

Thomas A. Banducci (ISB No. 2453)
Jennifer Reinhardt-Tessmer (ISB 7432)

KIRTON MCCONKIE

11th & Idaho Building
1100 W. Idaho St., Ste. 930
Telephone: (208) 370-3325
Facsimile: (208) 370-3324
tbanducci@kmclaw.com
jtessmer@kmclaw.com

RAÚL R. LABRADOR
ATTORNEY GENERAL

SCOTT L. CAMPBELL
Chief of Energy and Natural Resources Division

GARRICK L. BAXTER, ISB No. 6301
MEGHAN M. CARTER, ISB No. 8863
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4800
Facsimile: (208) 287-6700
garrick.baxter@idwr.idaho.gov
meghan.carter@idwr.idaho.gov

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STRIDER CONSTRUCTION CO., INC.,

Plaintiff,

vs.

IDAHO WATER RESOURCE BOARD,

Defendant.

Case No. CV01-22-10932

**DECLARATION OF MIKE
MORRISON IN SUPPORT OF
DEFENDANT'S THIRD MOTION TO
AMEND SCHEDULING ORDER**

STATE OF IDAHO)

: ss.

County of Ada)

Mike Morrison, being first duly sworn upon oath, deposes and says:

1. I am an Engineer for Defendant, Idaho Water Resource Board (“IWRB”). I am over the age of 18 and base this declaration on my personal knowledge.

2. I have been the Project Manager over the Priest Lake Outlet Dam Project (“the Project”), which is the subject of the above-titled lawsuit, since December of 2021.

3. Strata Engineering tested the compressive strength of the affected concrete at 11 locations using the Schmidt Hammer (ASTM C805) surface testing method. As a control, an additional test was performed at a location that had not been inundated by water during the contract-specified cure. Compressive strength at all 11 test locations on the affected concrete were substantially below the 5,000-psi minimum value specified by the contract documents. Compressive strength at the control location was 5,500 psi and well-above the contract specified minimum.

4. Strata Engineering also tested the compressive strength of the affected concrete at 10 locations using the Windsor Probe (ASTM C803) surface testing method. As a control, an additional test was performed at a location that had not been inundated during the contract-specified cure. Compressive strength at all 10 test locations on the affected concrete was substantially below the 5,000-psi minimum value specified by the contract documents. Compressive strength at the control location was 5,200 psi and above the contract specified minimum.

5. After additional time passed after the concrete was inundated with water, and there was additional opportunity for curing, IWRB made efforts to re-test the concrete in

2021 and 2022; however, Strider would not make the site available for testing.

6. There was no indication of a void before Strider commenced work on the Project.

7. The contract for Strider's work on the Project required Strider to report any voids to the owner prior to placing the new apron. Strider never reported voids prior to placing the apron.

8. The void is located at the barrier separating two work phases. Had the void existed prior to Strider's work, water would have flowed between the two work areas, and it did not.

9. Since Strider abandoned the Project, IWRB hired a replacement contractor, Northbank Civil and Marine, Inc. ("Northbank"), which began work on the Project in September 2023.

10. As part of its work on the Project, Northbank has been tasked with making repairs and stabilizing critical infrastructure that was left unstable and in disrepair by Strider.

11. Northbank is in charge of the design and implementation of a dewatering plan, just as Strider was, before it terminated the contract.

12. Since September, when Northbank signed its contract for work on the Project, I have worked with Northbank to relay requests from the legal teams and their experts to inspect the dam in its dewatered state in December.

13. Specifically, IWRB's expert, Mark Gemperline, requested access to conduct Windsor Probe and other geophysical tests which I relayed to Northbank.

14. In December 2023, work done by Northbank revealed that the void (i.e. hole) suspected to be beneath the dam was found to be far larger than anticipated, with a maximum

dimension exceeding 20 feet.

15. When Northbank exhumed the area in December 2023, it determined it could run a measuring tape 10-15 feet at the corner of the void before losing their tape. Photographs depicting Northbank taking these measurements are below:





16. If such a void existed prior to Strider beginning work on the Project, it would have been clearly visible and impeded the pouring of concrete. However, Strider did not notify IWRB of the void until November 2021.

17. Such a large void could cause the dam to crack or even collapse in this area. It is now known that the void is in a location that would allow water to flow through it if the

dewatering system were modified in a way to enable Mr. Gemperline's testing plan. The additional flow of water would increase the dimensions of the cavity, increase the risk of dam collapse and crack, and make repairing the void extremely difficult.

18. As such, while geophysics testing by Mr. Gemperline and Strider's proposed coring testing of deep concrete strength can proceed, Mr. Gemperline's proposed surface Windsor Probe testing cannot be conducted until the void is repaired and the apron work is complete.

19. Northbank will need to fully assess the extent of the void and then create a repair plan for an accurate estimate of when repairs will be complete, but I roughly estimate sometime in late February.

20. Work on the site requires extensive planning with the stability of critical infrastructure being of utmost importance for public safety.

DATED this 15th day of December 2023.

/s/ Mike Morrison
Mike Morrison
Project Manager, Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December 2023, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

Lindsay (Taft) Watkins, *Pro Hac Vice*
Nicholas Korst, *Pro Hac Vice*
AHLERS CRESSMAN & SLEIGHT PLLC
1325 4th Ave., Suite 1850
Seattle, WA 98101
Telephone: (206) 287-9900
Attorneys for Plaintiff Strider Construction Co., Inc.

U.S. Mail
 Facsimile:
 Hand Delivery
 Overnight Delivery
 iCourt E-File/Serve:
lindsay.watkins@acslawyers.com
nicholas.korst@acslawyers.com

Joe Meuleman
MEULEMAN LAW GROUP PLLC
950 W. Bannock St., Ste. 490
Boise, ID 83702
Telephone: (208) 472-0066
Attorneys for Plaintiff Strider Construction Co., Inc.

U.S. Mail
 Facsimile:
 Hand Delivery
 Overnight Delivery
 iCourt E-File/Serve:
jmeuleman@meulemanlaw.com

Garrick L. Baxter
Meghan M. Carter
Deputy Attorneys General
Idaho Water Resource Board
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4800
Attorneys for Defendant

U.S. Mail
 Facsimile:
 Hand Delivery
 Overnight Delivery
 iCourt E-File/Serve:
garrick.baxter@idwr.idaho.gov
meghan.carter@idwr.idaho.gov

/s/ Jennifer Reinhardt-Tessmer
Jennifer Reinhardt-Tessmer