March 19, 1996

The Honorable Stan Hawkins

PO Box 367

Ucon, ID 83454

RE: The Scope of Discovery in the Packsaddle Case

Dear Senator Hawkins:

Commissioner Hansen has asked me to respond to your inquiry regarding the scope of discovery in the Packsaddle water case currently before the Commission.  Given the nature of your inquiry and the fact that this case is currently pending rehearing, Commissioner Hansen thought it would be best if I try to answer your question.

In preparation for the April 18 rehearing in this case, the Commission authorized the parties to conduct additional discovery.  According to the case schedule, discovery interrogatories should have been submitted by March 15 with the answers due March 22, 1996.  The Commission has limited the issues on rehearing to: rehabilitation of Well No. 1 in rate base; operating expenses in the form of labor costs and mileage allowance; the rate design based upon the number of customers; and the issue of actual expenses vs. estimated expenses.  The scope of discovery for rehearing should be limited to these issues.  It is permissible to submit interrogatories that address these issues or that may lead to the discovery of information that address these issues.

Essentially, discovery is the process whereby a party seeks to “discover” information from any other party regarding any matter relevant to the case at hand.  The scope of permissible discovery is usually broader than the question of whether evidence is admissible at the Commission’s rehearing.

If a party objects to the disclosure of information contained in a discovery request or asserts that such information falls outside the scope of the case, then that party may object to answering the question.  If the party requesting the information believes that the information is necessary or that there is an insufficient reason for not providing the requested material, then the requesting party may file a Motion to Compel with the Commission.  Following an opportunity by the objecting party to explain its position, the Commission will then rule on whether the material must be submitted.  The Commission may also attach conditions regarding the scope of the answer.  The Commission’s procedural Rules 221-33 generally address the issue of discovery.  When discoverable information is protected from public disclosure by statute or rule of law, then such material may be submitted under various measures designed to protect it from public disclosure.  Commission Rule 233 specifically addresses this area.

It is my understanding that the Company and at least one of the intervenor parties are represented by legal counsel.  Questions specifically posed by the parties are best directed to their respective counsels.  If you have further questions, please contact me at (208) 334-0312.

Very truly yours,

Donald L. Howell, II

Deputy Attorney General

DLH/vld:L:Hawkins.dh

cc:Commissioners

OAG