

RECEIVED

DEC 15 2017

DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB #4761
PARSONS BEHLE & LATIMER
800 West Main Street, Suite 1300
Boise, ID 83702
Telephone: 208.562.4900
Facsimile: 208.562.4901
NSemanko@parsonsbehle.com
ecf@parsonsbehle.com

Attorneys for Aberdeen-Springfield Canal Company

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

IN THE MATTER OF THE PETITION
REGARDING STORAGE RESET IN
WATER DISTRICT 01 FILED BY MILNER
IRRIGATION DISTRICT

Docket No. P-WRA-2017-002

**ABERDEEN-SPRINGFIELD CANAL
COMPANY'S RESPONSE TO
STATEMENTS OF ISSUES**

COMES NOW, Aberdeen-Springfield Canal Company ("ASCC"), by and through Norman M. Semanko of the law firm Parsons Behle and Latimer, and hereby submits its *Response to Statements of Issues* as permitted under the *Order Requesting Staff Memorandum; Order Adopting Deadlines; Notice of Status Conference; Notice of Hearing* dated November 20, 2017 (the "Scheduling Order") and pursuant to the Department's Rules of Procedure, IDAPA 37.01.01.

STATEMENTS FILED

Four substantive "Statement of Issues" filings were made with the Department on or before the December 8, 2017 deadline set forth in the Scheduling Order, as follows:

1. Surface Water Coalition's Statement of Issues (including Petitioner Milner Irrigation District). The Upper Valley Storage Holders filed a Statement of Issues

concurring in the six stated issues set forth by the Surface Water Coalition, although not necessarily concurring in the positions taken in describing each issue.

2. Statement of Issues of Palisades Water Users, Inc. and the City of Idaho Falls.
3. Shoshone-Bannock Tribes' Statement of Issues and Memorandum of Points and Authorities. The Bureau of Indian Affairs Statement of Issues concurred with the Tribes' Statement of Issues.
4. City of Pocatello's Statement of Issues.

RESPONSE TO STATEMENTS OF ISSUES

ASCC concurs in the Statement of Issues set forth by the Surface Water Coalition, as also concurred in by the Upper Valley Storage Holders, in their respective December 8 filings. ASCC reserves the right to take its own position regarding those issues.

ASCC also believes there is legal relevance to the issue raised by several of the other parties regarding the October 1 storage season beginning date contained in spaceholder contracts with the Bureau of Reclamation.

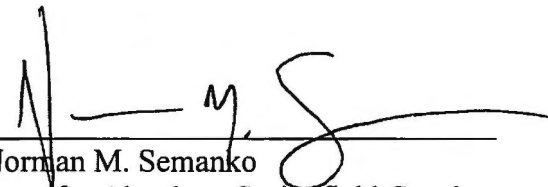
ASCC does not concur in the Statement of Issues filed by the Shoshone-Bannock Tribes. Aside from being confusing and difficult to understand – with the hard to track “yes” or “no” sequencing – the Tribes' statement inappropriately focuses on, and advocates for, special treatment of the Tribes' particular interests stemming from their interpretation of the Fort Hall Agreement. The Tribes go so far as to allege that Constitutional “takings” issues could arise if their interpretation does not prevail. This rabbit-hole set of issues is not within the four corners of the request letter submitted by Milner Irrigation District and does not belong in the current contested case venue.

Other than those discussed above, ASCC takes no particular position regarding any of the other specific issues raised in the other parties' filings. In doing so, ASCC is not consenting or agreeing to any of those issues being considered in this matter.

ASCC reserves the right to fully participate in briefing, argument and any other proceedings regarding the ultimate statement of issues set forth by the Department for consideration by the parties in this contested case.

DATED this 15th day of December, 2017.

PARSONS BEHLE & LATIMER

By: 
Norman M. Semanko
Attorneys for Aberdeen-Springfield Canal
Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following on this 15th day of December, 2017, by the following method:

Director, Gary Spackman
c/o Kimi White
Idaho Department of Water Resources
322 East Front Street
Boise, ID 83720-0098
gary.spackman@idwr.idaho.gov
kimi.white@idwr.idaho.gov
Garrick.baxter@idwr.idaho.gov

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Travis L. Thompson
John K. Simpson
Jonas A. Reagan
Barker Rosholt & Simpson, LLP
P.O. Box 63
Twin Falls, ID 83303-0063
tlt@idahowaters.com
jks@idahowaters.com
jar@idahowaters.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

John K. Simpson
Barker Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701-2139
jks@idahowaters.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Lyle Swank
Water District 01 Watermaster
900 N. Skyline Dr. Ste A
Idaho Falls, ID 83402-1718
Lyle.swank@idwr.idaho.gov

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Sarah A. Klahn
Mitra M. Pemberton
White & Jankowski, LLP
511 Sixteenth Street, Suite 500
Denver, CO 80202
sarahk@white-jankowski.com
mitrap@white-jankowski.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

William Bacon
Shoshone-Bannock Tribes
P.O. Box 306
Fort Hall, ID 83203
bbacon@sbtribes.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Edmund Clay Goodman
Hobbs, Straus, Dean Walker, LLP
806 SW Broadway, Suite 900
Portland, OR 97205
egoodman@hobbstrauss.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Chris M. Bromley
Candice McHugh
McHugh Bromley PLLC
380 S. 4th Street, Suite 103
Boise, ID 83702
cbrombley@mchughbromley.com
cmchugh@mchughbromley.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Jerry R. Rigby
Rigby, Andrus & Rigby Law, PLLC
25 North Second East
Rexburg, ID 83440
jrigby@rex-law.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

W. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, ID 83318
wkf@pmt.org

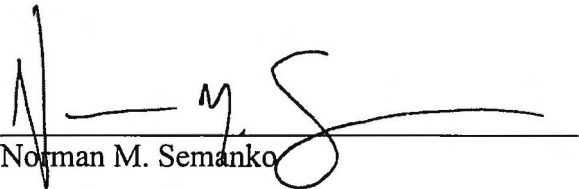
- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Robert L. Harris
D. Andrew Rawlings
Holden, Kidwell, Hahn & Crapo, PLLC
P.O. Box 50130
Idaho Falls, ID 83405
rharris@holdenlegal.com
arawlings@holdenlegal.com

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF

Duane Mecham
U.S. Department of the Interior
Bureau of Indian Affairs
805 SW Broadway, Suite 600
Portland, OR 97205
duane.mecham@sol.doi.gov

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Electronic Mail or CM/ECF



Norman M. Semanko