

ATTORNEY GENERAL OPINION NO. 96-4

TO: Mr. Monte Q. Later, Chairman
Idaho Park and Recreation Board
P. O. Box 83720
Boise, ID 83720-0065

Per Request for Attorney General's Opinion

QUESTIONS PRESENTED

1. May fees collected pursuant to Idaho Code §§ 67-7013, 67-7014, 67-7106, 67-7118 and 67-7126 be used to offset the general administrative overhead costs of the Idaho Department of Parks and Recreation in operating the respective recreation programs? General administrative overhead costs would include factors such as fiscal, personnel, and legal support, office space rental, utilities use, etc.
2. May gas tax revenues allocated to the [Idaho Department of Parks and Recreation] pursuant to Idaho Code § 63-2412(1)(e)(1-3) be used to offset the general administrative overhead costs of operating the respective recreation programs?
3. Is the allocation of road and bridge improvement moneys within the capital improvement account (Idaho Code §§ 57-1801 and 63-2412(1)(e)(3)) within the discretion of the Idaho Park and Recreation Board? What is the legislative direction in regard to distribution of these funds?
4. Is the allocation of capital improvement account funds (Idaho Code § 57-1801) within the discretion of the Board? Please outline the process used to allocate these funds including a description of the roles and responsibilities of the Joint Committee on Finance and Appropriations, the Legislature, the Division of Financial Management, and the Governor's Office.
5. Is the allocation of \$25,000 from the [recreational vehicle] fund (Idaho Code §§ 49-448 and 67-4223(e)) for the support of gateway visitor information centers within the discretion of the Board? Is this allocation the result of legislative direction which can only be changed by the legislature?

CONCLUSION

1. The fees described in Idaho Code §§ 67-7013, 67-7014, 67-7106, 67-7118 and 67-7126 are of two different types: "Vendor" or "handling" fees (hereafter referred to in the collective as vendor fees), which the Idaho Department of Parks

and Recreation (IDPR) collects when it acts as a vendor of recreational registrations, and administrative funds which are allocated to IDPR as a percentage of recreational registration revenue. Vendor fees should be used to offset expenses attributable to the department's registration functions. Excess vendor fees may be expended at the agency's discretion. Administrative funds may be expended to cover the direct costs of administering the respective recreational programs, and may, in addition, be used to cover a proportionate share of general administrative costs.

2. A portion of fuel tax revenues allocated to IDPR pursuant to Idaho Code § 63-2412(1)(e)(1-3) may be used to offset the general administrative costs of operating the respective recreation programs.
3. The allocation of road and bridge improvement moneys within the capital improvement account (Idaho Code §§ 57-1801 and 63-2412(1)(e)(3)) is within the discretion of the board. The legislature has directed that these road and bridge improvement moneys be "used solely to improve roads and bridges within and leading to parks and recreation areas of the state." Idaho Code § 63-2412(1)(e)(3).
4. The legislature has made a determination (Idaho Code § 63-2412(1)(e)(1-3)) that a percentage of fuel tax revenue generated statewide shall be allocated to the park and recreation capital improvement account established pursuant to Idaho Code § 57-1801. The expenditure of capital improvement funds is left to the discretion of the board. The board's discretion remains subject to the legislative and budgetary process.
5. The board could not unilaterally allocate \$25,000 from the recreational vehicle (RV) fund for the support of gateway visitor information centers. Approval of a qualified grant application for such purposes would be within the board's discretion. In this instance, the transfer of \$25,000 from the RV fund to gateway visitor information centers was a legislative act over which the board has no discretion.

ANALYSIS

I.

DISTINCTION BETWEEN FEES AND TAXES

For purposes of this analysis, vendor fees collected by IDPR in its capacity as a recreational registration vendor are assumed to be "fees," while administrative funds and revenues generated by taxes on the sale of motor fuels are assumed to be "taxes." This

analysis does not address the validity of the imposition or the collection of these revenue generating mechanisms. Rather, this analysis examines whether the existing expenditure of these funds complies with all pertinent constitutional and statutory requirements. In addition, this analysis will identify where use of these funds is discretionary and with whom the discretion lies.

In any analysis regarding the expenditure of fees or taxes it is important to distinguish between the two. Fees and taxes differ in a variety of ways, including how they are imposed and how they may be spent. “In a general sense a fee is a charge for a direct public service rendered to the particular consumer, while a tax is a forced contribution by the public at large to meet public needs.” Brewster v. City of Pocatello, 115 Idaho 502, 505, 768 P.2d 765, 768 (1988). Because of the nature of fees, it has generally been held that the amount collected must bear a reasonable relationship to the service provided. See V-1 Oil Company v. Idaho Petroleum Clean Water Trust Fund, 96.14 ISCR 633 (July 2, 1996); Kootenai County Property Association v. Kootenai County, 115 Idaho 676, 680, 769 P.2d 553, 557 (1989). The requirement that a fee be related to the cost or value of the benefit it provides will necessarily narrow the permissible use of fee-generated revenue.

II.

USE OF VENDOR FEES AND ADMINISTRATIVE REVENUES FROM THE SALE OF RECREATIONAL REGISTRATIONS

The Idaho Department of Parks and Recreation is designated by statute to operate a registration system for certain recreational activities. Various statutes require the registration of vessels, snowmobiles, off-highway motorbikes and ATVs, and the issuance of permits for winter recreational parking (Park N’ Ski). Vendors of the various registrations and permits are allowed to retain a portion of the moneys collected for having handled the transaction (vendor fees). In addition, a portion of the recreational registration revenue (15%) is statutorily allocated to IDPR to cover administrative expenses (administrative funds). Your first question concerns whether either of these sources of revenue may permissibly be spent on general administrative overhead.

A. Vendor Fees Should Be Used To Offset The Costs Of Selling Recreational Registrations

A review of the statutory provisions which established vendor fees reveals a fairly consistent statutory scheme, although the wording varies slightly. Vendors of vessel registrations may set an “administrative fee” of not more than \$1.50 (Idaho Code § 67-7014(1)). The “fee shall be used to defray related administrative costs.” (Idaho Code § 67-7014(3)). Vendors of snowmobile registrations may “charge an additional

one dollar and fifty cents (\$1.50) handling fee per registration for the distribution of certificates of number.” (Idaho Code § 67-7106(4)). Sellers of Park N’ Ski permits are “entitled to receive a commission of one dollar (\$1.00) on each permit sold, which sum may be retained as compensation for the sale of the permit.” (Idaho Code § 67-7118(1)). Finally, vendors of motorbike and ATV registrations are mandated to charge a \$1.50 handling fee (Idaho Code § 67-7126(1)).

While the language of each statute varies, the vendor fees are intended to compensate the vendor for the cost of issuing the recreational registration. The language in the Park N’ Ski statute most clearly states this intent. The use of the term “compensation” suggests the legislature intended to create a “handling fee” or “administrative fee.” Compensation usually implies that the entity receiving the compensation is free to spend or save the amount received. While it can be argued that the absence of this language from the other statutes suggests the legislature intended to limit the vendor fee to actual cost of the service, the de minimus nature of the vendor fee leads to the opposite conclusion. Since there are numerous vendors, the more likely conclusion is that the legislature intended to establish a cap for vendors providing the service but did not restrict the use of the funds beyond ensuring that the service was provided.

In summary, when IDPR acts as the vendor and collects the vendor fee, it should use those funds for the direct maintenance, operation, and enhancement of the registration program; however, to the extent excess funds exist, they may be used for other departmental programs.

B. Administrative Revenues May Be Used To Offset The Cost Of Selling Recreational Registrations, Together With A Proportionate Share Of General Administrative Overhead Costs

The bulk of the revenue from the sale of the various recreational registrations (85%) is dedicated to the provision of facilities and services for the particular users who generated the revenue. The remaining 15% is apportioned to IDPR to cover the “administrative costs” of operating the respective recreation programs. With two exceptions, the statutes require that unexpended administrative funds be returned to the respective fund to provide more facilities and services to users. This statutory scheme suggests that the legislature intended to limit the amount of money expended on administration and maximize the amount of money expended to provide user facilities and services.

1. Administrative Costs

The Idaho Code provides no guidance on what constitutes “administrative costs.” Neither does the phrase have a particular meaning within the field of accounting professionals. *Black’s Law Dictionary* suggests that “administrative costs” may be synonymous with “overhead,” which is defined as:

All administrative or executive costs incident to the management, supervision, or conduct of the capital outlay, or business; distinguished from “operating charges,” or those items that are inseparably connected with the productive end and may be seen as the work progresses, and are the subject of knowledge from observation. Continuous expenses of a business; the expenses and obligations incurred in connection with operation; expenses necessarily incurred in organization, office expenses, engineering, inspection, supervision, and management during construction; and general expenditures in financial or industrial enterprise which cannot be attributed to any one department or product, excluding cost of materials, labor, and selling. . . .

Any cost not specifically or directly associated with the production of identifiable goods and services. Sometimes called “burden” or “indirect costs”

Black’s Law Dictionary 1103 (6th ed. 1990) (emphasis added; citations omitted).

Even within state government there is substantial diversity in what are considered administrative costs. In the Attorney General Guideline dated April 5, 1988, this office discussed administrative costs or “expenses” as distinguished from “investment expenses” as they related to PERSI operations. It was the recommendation of this office that PERSI adopt guidelines distinguishing between investment and administrative expenses, stating: “It would seem that it is not as important precisely where the lines are drawn as that there be consistency in the process. With defined administrative versus investment expenses, the legislature can appropriate administrative funds in a manner which it considers proper.” 1988 Idaho Att’y Gen. Ann. Rpt. 94, 97. This advice seems as appropriate today for IDPR as it did in 1988 for PERSI.

In Chairman Later’s request for guidance, he identified “fiscal, personnel, and legal support, office space rental, utilities use . . .” as items of general administrative cost. This enumeration appears reasonable so far as it goes. There may be additional costs which can reasonably be considered within this category. At some point, however, the costs become so remote and unrelated that it would be inappropriate to include them as general administrative costs. For example, there should be little dispute that the salary of the agency head is a general administrative cost. Conversely, there should be little dispute that the salary of a seasonal aide who collects fees at Hells Gate State Park should

not be considered a general administrative cost. Somewhere between these two extremes lies a grand ambiguity. By establishing policies or guidelines defining what items are appropriate for inclusion as administrative costs, and formulating a methodology to fairly apportion the administrative costs, the department and the board could bring some consistency to this issue and reduce the ambiguity and the opportunity for controversy and criticism.

2. Boating Program

Idaho Code § 67-7013(4) specifies the uses of administrative funds generated by the vessel registration program:

(4) All moneys deposited to the park and recreation account are to be appropriated for the purpose of defraying the expenses, debts and costs incurred in carrying out the powers and duties of the department as provided in this chapter and for defraying administrative expenses of the department, including salaries and wages of employees of the department, expenses for traveling, supplies, equipment and other necessary expenses of the department as they relate to administration of this chapter. . . . Should the related administrative costs of the department amount to less than the moneys apportioned to the park and recreation account for such purposes, the difference shall be remitted to the state vessel account

(Emphasis added.)

These provisions are among the most liberal of the recreational registration programs. According to Idaho Code § 67-7013, these funds may be used to cover both the direct costs and the general administrative costs relating to the Idaho Safe Boating Act (title 67, chapter 70, Idaho Code). Thus, in addition to paying direct costs such as salaries and equipment, it is appropriate that these administrative funds be used to cover a proportionate share of general administrative costs. Such costs might include, but are not limited to, administrative, fiscal, secretarial, legal and personnel support, a portion of office space rental and utilities, etc.

Any unused administrative funds must be returned to the state vessel account where they would be used to provide boating enhancements for the benefit of boaters. This preference for tangible boater benefits makes it clear that these administrative funds should not be used to pay for other department programs. It would be inappropriate, for example, to use administrative funds from the boating program to pay the operating expenses of Land of the Yankee Fork State Park.

3. Snowmobile Program

The statutory scheme for distribution of fees for snowmobiles is found at Idaho Code § 67-7106(3), which provides:

(3) Up to fifteen percent (15%) of the statewide snowmobile account generated each year may be used by the department to defray administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the state snowmobile account.

This section varies slightly from the provisions for vessel registration in that it provides no elucidation of what constitutes “administrative costs.” Unlike the Idaho Safe Boating Act, which confers upon the department comprehensive responsibility for many aspects of boating, the statutory provisions concerning snowmobiles relate primarily to the department’s obligations with regard to registration of snowmobiles. This difference leads to the conclusion that the use of administrative fees available to the department from snowmobile registration may be used to cover the direct costs of the registration program together with a proportionate share of general administrative costs.

4. Park N’ Ski

The distribution of fees for the Park N’ Ski program is similar to that for snowmobiles:

(2) Fifteen percent (15%) shall be allotted to the department for the production of the parking permits and necessary administration expenses incurred by the department in carrying out the provisions of section 67-7115(3), Idaho Code, which moneys shall be placed in the park and recreation account.

Idaho Code § 67-7118 (emphasis added). This section specifically delineates how the administrative funds may be spent. The department can expend these funds on the production and, implicitly, distribution of the permits and in carrying out the provisions of Idaho Code § 67-7115(3). That section deals only with the enforcement of the requirement that a vehicle parked in a winter recreational parking area must have a permit. It appears that acceptable expenditures of Park N’ Ski administrative funds is registration and enforcement related. This would include direct costs attributable to the Park N’ Ski registration program, enforcement of the Park N’ Ski permit requirements, and a proportionate share of general administrative costs. While there is no explicit requirement that unused Park N’ Ski administrative funds be returned to the state treasury, the limitation on permissible uses implies that unused funds should be returned to the cross country skiing recreation account.

5. Motorbikes and ATVs

The distribution of fees collected on the sale of motorbike and ATV registrations is established at Idaho Code § 67-7126(2):

(2) Up to fifteen percent (15%) shall be allotted to the department for administration and for the production of registration stickers, which moneys shall be placed in the motorbike recreation account.

This provision is virtually identical to the provision governing distribution of the snowmobile-generated revenues. The only difference is that this section does not require the return to the state treasury of unused administrative fees at the close of the year. As with the Park N 'Ski program, however, return of unused administrative funds to the motorbike recreation account is implicit. The provisions of section 67-7126(2) should be interpreted consistently with those of the snowmobile program: The use of administrative funds available to the department from motorbike and ATV registration may be used to cover the direct costs of the registration program together with a proportionate share of general administrative costs.

III.

USE OF GAS TAX REVENUES

In 1983, the legislature directed that Idaho Code § 63-2412 be amended so that a portion of motor fuel tax revenue would be allocated to the waterways improvement fund (Idaho Code § 57-1501) and the off-road motor vehicle account (Idaho Code § 57-1901). According to the minutes of the March 8, 1983, House Transportation Committee, this apportionment was a recognition of the fact that a portion of motor fuels is sold for off-highway use, including use by off-road motorcycles, ATVs, snowmobiles and boats. In 1988, Idaho Code § 63-2412 was amended to allow for the distribution of a portion of the off-highway motor fuels tax revenue to the park and recreation capital improvement account. While the distribution formula for these off-highway motor fuels taxes has been changed a number of times, all three accounts currently receive off-highway gas tax revenues. In 1993, the legislature once again amended the distribution formula to provide that a portion of the gas tax revenues distributed to the park and recreation capital improvement account be dedicated specifically to the improvement of roads and bridges within and leading to state park and recreation areas (hereafter road and bridge funds) (Idaho Code § 63-2412(1)(e)(3)).

Idaho Code § 63-2412(1)(e)(1) and (2) specifically provides that with respect to the waterways improvement fund and the off-road motor vehicle account, “[u]p to twenty

per cent (20%) of the moneys distributed . . . may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the [waterways improvement account or off-road motor vehicle account].” Idaho Code § 63-2412(1)(e) does not address any apportionment of park and recreation capital improvement funds, including road and bridge funds, between administrative and other uses.

A second series of questions concerns whether gas tax revenues distributed to the waterways improvement fund, the off-road motorized vehicle account, the park and recreational capital improvement account, and the road and bridge account may be used to off-set the general administrative overhead costs of the department.

A. Waterways Improvement Fund and Off-Road Motorized Vehicle Account

The gas tax distribution provisions expressly provide that up to 20% of the waterways improvement moneys and off-road motorized vehicle moneys may be spent to “defray administrative costs.” As discussed elsewhere in this opinion, there is no statutory provision enumerating those expenses which are “administrative costs.” For that reason, it is important for agencies to develop guidelines which assist in segregating administrative costs and then utilize a consistent methodology for apportioning those administrative costs among their program budgets.

B. Capital Improvement Account and Road and Bridge Moneys

Unlike the waterways improvement fund and the off-road motorized vehicle account, there is no mention of administrative costs in the distribution formula for the capital improvement account or the portion of the account dedicated to road and bridge improvements. Idaho Code § 57-1801, however, provides guidance concerning the capital improvement account:

The purposes for which moneys in the account may be used shall be to acquire, purchase, maintain, improve, repair, furnish, and equip parks and recreation facilities and sites in the state of Idaho. The park and recreation board is charged with the administration of the account for the purposes specified herein. . . . All claims against the account shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state.

The permissible uses of the portion of the capital improvement account which is dedicated to road and bridge improvements are set out at section 63-2412(1)(e)(3). These funds are “to be used solely to improve roads and bridges within and leading to parks and

recreation areas of the state.” A review of the legislative history concerning the capital improvement account and its road and bridge component reveals nothing relevant to the issue of administrative costs. The statement of purpose for H.B. 185 (1993 Idaho Sess. Laws 1116) which concerned the road and bridge funds noted that, “[h]ighways have received significant increases in revenue due to gas tax increases while park and recreation areas have increased in demand and use without the benefit of increased revenue.”

There are two reasonable approaches to determining whether it is appropriate to expend a portion of these funds on general administrative overhead. One approach would be to take the position that since the statute does not address administrative costs, no administrative costs should be allowed. Since the legislature knew how to allow for administrative costs (as in the waterways improvement fund and the off-road motorized vehicle fund), it could be argued that the fact it did not do so here is significant.

However, this office has had an opportunity to consider a similar question regarding administration of state lands and has taken a different approach. In Attorney General Opinion No. 81-14, the attorney general was reviewing the legality and constitutionality of utilizing the “ten per cent fund” established by Idaho Code § 58-140 to fund the general operating expenses of the department of lands. In reaching the conclusion that the ten per cent fund could not be used for general operating expenses without violating the constitution and the terms of the statute, the attorney general noted that the ten per cent fund could only be expended on capital projects. However, the attorney general’s opinion stated: “These capital expenditures have included monies for contracting, salaries, and administrative services necessary to implement specific projects of capital improvements. . . .” 1981 Idaho Att’y Gen. Ann. Rpt. 154, 155.

The analysis used in Attorney General Opinion 81-14 is consistent with the analysis applied in similar situations involving the administration of trusts. Capital improvement and road and bridge funds are similar to trust funds in that they are held and administered by the Idaho Park and Recreation Board for particular and limited purposes. The management and expenditure of trust funds is closely controlled, yet the existing body of trust law recognizes that the costs of administering the trust should be paid out of the trust. 76 Am. Jur. 2d *Trusts* § 462 (1992).

Capital projects don’t happen without support from fiscal, purchasing, legal and management information systems. It is consistent with trust law and with prior attorney general opinions to allow for a reasonable expenditure of capital funds for these administrative costs, so long as these costs are incurred in furtherance of the capital projects funded by the fuel tax.

Again, it is important for the board to develop guidelines or policies which address the types of expenditures which will be included as legitimate administrative expenses for capital projects. In addition, the board may wish to establish a cap on the portion of capital improvement funds which may be used for administrative expenses. Consistency will be the best protection that the board can have in answering questions raised by auditors or the public concerning its administration of these capital funds.

C. Summary

Gas tax revenues allocated to the Idaho Department of Parks and Recreation, including waterways improvement funds, off-road motorized vehicle moneys, capital improvement funds and its component road and bridge funds, may be spent on reasonable general administrative costs. Such expenditures may not exceed 20% of the waterways improvement fund or the off-road motorized vehicle account. The Idaho Park and Recreation Board should consider setting policies or guidelines which identify what expenses will be considered appropriate “administrative costs.” In addition, the board may wish to consider a policy limiting the percentage of capital improvement account moneys (including road and bridge moneys) that may be allocated to general administrative costs.

IV.

ALLOCATION OF CAPITAL IMPROVEMENT AND ROAD AND BRIDGE MONEYS

The capital improvement moneys allocated to IDPR by Idaho Code § 63-2412(1)(e) and (1)(e)(3) are to be placed in the capital improvement account established by Idaho Code § 57-1801. As noted previously, section 57-1801 places responsibility for administration of these funds with the Idaho Park and Recreation Board.

The very essence of a discretionary power is that the person or persons exercising it may choose which of several courses will be followed. . . . Administrative agencies generally have wide discretion in selecting the means to fulfill the legislature’s goals.

2 Am. Jur. 2d *Administrative Law* § 63 (1994). The board’s discretion is circumscribed by its statutory authority. 2 Am. Jur. 2d *Administrative Law* § 64 (1994). In this case, the board must expend the funds as required by Idaho Code §§ 57-1801 and 63-2412(1)(e)(3). So long as the board expends the capital improvement funds, including road and bridge funds, in compliance with its statutory authority, it is within the board’s discretion where and how it spends the funds.

The legislature appropriates spending authority for capital improvement funds after the board's budget proposal is reviewed and modified by the division of financial management, the governor's office, the legislative budget office and the joint finance and appropriations committee. If, as a result of the budgetary and legislative process, additional restrictions are placed on the use of capital improvement funds, the board would be obligated to administer those funds in accordance with the legislative directive.

V.

USE OF RV FUNDS

Beginning with the 1995 fiscal year budget and continuing in subsequent fiscal year appropriations, the legislature began appropriating the sum of \$25,000 per year from the recreational vehicle fund to the park and recreation fund in order to provide a portion of the annual funding for operation of the state's gateway visitor centers. 1994 Idaho Sess. Laws 627. This fund transfer and the legislative directive concerning its expenditure are binding on the board. Transfer of these funds from the recreational vehicle account to the park and recreation fund for use in operating gateway visitor centers can only be changed by legislative directive in a subsequent appropriations bill or by statute.

CONCLUSION

Vendor fees collected by the department when it acts as a vendor of recreational registrations should be used first to offset expenses directly attributable to the department's registration functions. Excess vendor moneys may be used at the discretion of the department. Administrative funds which are allocated to the department as a percentage of recreational registration revenue may be expended to cover the direct costs of administering the respective recreational programs, and may, in addition, be used to cover a proportionate share of general administrative costs.

Fuel tax revenues allocated to the department pursuant to Idaho Code § 63-2412(1)(e)(1-3) may be used to offset the general administrative overhead costs of operating the respective recreation programs.

The legislature has made a determination (Idaho Code §§ 57-1801 and 63-2412(1)(e)(1-3)) that a percentage of fuel tax revenue generated statewide shall be allocated to the park and recreation capital improvement account established pursuant to Idaho Code § 57-1801. The expenditure of these funds is left to the discretion of the Idaho Park and Recreation Board and the legislature through the budgetary process.

The legislature, starting in 1994 and continuing in subsequent years, has transferred moneys from the recreational vehicle fund to the park and recreation fund to support gateway visitor centers. Such a fund transfer is not within the discretion of the Idaho Park and Recreation Board. Approval of a qualified grant application for such purposes would be within the board's discretion. In this instance, the transfer of \$25,000 from the recreational vehicle fund to gateway visitor information centers was a legislative act which is binding on the board.

AUTHORITIES CONSIDERED

1. Idaho Code:

§ 49-448.
§ 57-1501.
§ 57-1801.
§ 57-1901.
§ 58-140.
§ 63-2412.
§ 63-2412(1)(e).
§ 63-2412(1)(e)(1).
§ 63-2412(1)(e)(2).
§ 63-2412(1)(e)(3).
§ 67-4223(e).
§ 67-7013.
§ 67-7013(4).
§ 67-7014.
§ 67-7014(1).
§ 67-7014(3).
§ 67-7106.
§ 67-7106(3).
§ 67-7106(4).
§ 67-7115(3).
§ 67-7118.
§ 67-7118(1).
§ 67-7126.
§ 67-7126(1).
§ 67-7126(2).

2. Idaho Cases:

Brewster v. City of Pocatello, 115 Idaho 502, 768 P.2d 765 (1988).

Kootenai County Property Association v. Kootenai County, 115 Idaho 676, 769 P.2d 553 (1989).

V-1 Oil Company v. Idaho Petroleum Clean Water Trust Fund, 96.14 ISCR 633 (July 2, 1996).

3. Other Authorities:

1981 Idaho Att’y Gen. Ann. Rpt. 154.

1988 Idaho Att’y Gen. Ann. Rpt. 94.

1993 Idaho Sess. Laws 1116.

1994 Idaho Sess. Laws 627.

2 Am. Jur. 2d *Administrative Law* § 63 (1994).

2 Am. Jur. 2d *Administrative Law* § 64 (1994).

76 Am. Jur. 2d *Trusts* § 462 (1992).

Black’s Law Dictionary (6th ed. 1990).

DATED this 23rd day of September, 1996.

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Analysis by:

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