24 testimony, and I -- I mean, would you agree with me that  
25 115 is not 20 percent of 411?

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF )  
WATER TO VARIOUS WATER RIGHTS )  
HELD BY OR FOR THE BENEFIT OF A & B )  
IRRIGATION DISTRICT, AMERICAN FALLS )  
RESERVOIR DISTRICT #2, BURLEY )  
IRRIGATION DISTRICT, MILNER )  
IRRIGATION DISTRICT, MINIDOKA )  
IRRIGATION DISTRICT, NORTH SIDE )  
CANAL COMPANY, and TWIN FALLS )  
CANAL COMPANY. )

DEPOSITION OF LYNN HARMON  
OCTOBER 21, 2005  
SHOSHONE, IDAHO

Jeanne Hirmer  
RPR, CSR



1 May through June or July, how much water does the  
2 Milner-Gooding Canal carry from the split with the North  
3 Side Canal?

4 A. I would have to say, on an estimate, somewhere  
5 between 12- and 1350; right in that time frame.

6 Q. So at that rate of flow, in approximately how  
7 many days would 15,000 acre-feet be delivered through the  
8 system?

9 A. Well, I'm not that good at math in my head,  
10 but if you're using 2,400 acre-feet a day, though, and  
11 divide that out by that 15,000, you're looking at eight  
12 days, nine days; something like that.

13 MR. CAMPBELL: Thank you. That's all I have.  
14 Thank you, Sarah.

15 MS. KLAHN: You're welcome, Scott. Have a  
16 safe journey.

17 (Discussion off the record.)

18

19 EXAMINATION (Continued)

20 BY MS. KLAHN:

21 Q. Mr. Harmon, I'm not going to give you a math  
22 question. This morning we talked about the operations of  
23 the Company during the drought years or the shortage years  
24 that you described; 2001, 2002, 2003, and 2004.

25 Remember that?

1 A. Uh-huh.

2 Q. Tell me about the decision-making that went on  
3 at the beginning of 2005, which would have been the fifth  
4 year of the shortage.

5 A. Initially it did not look like -- we were  
6 going to only just maybe fill American Falls, according to  
7 predictions. And we based our planning on looking at a  
8 half inch per acre delivery again until we ended up with  
9 rains.

10 Q. Okay. Did the Board exchange the rate of  
11 delivery after the rains started at some point?

12 A. We went back to normal deliveries at the end  
13 of June.

14 Q. Were there any impacts in the District, that  
15 you're aware of, to individual farmers from the initial  
16 delivery package and then the increase to five-eighths of  
17 an inch?

18 A. Not that I -- I don't know.

19 Q. During these years of drought or shortage,  
20 2001 forward through 2004, did the Board make available to  
21 water users under the District any ability to exchange or  
22 transfer water rights? For example, if somebody decided  
23 they weren't going to plant in a given year they could  
24 transfer temporarily rights to some other user?

25 A. There were a few transfers. No more than

1 divert, beginning in April, to whatever amount you can up  
2 to the 1,700 cfs, and then you find out after April 30th  
3 whether you were diverting storage or natural flow?

4 Is that an accurate description?

5 A. Yes.

6 Q. In dry years you presumably have a pretty good  
7 idea that what you're diverting is not going to be  
8 recognized as natural flow. Would that be correct?

9 A. Yes.

10 Q. Do you sometimes delay your start due to such  
11 an analysis in a dry year?

12 A. Yes.

13 Q. Do you know how releases of storage water for  
14 salmon recovery efforts have affected either your current  
15 availability of storage or your carryover account? Have  
16 you ever calculated that?

17 A. No. I really haven't.

18 Q. Do you know what your carryover is going to  
19 be -- or is likely to be in 2006? Is that up here on this  
20 chalkboard?

21 A. No. It's not. We've just got a rough  
22 estimate of preliminary figures on our part. We haven't  
23 received anything from the District 01 yet. We won't  
24 receive those probably till March.

25 Q. What's your belief about your carryover for

1 next year?

2 A. Our figures indicate in the neighborhood of  
3 90,000 acre-feet.

4 Q. And where does that put you in terms of the  
5 dry year/wet year continuum? Is it somewhere in the  
6 middle, is it toward the dry end? Where do you think that  
7 puts you?

8 A. I would have to put this as at least an  
9 average year.

10 Q. A couple of questions about your physical  
11 system; your delivery system.

12 Do you maintain checks in your laterals to  
13 keep levels high, when there's less stored in them -- in  
14 the lateral?

15 A. Yes.

16 Q. Are those permanently installed, temporarily  
17 installed? How do you put them in?

18 A. In the laterals they are permanently installed  
19 checks. Yes.

20 Q. And are they not permanent in other  
21 facilities?

22 A. We have a few permanent main canal checks, but  
23 the rest are put in as needed.

24 Q. And the ones that are put in as needed, I take  
25 it, would be rocks or gravel or something like that that