

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

AMUR Q. DRENNEN,)	
)	
Claimant,)	IC 2005-011240
)	IC 2006-006989
v.)	
)	
SWIFT TRANSPORTATION CO., INC.,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Employer,)	AND RECOMMENDATION
)	
and)	
)	
INDEMNITY INSURANCE CO. OF NA.,)	
)	
Surety,)	June 16, 2008
)	
Defendants.)	
_____)	

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Alan Taylor, who conducted a hearing in Boise on July 17, 2007. Claimant, Amur Drennen, was present in person and represented by Rick Kallas of Boise. Defendant Employer, Swift Transportation Co., Inc. (Swift), and Defendant Surety, Indemnity Insurance Co. of NA., were represented by Scott Wigle, of Boise. The parties presented oral and documentary evidence. This matter was then continued for the taking of post-hearing depositions, the submission of briefs, and subsequently came under advisement on January 22, 2008.

ISSUES

The issues to be resolved were narrowed at hearing and further narrowed in the parties' briefing. The present issues are:

1. Whether the condition for which Claimant seeks benefits was caused by an industrial accident;
2. Claimant's entitlement to medical care;
3. Claimant's entitlement to disability in excess of impairment, including whether Claimant is totally and permanently disabled pursuant to the odd-lot doctrine or otherwise; and
4. Claimant's entitlement to attorney fees.

ARGUMENTS OF THE PARTIES

Claimant asserts his anterior spinal artery infarction was caused by industrial accidents on October 14, 2005, and/or October 17, 2005, leaving him paraplegic and totally permanently disabled. He asserts Defendants have unreasonably denied his claim.

Defendants contend that Claimant's infarction was not caused by any work related incidents on October 14 or 17, 2005, but rather was the product of several personal risk factors independent of his work, and that Claimant is not entitled to any workers' compensation benefits.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant, Rodde Cox, M.D., and Diane Harrell taken at the July 17, 2007, hearing;
2. Claimant's Exhibits 1 through 25 admitted at the hearing;
3. Defendants Employer and Surety's Exhibits A through K admitted at the hearing;

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION - 2

4. Post-hearing deposition of Paul Montalbano, M.D., taken by Defendants on August 8, 2007; and

5. Post-hearing deposition of Peter Langhus, M.D., taken by Claimant on August 27, 2007.

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

FINDINGS OF FACT

1. Claimant was born in 1970. He had no serious injuries prior to graduating from high school in Columbus, Ohio. In 1988, Claimant entered the U.S. Navy. He passed the required entrance physical examination and annual physical examinations for four years thereafter without adverse findings. While serving in the Navy, Claimant studied nutritional health and trained as a cook. In 1992, Claimant was honorably discharged and thereafter completed college courses in English, math, and computers. Later he worked as a cook, janitor, cashier, baggage handler, forklift operator, and truck driver. Claimant attended a VA medical clinic in Montana where a physician prescribed cholesterol medication. Claimant stopped taking the medication after approximately eight months because it made his mouth dry.

2. In 2005, Swift hired Claimant as a truck driver. Claimant passed the required medical examination administered by a Swift-designated physician and was certified to operate a vehicle. Claimant completed training and began working full-time as a long haul driver.

3. On Friday, October 14, 2005, Claimant delivered a loaded 53 foot trailer to a Kmart store in Billings. Most loads Claimant delivered were unloaded by forklift, however Claimant and a lumber unloaded the entire load to Kmart by hand, a process requiring at least four hours, during

which Claimant lifted freight weighing up to 150 pounds. He developed low back pain while unloading the trailer and later rated his low back pain at that time as 6 on a scale of 1 to 10. Claimant had the technological ability to report his back pain to Swift, but did not. Claimant finished unloading the trailer by approximately 9:00 a.m. on October 14, 2005. Claimant was then off work until Monday, October 17, 2005.

4. Claimant spent the weekend in Missoula helping his girlfriend pack boxes in preparation for her move out of their apartment. Claimant testified that he did not lift anything because his back was already sore from unloading freight on Friday morning. The Referee finds this aspect of Claimant's testimony suspect.

5. On Monday, October 17, 2005, Claimant commenced working at approximately 11:00 a.m. Swift directed Claimant to pick up a 53 foot trailer in Missoula. Claimant backed his truck under the trailer. At hearing, Claimant testified he then raised the trailer landing gear, initially cranking the mechanical release arm the wrong direction, then realizing his mistake, reversing the direction and cranking faster. Claimant testified that he held his breath and cranked harder until the landing gear was fully raised. Claimant noted some pain in his hips and lower back when he was bending over cranking the landing gear. Claimant's Exhibit 5, p. 005019. Claimant testified he climbed into the truck, his back still hurting, and began driving down the interstate. Claimant first reported the onset of back pain while cranking to Anthony Williamson, M.D., later that same day.

6. After driving only approximately 10 minutes, Claimant experienced muscle spasms in his lower back, pain in his hips, and felt an urgent need to urinate. He pulled to the side of the highway and exited the truck. After relieving himself, he attempted to climb back into the truck, but his legs became weak and he fell, rolling down into the barrow pit. He was unable to move his legs.

A passing motorist called for emergency assistance.

7. When paramedics arrived, Claimant told them that he was moving heavy boxes over the weekend and that he had been driving his truck for approximately 10 minutes when his back started to spasm and he felt the need to go to the bathroom. Claimant was hospitalized for approximately one week and treated by Anthony Williamson, M.D., Ph.D., who diagnosed T5 vascular myelopathy secondary to anterior spinal artery infarct resulting in complete motor and sensory loss in both lower extremities. Claimant was 35 years old, five feet seven inches tall, and weighed approximately 310 pounds at the time of the incident. Upon admission to the hospital, Claimant was found to have hyperlipidemia and diabetes mellitus.

8. In a telephone conversation on October 20, 2005, Dr. Williamson indicated that Claimant's infarction was not related to his work on a more probable than not basis.

9. On November 14, 2005, Defendants denied Claimant's claim noting that his physician indicated Claimant's medical condition was unrelated to his work activities and occurred at work only coincidentally. Claimant's Exhibit 3, p. 003001.

10. On December 5, 2005, Dr. Williamson responded to an October 21, 2005, letter requesting his written opinion as to the causation of Claimant's anterior spinal artery infarction by indicating that the infarction was directly related to and/or caused by Claimant's work activities on October 17, 2005. However, Dr. Williamson also indicated in the same correspondence that due to the etiology of the condition, Claimant's infarction could have occurred at any time. Dr. Williamson later clarified his December 5, 2005, correspondence concluding that Claimant's infarction was not related to his work activities.

11. Claimant has incurred substantial medical expenses due to his anterior spinal artery

infarction. He has not regained any significant motor or sensory capacity in either lower extremity and no physician has opined that he will do so in the future.

12. Having observed Claimant at hearing, and carefully examined the record herein, the Referee finds Claimant is generally a credible witness.

DISCUSSION AND FURTHER FINDINGS

13. The provisions of the Workers' Compensation Law are to be liberally construed in favor of the employee. Haldiman v. American Fine Foods, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. Ogden v. Thompson, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996). Facts, however, need not be construed liberally in favor of the worker when evidence is conflicting. Aldrich v. Lamb-Weston, Inc., 122 Idaho 361, 363, 834 P.2d 878, 880 (1992).

14. **Causation.** A claimant must provide medical testimony that supports a claim for compensation to a reasonable degree of medical probability. Langley v. State, Industrial Special Indemnity Fund, 126 Idaho 781, 785, 890 P.2d 732, 736 (1995). "Probable" is defined as "having more evidence for than against." Fisher v. Bunker Hill Company, 96 Idaho 341, 344, 528 P.2d 903, 906 (1974). In the present case, Defendants assert that Claimant has not established that the alleged incidents of October 14 and/or 17, 2005, caused his spinal artery infarction.

15. Defendants' expert Paul Montalbano, M.D., opined that Claimant's work activities did not cause his spinal artery infarction. Dr. Montalbano sees 10 to 12 cases of spinal artery infarction annually. He noted that in his observation, and as reported in the medical literature, spinal artery infarction is generally caused by a combination of factors including hyperlipidemia, obesity, diabetes, and atherosclerotic plaque. Claimant was diagnosed with hyperlipidemia, morbid obesity,

and diabetes when he was hospitalized on October 17, 2005. His obesity and hyperlipidemia had been previously documented. Dr. Montalbano testified that Claimant's anterior spinal artery infarction was most likely caused by these conditions and concluded that the onset of Claimant's symptoms while at work was mere coincidence.

16. Although Claimant's initial treating physician, Dr. Williamson, responded ambiguously to an October 2005, letter requesting his opinion as to the causation of Claimant's anterior spinal artery infarction, on December 14, 2006, Dr. Williamson clarified his response and concurred with Dr. Montalbano and Dr. Allen that the etiology of Claimant's spinal artery infarction was related to Claimant's hyperlipidemia and not due to any work activities. Claimant's Exhibit 5, p. 005220.

17. Claimant's expert, Rodde Cox, M.D., testified that Claimant's work activities caused his spinal artery infarction. Dr. Cox explained that the medical literature concludes that although uncommon, fibrocartilaginous emboli cause spinal artery infarction. Dr. Cox testified that the literature indicates intradiscal pressures may cause a fibrocartilaginous fragment from a vertical disk herniation to be forced into the sinuses of an adjoining vertebral body through a Schmorl's node—a damaged vertebral end plate visible on radiographic examination. Because intradiscal pressure during lifting activities easily exceeds arterial pressure, once forced inside the vertebral sinuses, intradiscal pressure can force the fibrocartilaginous fragment into the small artery that supplies that vertebral body. If the pressure is sufficient, the fibrocartilaginous fragment becomes an embolism traveling retrograde within the small vertebral artery until it passes into the larger anterior spinal artery where it travels by anterograde flow until it becomes lodged and occludes the spinal artery. Dr. Cox opined that Claimant's activities on October 14, 2005, may have initiated the process by

weakening or damaging Claimant's disc. Dr. Cox opined that Claimant's bending over and holding his breathe while cranking on the lever to raise the trailer landing gear created increased intradiscal pressure sufficient to produce a fibrocartilaginous embolism. Dr. Cox noted the acute onset of Claimant's symptoms of infarction and testified that Claimant's work activities on October 17, 2005, caused his spinal artery infarction. He summarized:

Mr. Drennen's presentation is consistent with an embolization in that an embolization will usually cause symptoms to come on fairly abruptly. It's not a slow process, it's something that will come on over a period of several minutes to a half hour. Essentially like putting a tourniquet on the artery. Mr. Drennen's presentation where he was doing the cranking and within a few minutes developing the sensation that he needed to void, the difficulty with voiding, and the sudden onset of weakness in his legs, in my opinion, was consistent with an embolic process.

Hearing Transcript, p. 124, L. 21 through p. 125, L. 5.

18. Claimant's other medical expert, radiologist Peter Langhus, M.D., reviewed the diagnostic imaging scans of Claimant's spine taken during the acute phase of his spinal artery infarction and confirmed that the MRI scans revealed minimal disc narrowing at T4-5, T5-6, and T7-8, and Schmorl's nodes at T-5, T-7, and T-12. Dr. Langhus opined that Claimant's fibrocartilaginous embolism "would most likely have originated from the Schmorl's node at the inferior endplate of the fifth thoracic vertebral body." Claimant's Exhibit 24, p. 024002.

19. Spinal artery infarction is extremely rare. However, it is undisputed that Claimant's infarction occurred at work while he prepared and drove Swift's truck. The Idaho Supreme Court has held that when an injury occurs on the employer's premises, a presumption arises that the injury arose out of and in the course of employment. Kessler ex. Rel. Kessler v. Payette County, 129 Idaho 855, 857, 934 P.2d 28, 30 (1997).

20. The opinions of all physicians testifying are well-reasoned and enlightening.

However, the documented presence of a Schmorl's node at T-5—the precise level of Claimant's spinal artery infarction, the acute onset of Claimant's symptoms within approximately ten minutes of his cranking the trailer landing gear, and the well-reasoned opinions of Dr. Langhus and Dr. Cox describing the mechanism of infarction persuade the Referee that Claimant's work activities of October 17, 2005, caused his anterior spinal artery infarction.

21. **Accident.** A claimant must prove not only that he or she was injured, but also that the injury was the result of an accident arising out of and in the course of employment. Seamans v. Maaco Auto Painting, 128 Idaho 747, 751, 918 P.2d 1192, 1196 (1996). Idaho Code § 72-102(18)(b) defines accident as “an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.” An injury is defined as “a personal injury caused by an accident arising out of and in the course of any employment covered by the worker's compensation law.” Idaho Code § 72-102(18)(a).

22. In the present case, Claimant alleges that the exertion of his unloading a trailer for Swift on Friday morning, October 14, 2005, constitutes an accident. Dr. Cox opined that Claimant's activities on October 14, 2005, may have initiated the process by creating a weakness in the disc. However, all the medical experts appear to consider Claimant's activities on October 14, 2005, too remote in time to be a cause of his spinal artery infarction on October 17, 2005. Thus Claimant has not shown that his work activities on October 14, 2005, rise to the level of an accident causing an injury.

23. Claimant also alleges that his work activities on October 17, 2005, specifically bending over cranking on the landing gear of the trailer he was attaching to his truck, constitute an

accident. In Wynn v. J.R. Simplot Co., 105 Idaho 102, 104-105, 666 P.2d 629, 631-632 (1983), the Idaho Supreme Court declared:

“If the claimant be engaged in his ordinary usual work and the strain of such labor becomes sufficient to overcome the resistance of the claimant's body and causes an injury, the injury is compensable.” Whipple v. Brundage, 80 Idaho 193, 327 P.2d 383 (1958); Lewis v. Dept. of Law Enforcement, 79 Idaho 40, 311 P.2d 976 (1957). In Hammond v. Kootenai County, 91 Idaho 208, 419 P.2d 209 (1966), this Court affirmed a Commission award when a deputy sheriff died of a rupture or occlusion of a major vessel within the brain while he was engaged in normal routine activities of investigating an accident scene. Claimant had for some years suffered from hypertensive cardiovascular disease. The Court, at 209, 419 P.2d at 210, quoting from Pinson v. Minidoka Highway Dist., 61 Idaho 731, 106 P.2d 1020 (1940), stated:

“To constitute an ‘accident’ it is not necessary that the workman slip or fall or that the machinery fail. An ‘accident’ occurs in doing what the workman habitually does if any unexpected, undesigned, unlooked-for or untoward event or mishap, connected with or growing out of the employment, takes place.”

24. Claimant’s bending over cranking the landing gear of his truck, which simultaneously resulted in hip and low back pain, which pain progressed within approximately 10 minutes to the onset of lower extremity paralysis due to spinal artery infarction, constitutes an accident causing injury.

25. **Medical benefits.** Having determined that Claimant suffered an industrial accident on October 17, 2005, causing his spinal artery infarction, Claimant is entitled to reasonable medical benefits therefor pursuant to Idaho Code § 72-432.

26. **Total permanent disability.** Idaho Code § 72-407(5) provides a presumption of total and permanent disability for “An injury to the spine resulting in permanent and complete paralysis of both legs” Defendants herein acknowledge that they have not rebutted this statutory presumption. Claimant’s spinal artery infarction occurred October 17, 2005, resulting in bilateral lower extremity paralysis within minutes. Claimant is totally and permanently disabled due to his

work-related injuries commencing October 17, 2005.

27. **Attorney fees.** Claimant seeks attorney fees for Defendants' denial of his claim.

Idaho Code § 72-804 provides in part:

If the commission or any court before whom any proceedings are brought under this law determines that the employer or his surety contested a claim for compensation made by an injured employee or dependent of a deceased employee without reasonable ground, or that an employer or his surety neglected or refused within a reasonable time after receipt of a written claim for compensation to pay to the injured employee or his dependents the compensation provided by law, or without reasonable grounds discontinued payment of compensation as provided by law justly due and owing to the employee or his dependents, the employer shall pay reasonable attorney fees in addition to the compensation provided by this law.

28. Attorney fees are not granted to a claimant as a matter of right under the Idaho Workers' Compensation Law, but may be recovered only under the circumstances set forth in Idaho Code § 72-804. The decision that grounds exist for awarding a claimant attorney fees is a factual determination which rests with the commission. Troutner v. Traffic Control Company, 97 Idaho 525, 528, 547 P.2d 1130, 1133 (1976).

29. In a telephone conversation on October 20, 2005, with Suzanna Maffei, a nurse case manager retained by Defendants, Dr. Williamson indicated that Claimant's infarction was not related to his work on a more probable than not basis. Claimant's Exhibit 14, p. 014002. Claimant asserts there is no indication Dr. Williamson was aware of Claimant's work activities prior to concluding his infarction was not work-related. However, Dr. Williamson's note of October 17, 2005, recorded Claimant's account of bending over while cranking—which has proven to be the very mechanism of injury. Claimant also maintains that evidence of the October 20, 2005, telephone conversation with Dr. Williamson is hearsay and inadmissible under I.R.E. 802. However, "Strict adherence to the rules of evidence is not required in Industrial Commission proceedings and admission of evidence in

such proceedings is more relaxed.” Hagler v. Micron Technology, Inc., 118 Idaho 596, 598, 798 P.2d 55, 57 (1990) (emphasis in original). Moreover, on October 24, 2005, Killeen Nielsen, APRN-FNP, recorded that Claimant’s spinal artery infarction was likely secondary to diabetes mellitus and dyslipidemia. Claimant’s Exhibit 6, pp. 006011 and 006017. Nielsen dictated an October 21, 2005, consultation report for Denise Allen, M.D., and, together with Dr. Allen, signed Claimant’s discharge summary from the Community Medical Center on November 22, 2005. Claimant’s Exhibit 6, p. 006008. Dr. Williamson consulted Dr. Allen regarding Claimant’s condition.

30. On November 14, 2005, Defendants denied Claimant’s claim noting that his physician indicated Claimant’s medical condition was unrelated to his work activities and occurred at work only by coincidence. Claimant’s Exhibit 3, p. 003001.

31. On December 5, 2005, Dr. Williamson responded to an October 21, 2005, letter requesting his opinion as to the causation of Claimant’s anterior spinal artery infarction by indicating in writing that the infarction was directly related to and/or caused by Claimant’s work activities on October 17, 2005. However Dr. Williamson also indicated in the same response that due to the etiology of Claimant’s condition, the infarction could have occurred at any time. Claimant’s Exhibit 14, pp. 014005.

32. On December 14, 2006, Dr. Williamson clarified his December 5, 2005, written response by concurring with Dr. Montalbano and Dr. Allen that the etiology of Claimant’s spinal cord infarction was related to Claimant’s hyperlipidemia and not to any work activities. Claimant’s Exhibit 5, p. 005220.

33. Defendants’ initial and continuing denial of the claim was supported by medical evidence and, though not persuasive, was not unreasonable.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION - 12

CONCLUSIONS OF LAW

1. Claimant has proven he suffered an accident arising out of and in the course of his employment on October 17, 2005, which caused his anterior spinal artery infarction.
2. Claimant has proven he is entitled to reasonable medical benefits for his October 17, 2005, industrial accident.
3. Claimant has proven he is totally and permanently disabled as a result of his October 17, 2005, accident from that date forward.
4. Claimant has not proven his entitlement to an award of attorney fees.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusions of Law as its own, and issue an appropriate final order.

DATED this 22nd day of May, 2008.

INDUSTRIAL COMMISSION

_____/s/_____
Alan Reed Taylor, Referee

ATTEST:

_____/s/_____
Assistant Commission Secretary

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

AMUR Q. DRENNEN,)	
)	
Claimant,)	
)	
v.)	IC 2005-011240
)	IC 2006-006989
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SWIFT TRANSPORTATION CO. INC.,)	
)	
Employer,)	ORDER
)	
and)	
)	
INDEMNITY INSURANCE CO. OF NA.,)	June 16, 2008
)	
Surety,)	
)	
Defendants.)	
_____)	

Pursuant to Idaho Code § 72-717, Referee Alan Taylor submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee’s proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant has proven he suffered an accident arising out of and in the course of his employment on October 17, 2005, which caused his anterior spinal artery infarction.
2. Claimant has proven he is entitled to reasonable medical benefits for his October 17, 2005, industrial accident.
3. Claimant has proven he is totally and permanently disabled as a result of his

October 17, 2005, accident from that date forward.

4. Claimant has not proven his entitlement to an award of attorney fees.

5. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 16th day of June, 2008.

INDUSTRIAL COMMISSION

/s/ _____
James F. Kile, Chairman

/s/ _____
R.D. Maynard, Commissioner

ATTEST:

/s/ _____
Assistant Commission Secretary

Commissioner Thomas E. Limbaugh dissenting.

After reviewing the record in this case, I respectfully dissent from the majority decision finding Claimant suffered an injury caused by an industrial accident. In my opinion, which is supported by the treating doctors, Claimant's condition is unrelated to his employment.

There is no dispute that Claimant suffered a spinal artery infarct which led to a restriction of blood flow and ultimately paralysis from the chest down. But there are different theories presented as to what caused the spinal artery infarct. The theory asserted by Claimant and adopted by the majority decision is that a fibrocartilaginous embolism caused the spinal artery infarct when a piece of spinal disc material broke off and was forced into the blood stream becoming lodged in the spinal artery.

The majority's decision finds the statement of medical causation as presented by Drs. Cox and Langhus more persuasive than statements by Drs. Montalbano, Williamson, and Allen. But several concerning points in the opinions of Drs. Cox and Langhus must be pointed out.

Dr. Cox, a physiatrist, testified that he has treated "maybe a dozen" patients that have suffered a spinal artery infarction, and he has never had occasion to diagnose a fibrocartilaginous embolism causing a spinal artery infarct. In fact, Dr. Cox admits that he had never heard of it until Claimant's counsel raised it as a possibility. Hearing Transcript, p. 158. Claimant's counsel supplied Dr. Cox with Claimant's medical records and medical articles discussing fibrocartilaginous embolisms. Dr. Cox did not treat Claimant nor did he examine Claimant.

Dr. Cox felt the individuals discussed in the fibrocartilaginous embolism articles were similar to Claimant because they were all young and did not have aortic problems or other problems which would lead to other causes of a spinal artery infarction. Yet, Claimant was diagnosed with hyperlipidemia, morbid obesity, and diabetes when he was hospitalized on the day of his alleged accident. Dr. Montalbano noted in his observation, and as reported in the medical literature, spinal artery infarction is generally caused by a combination of factors including hyperlipidemia, obesity, diabetes, and atherosclerotic plaque. With Claimant's diagnosed conditions it seems impossible to successfully compare him to the young healthy individuals in the articles referenced by Claimant's counsel and Dr. Cox.

Additionally Dr. Langhus, a retired radiologist, opined that Claimant's fibrocartilaginous embolism would most likely have originated from the Schmorl's node at the fifth thoracic vertebral body. Schmorl's nodes are very common, being found in 40-75% of people. So, while a piece of Claimant's Schmorl's node could have broken off and been forced into the blood stream, such a possibility is by no means a smoking gun pointing to fibrocartilaginous embolism.

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of June, 2008 a true and correct copy of **Findings, Conclusions, and Order with Dissenting Opinion** was served by regular United States Mail upon each of the following:

RICK D KALLAS
1031 E PARK BLVD
BOISE ID 93712-7722

W SCOTT WIGLE
PO BOX 1007
BOISE ID 83701

ka/cjh
