

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

PAMELA GAGE,)
)
 Claimant,)
)
 v.)
)
 J. R. SIMPLOT COMPANY,)
)
 Self-Insured)
 Employer,)
)
 and)
)
 STATE OF IDAHO, INDUSTRIAL)
 SPECIAL INDEMNITY FUND,)
)
 Defendants.)
 _____)

IC 2001-015140

**FINDINGS OF FACT,
CONCLUSION OF LAW,
AND RECOMMENDATION**

Filed February 15, 2008

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Michael E. Powers, who conducted a hearing in Boise on July 24, 2007. Claimant was present and represented by Richard Kim Dredge of Boise. Wes L. Scrivner of Boise represented Defendant, self-insured employer, J.R. Simplot Company (“Employer”). Lawrence E. Kirkendall of Boise represented the State of Idaho, Industrial Special Indemnity Fund (“ISIF”). Oral and documentary evidence was presented. Three post-hearing depositions were taken, the parties submitted post-hearing briefs, and this matter came under advisement on November 15, 2007.

ISSUE

Because the parties stipulated at hearing that Claimant is totally and permanently disabled, the issues were narrowed to whether and to what extent ISIF is liable for that disability.

CONTENTIONS OF THE PARTIES

Claimant contends, and Defendants agree, that she is totally and permanently disabled pursuant to the odd-lot doctrine and she should be paid the appropriate benefits for that disability from whatever source.

Employer contends that Claimant had significant pre-existing physical impairments, both medical and psychological, that were manifest and constituted hindrances to her employment such that ISIF bears the lion's share of responsibility for her total permanent disability benefits.

ISIF contends that while a few of Claimant's pre-existing impairments were manifest and hindrances, there is no basis for assigning her a 50% impairment for her pre-existing psychological problems and, in any event, it was her last industrial accident alone with Employer that resulted in her total and permanent disability due to "failed back syndrome."

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant, and Nancy J. Collins, Ph.D., taken at the hearing.
2. Claimant's Exhibits 1-19 admitted at the hearing.
3. Employer's Exhibits 1-5 admitted at the hearing.
4. Industrial Commission's Exhibit 1 admitted at the hearing.
5. The post-hearing depositions of: Eric F. Holt, M.D., taken by ISIF on August 6, 2007; James M. Read, Ph.D., taken by ISIF on August 20, 2007; and Robert F. Calhoun, Ph.D., taken by Employer on September 11, 2007.

All objections made during the taking of the above depositions are overruled.

After having considered all the above evidence and the briefs of the parties, the Referee submits the following findings of fact and conclusion of law for review by the Commission.

FINDINGS OF FACT

Background:

1. Claimant was 37 years of age and resided in Nampa with her husband and children at the time of the hearing.

2. Claimant was born and raised in the Salinas, California, area. At the age of seven, she was viciously attacked by three dogs and suffered severe facial injuries that included the loss of outer ears, a disfigured nose, scarring, and the eventual loss of her right eye due to infections at age 22. She has undergone multiple reconstructive surgeries over the years. Understandably, she also developed some psychological difficulties as the result of the attack; their degree and permanence of such are at issue.

3. Claimant attended public schools in Salinas until high school, when the teasing by her peers regarding her disfigurement became too much to bear. She then got involved with a home tutoring business through her high school from ninth grade until she was 17. Unfortunately, the business was not accredited (and was prosecuted), so none of the homeschooling in which Claimant participated counted toward her high school diploma.

4. At age 23 or 24, Claimant qualified for Social Security disability due to panic attacks. She had married and had two children. She testified that for eight to ten years she would rarely venture from her home alone. In approximately 1999, Claimant began pursuing employment opportunities as she had gained some control over her panic attacks. Claimant relocated to Idaho City (an uncle resided there) and eventually commuted to BSU four or five times a week and, at age 30, obtained her GED, a “. . . big confidence booster.”

5. Once Claimant obtained her GED, she enrolled in an eight-month computer course, again at BSU. However, after about four months, Claimant was hired by Employer in its computer center in Boise in October 2000. She worked the graveyard shift alone which suited her well, as she

still had some self-consciousness being around other people due to her disfigurement. She was “happy” with her job at Employer’s and her performance evaluations were “good.”

The accident:

6. On July 5, 2001, Claimant sat down after having completed month-end processing that required her to lift 16 or 17 boxes of printing each weighing 45 to 60 pounds; she could not get back up. “It was like - - it was a burning and my back was locked in one place and I couldn’t get out of the chair.” Hearing Transcript, p. 41.

Summary of medical treatment:

7. Claimant first presented to an urgent care facility where pain medication was prescribed. About two weeks later, she saw a chiropractor. By early December, Claimant began experiencing radicular symptoms. A late December MRI revealed what appeared to be a far left lateral disc herniation at L4-5. Claimant was referred to Timothy Doerr, M.D., an orthopedic surgeon.

8. Claimant was treated conservatively and attempted to return to work, but was unable to due to back pain. Then, on March 6, 2002, Dr. Doerr performed a left far lateral extraforaminal microdiscectomy. Initially post-surgery, Claimant had a good result and was released to return to a graduated work schedule with certain restrictions. However, Claimant soon developed recurrent left leg pain and physical therapy was prescribed. On June 10, 2002, Dr. Doerr released Claimant to return to work with a 50-pound permanent work restriction and assigned a 12% whole person permanent partial impairment (“PPI”) rating.

9. On July 25, 2002, Claimant suffered an acute exacerbation of her left leg radicular pain and on July 26 returned to Dr. Doerr, who placed her on a Medrol dose pack and took her off work. When her symptoms did not improve, Dr. Doerr continued Claimant’s off work status and ordered an MRI that revealed no recurrent disc herniation, but did reveal scar tissue build-up at the

L4-5 level. Dr. Doerr recommended L4 nerve blocks. Because the nerve blocks proved ineffective in treating Claimant's left leg pain, Dr. Doerr then ordered a CT myelogram that revealed a recurrent intra-foraminal far lateral disc protrusion with severe left leg radicular pain. Therefore, on January 7, 2003, Claimant underwent a revision, left L4-5 discectomy with left L4-5 posterior spinal fusion and posterior lumbar interbody fusion with Monarch instrumentation and Harms interbody cages and a left iliac crest bone graft.

10. Following surgery and an unsuccessful attempt to return to work, Claimant began experiencing increasing low back pain. She was in physical therapy and was working with a pain specialist. By May 22, 2003, Claimant had been dismissed from physical therapy, as well as from work, for noncompliance. She reported that her pain was worse than before her surgery. On June 23, 2003, Dr. Doerr awarded an additional 16% whole person PPI rating equaling a 26% whole person rating.

11. Claimant continues to experience excruciating back pain and left leg pain. She had been referred to pain specialist Sandra Thompson, M.D. When a series of epidural steroid injections proved ineffectual, Dr. Thompson and Dr. Doerr considered the placement of a spinal cord stimulator ("SCS") or morphine pump. Dr. Thompson referred Claimant to Robert Calhoun, Ph.D., a psychologist, to determine if she would be a suitable candidate for the placement of a SCS.

12. Claimant first saw Dr. Calhoun on August 24, 2004. He noted several psychological and behavioral factors impacting her pain problem including depression, irritability, and anger. He further noted, "She does lack insight into how emotional distress can exacerbate her pain. She is willing to acknowledge, however, that her pain does cause her significant emotional distress." Claimant's Exhibit 8, p. 264. Dr. Calhoun did not believe Claimant was a suitable candidate for the SCS until she could better manage the psychological factors that were contributing to her pain problem and level of physical debilitation. He recommended continued counseling.

13. Dr. Calhoun counseled Claimant 16 times over the following 18 months. By September 27, 2004, Dr. Calhoun declared Claimant fit for a SCS trial, as she reported she was now more aware of how anxiety and stress could intensify her pain experience. She attributed the anxiety and stress to not working and her gloomy financial situation.

14. On December 16, 2004, Claimant began the SCS trial, and, after a successful trial, the SCS was permanently implanted during a February 3, 2005, surgery. Unfortunately, Claimant's relief from the SCS was short-lived, as the unit had migrated and was providing only limited coverage in her ribs and groin area, and was causing sensations in her stomach. Therefore, on March 7, 2005, Claimant underwent her fourth back surgery to re-position the SCS. Once again, Claimant obtained left leg pain relief initially, however, she continued over time to have significant back pain. Dr. Calhoun repeatedly counseled Claimant that if she became anxious regarding her pain, it would intensify her perception of the pain and subsequent suffering.

15. In January 2006, Claimant took a long road trip to California and back to attend her mother-in-law's funeral. The trip was stressful and Claimant suffered an acute exacerbation of her low back pain. A May 4, 2006, MRI revealed, "There appears to have been a slight enlargement of the right paracentral disc bulge at L5-S1 level since the prior examination with mild mass affect of the traversing right S1 nerve root." ISIF Exhibit 8, p. 189. Because Claimant was complaining of left-sided low back pain and not right leg radiculopathy, Dr. Doerr did not believe surgery was warranted for the right-sided disc bulge shown on the MRI. On July 18, 2006, Dr. Thompson diagnosed failed back surgery syndrome and related her exacerbation of symptoms to the lengthy car trip to California.

16. At the time of the July 24, 2007, hearing, Claimant was limiting her use of the SCS because it would shock her in certain positions. She described her day-to-day pain as follows:

Q. (By Mr. Dredge): Now, can you describe the kind of pain that you have on a day-to-day basis and how that affects your ability to do things around your

home?

A. The pain is horrible. I take the medicines and they help take the edge off of it, but the pain is constant. It's always there, it's always there. I use ice packs. I take hot baths. I try to sit and lay in various positions. I adjust, move around a lot and things of that nature. During the break, I asked them if they could put my ice pack in the freezer for me so that we could have it after the next break.

Hearing Transcript, pp. 51-52.

17. The parties have stipulated that Claimant is totally and permanently disabled pursuant to the "odd-lot" doctrine and the Referee so finds.

DISCUSSION AND FURTHER FINDINGS

Idaho Code § 72-332 provides:

Payment for second injuries from industrial special indemnity account, --

(1) If an employee who has a permanent physical impairment from any cause or origin, incurs a subsequent disability by an injury or occupational disease arising out of and in the course of his [or her] employment, and by reason of the combined effects of both the pre-existing impairment and the subsequent injury or occupational disease or by reason of the aggravation and acceleration of the pre-existing impairment suffers total and permanent disability, the employer and surety shall be liable for payment of compensation benefits only for the disability caused by the injury or occupational disease, including scheduled and unscheduled permanent disabilities, and the injured employee shall be compensated for the remainder of his income benefits out of the industrial special indemnity account.

(2) "Permanent physical impairment" is as defined in section 72-422, Idaho Code, provided, however, as used in this section such impairment must be a permanent condition, whether congenital or due to injury or occupational disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining re-employment if the claimant should become unemployed. This shall be interpreted subjectively as to the particular employee involved, however, the mere fact that a claimant is employed at the time of the subsequent injury shall not create a presumption that the pre-existing permanent physical impairment was not of such seriousness as to constitute such hindrance or obstacle to obtaining employment.

There are four elements that must be proven in order to establish liability of ISIF:

1. A pre-existing impairment;
2. The impairment was manifest;
3. The impairment was a subjective hindrance to employment; and,
4. The impairment combines with the industrial accident in causing total disability.

Dumaw v. J.L. Norton Logging, 118 Idaho 150, 795 P.2d 312 (1990)

18. Three vocational experts have given their respective opinions regarding Claimant's employability in this case: Barbara Nelson, M.S., C.R.C.; Nancy Collins, Ph.D., C.R.C.; and Douglas Crum, C.D.M.S. All have opined that Claimant has pre-existing permanent impairments including disfigurement – no PPI rating assigned; enucleated right eye – 35% PPI; and psychological – contested 45% PPI pre-existing and 5% industrial (Dr. Calhoun). Mr. Crum opined that the residuals from Claimant's industrial accident alone resulted in her total and permanent disability. Ms. Nelson and Dr. Collins opined that Claimant's total and permanent disability arises from the combination of pre-existing physical impairments that were manifest and constituted subjective hindrances to employment and her last industrial accident. Those opinions are considered, but not altogether adopted regarding the "combination" requirement. Two psychologists and one psychiatrist have offered opinions regarding how Claimant's existing and pre-existing psychological condition has affected her present physical capabilities and return to work issues and will be addressed below. Also, Claimant herself has weighed in on why she considers herself to be disabled and her testimony in that regard will also be discussed.

Robert F. Calhoun, Ph.D.:

19. Claimant was referred to Dr. Calhoun by Dr. Thompson to determine if Claimant was a suitable candidate for the SCS. He first saw her on August 29, 2004, when she presented with unresolved left low back, buttock, and leg pain. He reviewed no prior psychological records as there were none to review. Dr. Calhoun has been a licensed clinical psychologist in Boise since 1992. He is the clinical director of the brain injury program at Saint Alphonsus Regional Medical Center. His private practice consists primarily of treating chronic pain patients. Dr. Calhoun also does pre-surgery psychological evaluations for various surgeons to determine how psychological factors may impact pain issues and surgical results. Dr. Calhoun ended up treating Claimant for about 18 months

consisting of 16 visits. Employer asked him to provide a PPI rating for Claimant's psychological condition and he did so in a letter dated May 28, 2007.

20. Dr. Calhoun assigned Claimant a 50% whole person PPI rating for psychological difficulties with 45% due to pre-existing conditions and 5% to the industrial accident. He diagnosed panic disorder with agoraphobia and post-traumatic stress disorder (PTSD) as a result of the dog attack and subsequent disfigurement. He opined that Claimant's industrial accident aggravated her pre-existing psychological condition:

Q. (By Mr. Scrivner): Do you feel the industrial injury of July, 2001 aggravated her pre-existing psychological condition?

A. I think it contributed to it some. Because, there again, an individual who has been physically traumatized, when they get physically hurt or injured in another way, it can exacerbate their psychological condition.

Q. I'm not calling for a vocational opinion here. But just from your clinical practice, do you think she's disabled from gainful employment?

A. I do at this time, yes.

Q. Now, do you feel that's strictly due to her back injury and subsequent surgeries?

A. No, I do not.

Q. And can you explain that?

A. Well, I think Pam really gave a good effort to try to return to the work force and try to be successful. But I think, there again, leaving her home, having to drive long distances, leaving her sanctuary, dealing with people in the job environment during daylight hours and so on, doing customer service, I just think it overwhelmed her to the point she couldn't continue, which, there again, likely exacerbated her pain and her emotional suffering and reaction to it and rendered her incapable of continuing. And it interfered with the efficacy of the stimulator to help her at that point.

Dr. Calhoun Deposition, pp. 34-35.

James M. Read, Ph.D.:

21. Claimant saw Dr. Read on November 14, 2006, at her attorney's request for a "mental status exam." Dr. Read is a local clinical psychologist whose practice consists of preparing mental status examinations for Social Security disability and seeing patients in therapy. Dr. Read did not

test Claimant, but interviewed her for 90 minutes and reviewed a letter from Claimant's counsel posing some specific questions, as well as copies of newspaper articles regarding the dogs' attack. Claimant informed Dr. Read that pain was her main problem. Dr. Read ultimately diagnosed panic disorder with agoraphobia, recurrent major depressive disorder, and pain disorder associated with a general medical condition.¹ Dr. Read does not believe Claimant suffers from PTSD.

22. Regarding the connection between Claimant's pre-existing psychological condition and an increase in her back pain, Dr. Read testified at his deposition:

Q. (By Mr. Kirkendall): Okay. You stated earlier - - and I wanted to back up and follow up with one of your responses. Do you think there is anything about her psychological conditioning - - condition than [sic] your diagnoses which is causing her to feel increased pain with her back surgery?

A. That's a tough question, because the research - - the social science research suggests that anybody who has depressed mood for any length of time - - depressed mood or anxiety of any kind, that can exacerbate pain. But I don't think in her case it makes any difference, because I think she had a significant problem with pain. She also had, separate from that, a significant problem with anxiety. They could co - - they could influence each other or maybe not. Not necessarily so.

Q. Have you seen patients before that come in with - - following a medical procedure that failed and they are having difficulty coping with that?

A. Oh, yeah. They are discouraged, they are depressed, and they can't do the things they want to do, so they are more depressed, yes.

Q. And again, I want to be very clear on that, in light of some of your other answers. As clear as we can get it, anyway. Was there anything about her psychological condition that preexisted her accident, that was causing her to experience increased symptoms of pain?

A. That's a difficult question to answer, because we don't really know. I don't think anybody can say for sure. You know, I would think that anybody who has a degree of pain and impairment just from the pain, that's one condition and one could say that causes depression. It may make anxiety and depression worse, but it causes enough distress by itself - - limitation by itself that it could be considered completely separate from the depression that she experienced as a child before the pain from the industrial accident.

¹ Dr. Read conceded that he is not a medical doctor and reached this diagnosis based on his observations and what Claimant told him. He did not believe psychological factors were associated with Claimant's chronic pain.

Q. Do you think it can be stated to any reasonable degree of psychological certainty as to what is the cause in Pamela Gage's circumstances as to whether or not she experienced additional pain and, if so, from what source? Can that be combined to any reasonable degree of - -

A. I don't think it can be combined to any reasonable degree of certainty. I think there - - I know there are people - - the social science research tells me there are people who experience injury and handle it much better than others.

Dr. Read Deposition, pp. 19, 20, 30, and 31.

Eric F. Holt, M.D.:

23. ISIF retained Dr. Holt, a psychiatrist, to conduct a psychiatric evaluation of Claimant. Dr. Holt has been practicing psychiatry in Boise since 1968. Since 1994, he has been doing IME's, psychiatric evaluations, and panel evaluations. Dr. Holt saw Claimant on June 19, 2007, at which time he administered various tests that took approximately four hours, and again on June 20 when he interviewed her for approximately two hours. Dr. Read sat in on the interview. Dr. Holt also reviewed medical records and noted that there were no records of Claimant receiving any psychiatric diagnoses or treatment pre-accident. He observed Claimant while she tested and believed her pain to be genuine. He did not believe Claimant suffered from agoraphobia nor did he believe that such agoraphobia contributed to the SCS's failure to provide her with adequate pain relief.

24. Dr. Holt disagrees with Dr. Calhoun regarding how Claimant's drive to work and back after her accident somehow aggravated her pre-existing agoraphobia because Claimant has driven all her adult life; she drove from Idaho City to BSU four or five times a week, drove back and forth to work (Nampa to Boise and back) pre-accident without any problems, and always drove to all her medical appointments. Dr. Holt testified:

Q. (By Mr. Kirkendall): Well, doctor, in light of that, what do you think the possibilities are that that the drive to work exacerbated her fear and panic symptoms? Do you believe that not to be - -

A. I believe it not to be the case. I don't know where he (Dr. Calhoun) got that.

Q. Okay. And what about the panic symptoms intensifying her level [of] pain perception?

A. No. I think that's nonsense. That just doesn't follow logic. It doesn't follow psychiatric training either.

Dr. Holt Deposition, p. 14-15.

25. Dr. Holt does not believe Claimant has a pain disorder because for such a disorder to exist, the pain would need to far exceed what would otherwise be expected from failed back surgeries. He opined that Claimant would no doubt still be working but for her pain that he attributes solely to her injury and failed back surgeries. Dr. Holt agrees that Claimant has a panic disorder per history, but not to a serious enough degree to be ratable. He also does not believe that her panic disorder increases her sensation of pain.

26. The dispositive question to be answered in this matter is whether Claimant's pre-existing psychological condition, regardless of the nature or severity of the same, combines with her industrial injury to render her totally and permanently disabled. While there is some support in the record for finding such a combination, there is more support in the record that there is no combination. The Referee finds, on conflicting evidence, that it was Claimant's industrial accident and resultant back injury and surgeries alone that have caused her total and permanent disability.

27. The Referee finds Dr. Holt's opinions well-expressed and persuasive. Even if Claimant's pre-existing psychological condition could have somehow increased her perception of the post-accident back and leg pain Claimant was experiencing, there were many other stressors in her post-accident life that could have just as easily created such perception. As examples, the 14-hour road trip to California to attend her mother-in-law's funeral that led to a permanent aggravation of her low back pain and radiculopathy, the diagnosis of her own mother with bipolar disorder that resulted in her being moved from California into Claimant's home and subsequently into a group

home,² Claimant's husband's industrial injury resulting in a period of time when they were both unemployed, her husband's eventual return to work as a truck driver resulting in his absence from home for up to a month at a time, the loss of her job with Employer, and the exacerbation of her back problems by attempting to return to work, having to lose another job due to pain in her back as well as being forced to discontinue an administrative and medical/dental assistant course at BSU due to back pain. Claimant also fell eight months behind in her mortgage payments, resulting in the need to file for bankruptcy. All of the foregoing post-accident stressors are in addition to the stress she was undergoing in dealing with the pain associated with her injury and failed surgeries, all of which, even according to Dr. Calhoun, could contribute to her perception of pain.

28. Claimant's own testimony in two pre-hearing depositions and at hearing, along with her comments to others is instructive regarding her attitude regarding why she can no longer work. For example, when she applied for Social Security disability benefits in May 2007, she listed back pain as the only factor limiting her ability to work; not panic/anxiety issues, enucleated right eye, or disfigurement. Also, in a Physical Residual Functional Capacity Assessment prepared by Ward Dickey, M.D., on June 29, 2006, in conjunction with Claimant's Social Security application, he lists "chronic low back pain" as the primary diagnosis and "s/p left L45 discectomy, fusion" as the secondary diagnosis. Again, nothing regarding any pre-existing conditions of any kind. In Claimant's June 19, 2006, deposition, she testified that she basically stayed home post-accident due to the heavy medications she was on; not because of any agoraphobic issues. She also testified that she had to quit her job at Electronic Data Services ("EDS"), her only attempt at working post-accident, in February of 2006 due to increasing back pain requiring increases in her medications. She also testified that the only reason she is incapable of full time work is her back pain and the

² Claimant testified at hearing that about two months before the hearing, her mother had "run away" from the group home and is now living with some friends of which Claimant does not approve.

effects of her pain medications. Claimant also attempted a training program at the Academy of Professional Careers, but only made it halfway through before having to quit due to back pain. In her May 16, 2007, deposition, Claimant testified that her panic attacks had increased in number and severity post-accident.

29. At hearing, Claimant reiterated her deposition testimony that she quit her job at EDS due solely to back pain. She further testified that as she got older, she learned how to better control her panic attacks. She was doing fine at Employer pre-accident and never had to leave her job due to panic attacks or anxiety. She rated her back pain at the time of the hearing at 8/10 and testified she had never had back problems pre-accident.

30. When carefully considering the record as a whole, the conclusion is inescapable that it was Claimant's accident and resultant back injury alone that has prevented her from returning to the workforce. She was doing well in her job before her accident and, but for that accident, would no doubt have continued working for Employer. Her life was good due in no small part to her efforts in becoming trained and employed. Dr. Calhoun's opinion that Claimant's panic disorder with agoraphobia resulted in the inability of the SCS to provide adequate pain control is not based on any credible evidence and is not persuasive. Also unpersuasive and without any basis in fact is his opinion that, "The drive to work and back likely exacerbated her fear and panic symptoms which in turn intensified her level of pain perception and reduced her level of pain tolerance." Employer's Exhibit 1, p. 23. Even if true that panic symptoms may have intensified Claimant's "level of pain perception," there were many other causes for Claimant to experience anxiety post-accident. *See* Finding 28 above. Finally, it has been this Referee's experience in other cases that the effects of failed back surgeries including resultant chronic, debilitating pain can create total disability in and of itself.

31. The Referee finds that Claimant's stipulated total and permanent disability is the

result of her accident with Employer only, and did not combine with pre-existing conditions to invoke ISIF liability. Claimant and Employer are encouraged to reach an agreement regarding the effective date of Claimant's total and permanent disability.

CONCLUSION OF LAW

ISIF is not liable for Claimant's total and permanent disability pursuant to Idaho Code § 72-332.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusion of Law, the Referee recommends that the Commission adopt such findings and conclusion as its own and issue an appropriate final order.

DATED this 7th day of February, 2008.

INDUSTRIAL COMMISSION

/s/ _____
Michael E. Powers, Referee

ATTEST:

/s/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of February, 2008, a true and correct copy of the **FINDINGS OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION** was served by regular United States Mail upon each of the following:

RICHARD KIM DREDGE
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BOISE ID 83704

ge /s/ _____

_____/s/_____
R. D. Maynard, Commissioner

_____/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the __15th__ day of February, 2008, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

RICHARD KIM DREDGE
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_____/s/_____

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