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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorneys for Applicant

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE  
APPLICATION OF SPIRIT LAKE EAST  
WATER COMPANY, INC., FOR  
AUTHORITY TO INCREASE ITS  
RATES AND CHARGES FOR WATER  
SERVICE IN THE STATE OF IDAHO

**Case No. SPL-W-06-01**

**RESPONSE TO COMMISSION FINAL  
ORDER NO. 30315**

COMES NOW Spirit Lake East Water Company (“Spirit Lake” or “Company”) and hereby files this pleading in response to the Idaho Public Utilities Commission’s (“Commission”) requirement that the Company “file a detailed written plan and schedule showing start and completion dates within seven days of the service date of [Order No. 30315], demonstrating a commitment to install a new generator and address system leaks as directed by the Commission in Order No. 30279.” Order No. 30315 at p. 5.

The Company began a leak detection program on May 14, 2007 and has submitted materials to two engineering firms in northern Idaho to provide a design for the installation of a generator sufficient to run the well pump and three booster pumps. Each of these matters is discussed in more detail below. In addition, the Company submits

what is the final version of a Consent Order that Spirit Lake will enter into with the Idaho Department of Environmental Quality (“DEQ”) to address system deficiencies.<sup>1</sup> *See Exhibit A.* Although the document is not executed, Spirit Lake has orally agreed to its terms at a compliance conference with DEQ and is proceeding with repairs/improvements to comply with its requirements.

### **CONSENT ORDER**

Pursuant to the terms of a Consent Order the Company has agreed to enter with DEQ, Spirit Lake shall submit a detailed plan, prepared by an Idaho licensed professional engineer, with a specific time schedule that describes actions Spirit Lake will take to address system leaks, the installation of a new standby generator and the repair of the reservoir roof on or before June 30, 2007. Specifically, this detailed plan must include: 1) details for the installation of a generator capable of running the submersible well pump and the three centrifugal water pumps used to pressurize the water distribution system; 2) the development and implementation of a maintenance program to ensure that the generator is inspected, test operated on a routine basis, and that all components, including back-up, spare parts, and stand-by items, are in operating condition; 3) details of a schedule to evaluate and address any and all deficiencies associated with the electrical and pumping systems (focusing on brand new motor); 4) details and schedule for conducting a leak detection survey of the entire Spirit Lake drinking water system performed by a professional leak detection company, providing written survey results to the Department; and, 5) details of how to repair the reservoir roof to ensure that the roof

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<sup>1</sup> The final version was agreed upon by the parties at a compliance conference on May 9, 2007, however, DEQ still had to have the document reviewed by its director. As of today, this review still has not been completed. *See* email from DEQ attached as *Exhibit B.*

is watertight, ponding of water is eliminated, and is sloped so that water drains off the surface. Consent Order at p. 2.

### **DETECTION AND REPAIR OF SYSTEM LEAKS**

On Monday, May 14, 2007, the operator of the Spirit Lake system, CBSI, Inc. (the "Operator"), began the process of detecting and repairing system leaks. As described in the letter attached as *Exhibit C*, the Operator will dig up each main valve in the water system to exercise them, an action as described in the attached correspondence that will assist the Company in locating system leaks. During this process, the Operator will also have a leak detection company named B & B on-site at times when valves are being exercised to use its expertise to detect system leaks. As stated in the attached correspondence, the Operator estimates the process to expose and operate valves will take at least two weeks for those valves that can be located by metal detection or by use of the as built drawings of the system. There may be a limited number of additional valves that are not shown on the as built system which may take more specialized equipment to locate. As leaks are found in the system, they will be repaired and DEQ will be notified.

Consistent with this process, the Consent Order requires that Spirit Lake submit to DEQ by December 1, 2007, a written plan prepared by an Idaho licensed professional engineer concerning a schedule and budget for correcting the leaks identified in the survey from Paragraph 7.d. of this Consent Order ("Plan II") to ensure compliance with IDAPA 58.01.08.542.10." Consent Order at p. 3. As the leak detection process has begun, the Company hopes that this system deficiency can be addressed in written reports and repairs prior to December 1, 2007. To the extent necessary the Company will use Inland Northwest Consulting, a northern Idaho engineering firm to assist with this matter.

## **INSTALLATION OF A STANDBY GENERATOR**

Spirit Lake is working with Inland Northwest Consultants and AEI, Inc., two engineering firms, to create a design for the installation and operation of a standby generator capable of operating the Company's well pump and three booster pumps. The Company has been advised by these engineers that a design for this project can be produced and submitted to DEQ on or before June 30, 2007. The Company will use every effort to expedite this process and will schedule work for this project in anticipation of receiving the agency's approval. At the latest, if the plans were submitted by June 30, 2007 and DEQ took the full thirty days to review and approve them, as allowed for by the Consent Order, then construction could begin around August 1, 2007. The Company hopes that it will receive DEQ's approval to begin construction prior to this date so that work can begin sooner. The Company's plan is to have this work completed prior to substantial snow accumulation in the area making working conditions difficult beginning usually in November of 2007.

## **RESERVOIR ROOF**

Spirit Lake is working with Inland Northwest Consultants, to create a design for the replacement of the reservoir roof so that it will be water tight and drain adequately. The Company has been advised by Mike Becker, P.E., of Inland Northwest Consults that that a design for this project can be produced and submitted to DEQ on or before June 30, 2007. To the best of its ability, once the plans are submitted, the Company will begin scheduling work for this project in anticipation of receiving the agency's approval. At the latest, if the plans were submitted to DEQ on June 30, 2007 and DEQ took the full thirty days to review and approve them, as allowed for in the Consent Order, then

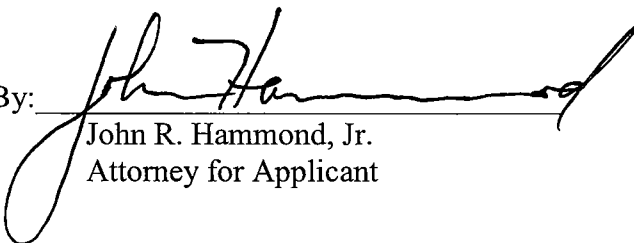
construction could begin around August 1, 2007. The Company hopes that it will receive DEQ's approval to begin construction on the reservoir roof prior to this date so that work can begin sooner than August 1, 2007. Finally, the Company plans to have this work completed prior to snow accumulating in the area beginning in November of 2007.

### CONCLUSION

Spirit Lake is committed to making the repairs discussed in detail in the Consent Order, which include locating and repairing system leaks and installing a new, larger generator. The Company has orally agreed to the terms in the Consent Order and has begun the process for making the repairs so that it can comply with its requirements. First, the Company began its leak detection survey and has acquired the services of two Idaho engineering firms for design work for leak repairs, the installation of a standby generator and the replacement of the reservoir roof. As results from the leak detect survey are developed and detailed engineering plans are made for the system repairs in the coming weeks they will be reported to the Commission.

DATED THIS 21<sup>st</sup> day of May, 2007.

SPIRIT LAKE EAST WATER COMPANY

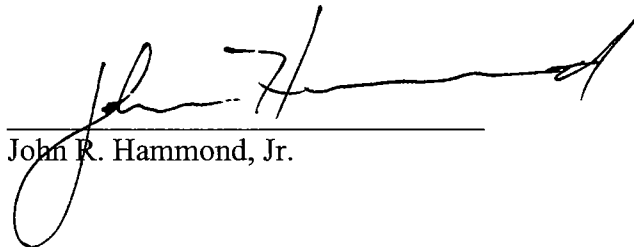
By:   
John R. Hammond, Jr.  
Attorney for Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That I have, this 21<sup>st</sup> day of May, 2007, caused to mailed a true and correct copy of the foregoing document to the following by U. S. Mail, Postage Prepaid thereon, in the following indicated manner:

Weldon B. Stutzman  
Deputy Attorney General  
Idaho Public Utilities Commission  
472 West Washington Street  
P. O. Box 83720  
Boise, Idaho 83720-0074

U. S. Mail  
 Hand Delivery  
 Facsimile

  
\_\_\_\_\_  
John R. Hammond, Jr.

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

In the matter of: )  
 )  
**Spirit Lake East Water Company, Inc.** )  
**an Idaho Corporation** )  
**PWS#: ID1280176** )  
 )  
 )  
 )

CONSENT ORDER

Idaho Code § 39-108

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1. Pursuant to the Idaho Environmental Protection and Health Act, Idaho Code §§ 39-101 through 39-130, the Idaho Department of Environmental Quality (the "Department" or "Agency") enters into this Consent Order with Spirit Lake East Water Company, Inc., an Idaho corporation, ("Spirit Lake" or the "Company") (collectively the "Parties"), a community public water system serving 287 connections and approximately 650 persons in Kootenai and Bonner Counties, Idaho.
2. Residents of Spirit Lake experienced a loss of water pressure during the dates of December 14, 2006 through December 16, 2006, that was a result of an extended power outage in the region and the failure of the Company's standby generator to operate properly during this outage. The Department has alleged this loss of water pressure is a violation of the Idaho Rules for Public Drinking Water Systems ("Rules"), IDAPA 58.01.08.552.01.b.i.
3. In November of 2006 the Department was made aware that up to 60% of the water pumped from Spirit Lake's well in 2005 and 2006 was unaccounted for which was alleged by a spreadsheet entitled "Spirit Lake East Well Production, Electric Use and Metered Consumption Analysis" provided to the Department by Idaho Public Utilities Commission staff. The Department has alleged that the Company's excessive water loss is a violation of IDAPA 58.01.08.542.10.
4. Residents of Spirit Lake experienced another loss of pressure and complete loss of water from March 15, 2007 to March 16, 2007. The Department was notified by Dean Renninger, the operator for Spirit Lake, the loss of pressure was due to failure of the well pump and the auto-dialer notification system. The Department alleges that the pumping and electrical systems for the facility are defective or inadequate. The Department issued a Notice of Violation on April 11, 2007 for violations of minimum quantity and minimum pressure requirements, which are violations of IDAPA 58.01.08.552.01.
5. The Department has also alleged that Spirit Lake's reservoir roof is not sloped adequately for drainage and that this condition is a violation of IDAPA 58.01.08.544.09, as amended on March 30, 2007.

6. In order to resolve this matter without litigation or further controversy, and without admission of fact or liability, Spirit Lake agrees to the provisions of this Consent Order and the following terms and actions:

7. By June 30, 2007, Spirit Lake shall submit to the Department for approval a written detailed plan, prepared by an Idaho licensed professional engineer, with a specific time schedule that describes actions Spirit Lake will take to address the alleged violations identified in Paragraphs 2 through 5 of this Consent Order ("Plan I"). The Department will review Plan I to determine compliance with applicable facility standards and engineering standards of care, as well as the time schedule. In regards to determining compliance with applicable facility standards and engineering standards of care, as long as Plan I complies with applicable facility and design standards, the Department shall not substitute its judgment for that of Spirit Lake's design engineer concerning the manner of compliance with design standards. Upon the Department's written approval of Plan I it shall be incorporated by reference into this Consent Order and be enforceable as provided by applicable law. Spirit Lake shall complete the items outlined in Plan I within the approved time schedule. Plan I shall include:

a. A detailed plan and schedule for the installation of a replacement generator capable of running the submersible well pump and the three centrifugal water pumps used to pressurize the water distribution system to ensure compliance with IDAPA 58.01.08.552.01;

b. The development and implementation of a maintenance program to ensure that the replacement generator is inspected, test operated on a routine basis, and that all components, including back-up, spare parts, and stand-by items are in operating condition to ensure compliance with IDAPA 58.01.08.501.07.a and 58.01.08.552.01;

c. A detailed plan and schedule to evaluate and address any and all deficiencies associated with the electrical and pumping systems to ensure compliance with IDAPA 58.01.08.501.06, 58.01.08.552.01, and 58.01.08.541.03.e;

d. A detailed plan and schedule for conducting a leak detection survey of the entire Spirit Lake drinking water system performed by a professional leak detection company providing written survey results to the Department which, at a minimum, identify the location and estimated intensity of all leaks detected to ensure compliance with IDAPA 58.01.08.542.10; and

e. A plan to repair the reservoir roof to ensure that the roof is watertight, ponding of water is eliminated, and is sloped so that water drains off the surface to ensure compliance with IDAPA 58.01.08.544.09, as amended on March 30, 2007.

8. By December 1, 2007, Spirit Lake shall submit to the Department for approval a



written plan prepared by an Idaho licensed professional engineer concerning a schedule and budget for correcting the leaks identified in the survey from Paragraph 7.d. of this Consent Order ("Plan II") to ensure compliance with IDAPA 58.01.08.542.10. The Department will review Plan II to determine compliance with applicable facility standards and engineering standards of care, as well as the time schedule. In regards to determining compliance with applicable facility standards and engineering standards of care, as long as Plan II complies with applicable facility and design standards, the Department shall not substitute its judgment for that of Spirit Lake's design engineer concerning the manner of compliance with design standards. Upon the Department's approval of Plan II, it shall be incorporated by reference into this Consent Order and be enforceable as provided by applicable law. Spirit Lake shall complete the items outlined in Plan II within the approved time schedule.

9. If Plan I is approved by the Department and satisfies the requirements of Plan II the Company shall be excused from filing Plan II.

10. Civil penalties of TWO THOUSAND DOLLARS (\$2000) assessed in the April 11, 2007 Notice of Violation issued to Spirit Lake will be resolved as follows:

- a. By June 1, 2007 Spirit Lake agrees to pay to the Department \$2,000.
- b. Payment(s) shall be made payable to the Idaho Department of Environmental Quality and shall be submitted to:

Idaho Department of Environmental Quality  
Financial Management  
Attn: Drinking Water Penalty Payment  
1410 N. Hilton  
Boise, Idaho 83706

11. Document Submittal and Review Process. Unless otherwise set forth specifically herein, the following document submittal and review process shall be followed regarding submittals requiring Department approval.

- a. Within thirty (30) calendar days of receipt of Spirit Lake's submittal, the Department shall notify Spirit Lake in writing that the document is either approved or not approved. If the document is not approved, the Department will note the deficiencies with the document along with its recommended changes and submit these in writing to Spirit Lake.
- b. If the Department does not approve Spirit Lake's submittal, Spirit Lake shall have thirty (30) calendar days from receipt of the Department's notification to submit a revised document to the Department that addresses the Department's noted deficiencies.
- c. Failure to submit any required document within the applicable time deadlines herein is a violation of this Consent Order.

d. Once the Department approves any submittal by Spirit Lake it shall be incorporated by reference into this Consent Order and be enforceable as provided by applicable law.

12. Once the actions outlined in this Consent Order have been completed, including those actions outlined in Plans I and II, and the Department determines that Spirit Lake's public drinking water system is in compliance with all applicable Rule requirements, the Department shall withdraw its disapproval designation per IDAPA 58.01.08.007.

13. All communications required of Spirit Lake by this Consent Order shall be addressed to:

Stephen Tanner, Drinking Water Supervisor  
Department of Environmental Quality  
2110 Ironwood Parkway  
Coeur d'Alene, Idaho 83814

14. All notices, reports and submittals required of the Department by this Consent Order shall be addressed to:

Robert J. Boyle  
Secretary  
Spirit Lake East Water Company, Inc.  
E 15807 Indiana Avenue  
Spokane Valley, WA 99216

and

John R. Hammond, Jr.  
Batt & Fisher, LLP  
P.O. Box 1308  
101 South Capitol Blvd, Suite 500  
Boise, Idaho 83701

15. This Consent Order shall not in any way relieve Spirit Lake from any obligation to comply with any provision of the Idaho Rules for Public Drinking Water Systems or any applicable local, state, or federal laws.

16. The Parties expressly recognize that failure to comply with the terms of this Consent Order may result in district court action seeking specific performance of this Consent Order, assessment of costs and expenses, restraining orders, injunctions, damages, attorney fees, and other relief as the court considers just and reasonable under the circumstances.

17. If any event occurs that causes, or may cause, delay in the achievement of any requirement of this Consent Order, Spirit Lake shall notify the Department in writing

within fifteen days of the date Spirit Lake knew, or should have known, of the delay. Any notice under this paragraph shall describe in detail the anticipated length of the delay, measures taken by Spirit Lake to prevent or minimize the delay, and a timetable by which those measures shall be implemented. Spirit Lake shall utilize all reasonable measures to avoid or minimize any such delay. If the Department determines that the delay or anticipated delay in achieving any requirements of this Consent Order has been or will be caused by circumstances beyond the reasonable control of Spirit Lake, the Department shall grant an extension of time for completion of any requirement of this Consent Order. The burden of proving that any delay is caused by circumstances beyond the reasonable control of Spirit Lake shall rest wholly with Spirit Lake.

18. This Consent Order shall remain in full force and effect until Spirit Lake provides the Department with written notice from an Idaho licensed professional engineer that the Company has completed the items in paragraphs 7 and 8 of this Consent Order as called for in the Department-approved Plan I and Plan II. If the Department determines that all Consent Order items have been completed, the Department shall acknowledge in writing that the Consent Order is terminated and that Spirit Lake has fulfilled the requirements of the Consent Order.

19. This Consent Order shall bind the Parties, their successors and assigns, until terminated in writing by the Department.

20. The Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided herein.

21. No changes, additions, modifications, or amendments of this Consent Order shall be effective unless they are set out in writing and signed by the parties hereto.

22. This Consent Order may be executed in two or more counterparts, each of which shall be deemed an original, but of which shall constitute one and the same instrument.

23. A waiver by the Department of any provision, term, condition or requirement of this Consent Order shall not constitute a waiver of any other provision, term, condition, or requirement.

24. Each undersigned representative to this Consent Order certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind such party to this document.

25. The effective date of this Consent Order shall be the date of signature by the Director of the Idaho Department of Environmental Quality.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_  
Raymond Hanson, President  
Spirit Lake East Water Company, Inc.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_  
Toni Hardesty, Director  
Idaho Department of Environmental Quality

**John R. Hammond**

---

**From:** Stephanie.Ebright@deq.idaho.gov  
**Sent:** Monday, May 21, 2007 7:45 AM  
**To:** John R. Hammond  
**Subject:** RE:

John,

The consent order review process should be completed today or tomorrow and the document mailed to you and your client this week. Thank you for your patience.

Stephanie Ebright  
Deputy Attorney General  
Office of the Attorney General, State of Idaho  
1410 N. Hilton  
Boise, Idaho 83706  
(208) 373-0494  
[Stephanie.Ebright@deq.idaho.gov](mailto:Stephanie.Ebright@deq.idaho.gov)

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**From:** John R. Hammond [<mailto:jrh@battfisher.com>]  
**Sent:** Thursday, May 17, 2007 11:29 AM  
**To:** Stephanie Ebright  
**Subject:**

Stephanie,

Any word on whether the Consent Order has been reviewed and completed?

John R. Hammond, Jr.  
Batt & Fisher, LLP  
U.S. Bank Building  
101 S. Capitol Blvd., Suite 500  
Boise, ID 83702  
208.331.1000  
208.331.2400 (facsimile)  
[jrh@battfisher.com](mailto:jrh@battfisher.com)

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**EXHIBIT B**

5/21/2007

# **CONSTRUCTION BACKHOE SERVICE, INC.**

## **CBSI**

**P.O. Box 920  
Rathdrum, Idaho 83858  
208-687-0802  
208-687-1583 fax**

Spirit Lake East Leak Detection Program  
05/2007

The following is a proposed plan for imposing the first phase of a leak detection process at Spirit Lake East. CBSI began implementing this plan on May 14, 2007:

- Upon looking at the as-built drawings for SLE we believe that we would begin by dividing the entire water system into sections. This allows for a systematic approach as well as ease for customer notification purposes.
- Next, we would expose all valves, one section at a time, in order to create a safe environment for residents. Due to the fact that most all of the valves are currently buried, exposing them would mean using current reference points, as-built drawings, and metal detection equipment. We have notified the SLE road committee chair Paul Peloquin, of our intent to dig within roadways and have agreed that the best way to ensure the safety of SLE residents is to provide lighted barricades. The excavation is to be done by hand and to only the extent necessary in order to expose the valve for operation.
- After exposing all valves in a specific section we would like to perform an isolation technique. Using isolation, we would, in essence, make a looped system into a dead end system. Customers may experience a change in pressure, although they should not experience a total loss of pressure within the system, this isolation technique allows us to hear volumes of water flowing past valves as we close them down and reopen them. The idea behind this technique is that when a pipe is maintaining a constant pressure, due to no water loss, one should have the ability to quickly close and reopen a main line valve without losing pressure on either side of the valve. However, when there is water being lost on the side of the valve that has a "dead end," one would be able to hear water flow through the valve as the valve is re-opened , which is quite often indicative of the presence of leaks.
- Valve isolation would continue until the entire water system had been surveyed and all main line valves exposed. Roughly, CBSI estimates this process to expose and operate the valves will take up to two weeks. The estimated two week time period for locating, operating, and surveying valves is only applicable to those valves that are readily located by metal detection and as as built drawings show.

- Along with CBSI, leak detection will be performed with a professional leak detection company, whom will also have the ability to put into effect the latest technologies in leak detection and listening devices. This leak detection company will be regularly visiting SLE during the valve operation process and made its first visit to the system on Friday May 18, 2007.
- As leaks in the system are detected by the leak detection company or the operation of valves they will be repaired.