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DISTRICT OF WYOMING  
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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

BRAD SKINNER, on his own behalf, )  
and on behalf of all other persons )  
similarly situated, )

Plaintiffs, )

vs. )

Civil Action No. 02-CV-033B

JUDITH UPHOFF; VANCE EVERETT; )  
JAMES HEWITT; DAVID EBELL; all in their )  
individual and official capacities, ROBERT )  
ORTEGA and SCOTT ABBOTT, in their )  
official capacities, )

Defendants. )

**MEMORANDUM RE: DEFENDANTS' SECOND PROPOSED REMEDIAL PLAN**

INTRODUCTION

Today the Defendants file their **Defendants' Second Proposed Remedial Plan**. This Plan

and the attached Plan Exhibits represent the long and dedicated negotiations of the Plaintiffs and Defendants to formulating a common plan for submission to the Court. Each side made concessions on many points. Despite clear requirements of the *Prison Litigation Reform Act*, 18 U.S.C. §3626(f) for the nomination and selection of Special Masters and their compensation by the federal judiciary, the Defendants have offered a plan at state expense with a Joint Expert mutually agreeable to the parties. However, there are several points on which the parties were unable to agree.

### **PROCEDURAL BACKGROUND**

On November 27, 2002, this Court entered an Order Granting Plaintiff's Motion for Summary Judgment. The Court's Order addressed Plaintiff's Motion for Partial Summary Judgment on Class Claims. (The Court's Order of November 27 did not address the individual claims of the Plaintiff Brad Skinner for monetary damages, which claims remain adjudicated and are presently set for bench trial on June 16, 2003.)

In the Court's Order of November 27, the Court granted summary judgment for the Plaintiffs on their class claims and ordered the parties to file proposed "Remedial Plans" which will "promptly and effectively abate the Eighth Amendment violations noted in this decision and reasonably protect against a repetition of those violations." The Court directed that the Remedial Plans "set forth the remedies that will be implemented, the manner of implementation, and a schedule of implementation."

The Plaintiffs and Defendants filed opposing Remedial Plans. Before the time set by the Court for the parties to file their objections to the opposition's Remedial Plan, the parties requested an extension of time with a view toward negotiating, drafting and submitting a joint proposed

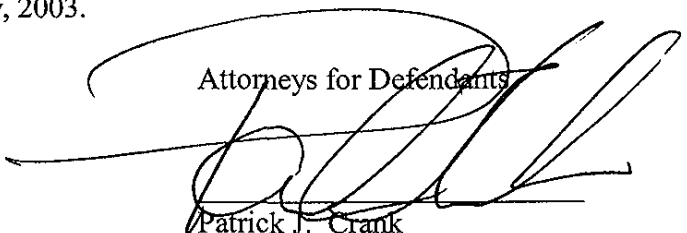
remedial plan. The parties, through their legal counsel, have worked diligently since January 2003, to complete that task. Multiple drafts of the Plan and the WDOC Policies have been submitted by Defendants and discussed with Plaintiffs. Many of the suggestions of Plaintiffs were incorporated into the Defendants' Second Proposed Remedial Plan and the accompanying Exhibits.

While the parties have come a long way toward a common plan to submit jointly to the Court, they have fallen just short. Several matters remain in dispute. Defendants now file the Defendants' Second Proposed Remedial Plan. Defendants understand Plaintiffs will file their objections to this Defendants' Second Proposed Remedial Plan, setting out those matters on which the parties did not agree.


The Court previously gave the parties until May 16, 2003, to file objections to the opposing party's proposed remedial plan.

Dated this 6<sup>TH</sup> day of May, 2003.

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### CERTIFICATE OF SERVICE

I do hereby certify that I have caused a true and correct copy of the above **MEMORANDUM ACCOMPANYING DEFENDANTS' PROPOSED REMEDIAL PLAN** to be sent by First Class, postage prepaid, United States mail, on this 7<sup>th</sup> day of May 2003, addressed to the following individuals:

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