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Department of Water Resources

Attorneys for WaterOne Enterprises LLC,
a California limited liability company

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE SRBA) Case No.: 51-04037
)
Case No. 39576) RESPONSE TO MOTION TO ALTER OR
) AMEND

1. NAME AND ADDRESS OF PERSON RESPONDING:

WaterOne Enterprises, LLC, a California limited liability company
251 Versalles Court
Tracy, CA 95376

2. NAME AND ADDRESS OF ATTORNEY, IF ANY:

Kevin J. Beaton
Stoel Rives LLP
101 S. Capitol Blvd., Ste. 1900
Boise, ID 83702-5958

3. NAME AND ADDRESS OF PERSON WHO FILED THE MOTION TO ALTER
OR AMEND TO WHICH YOU ARE RESPONDING:

Mathew Olivas
359 North 400 West
Paul, Idaho 83347
(208) 438-2529

4. I am responding to the objections to the following elements: (1) Purposes of Use
(2) Quantity.

RESPONSE TO MOTION TO ALTER OR AMEND - 1

5. RECOMMENDATION: The Special Master should deny the Motion to Alter or Amend and the water right should remain as it is currently described in the "Standard Form 5" and the "2nd Amended Special Master Recommendation for Partial Decree for Water Right 51-04037."

6. REASONS SUPPORTING RESPONSE:

Mr. Olivas has no interest in the water right he is attempting to amend and should not be allowed to further delay the recommendation of this right. According to SRBA Administrative Order 1, Section 13a, "any party to the adjudication including parties to the subcase" may file a Motion to Alter or Amend the Special Master's Recommendation. A party to the adjudication is defined as "any person asserting ownership of rights to the use of water." In a November 5, 2002 Order by Judge James C. Morfitt, WaterOne Enterprises, LLC, California ("WaterOne California") was found to be the fee simple owner of Murphy Hot Springs (Owyhee County District Court, Case No. CV 2001-03402). Based upon this ruling, Purity Sweet and Mathew Olivas were removed as claimants to water right 51-04037. Mr. Olivas has no basis to assert ownership or any interest in water right no. 51-04037, is no longer a party to the subcase and should not be allowed to participate solely to delay the processing of the right.

Even if Mr. Olivas is properly a "party to the adjudication" based on a claim to interest in another water right in the adjudication, he should not be allowed to delay the issuance of water right no. 51-04037. Mr. Olivas is seeking to amend and delete restrictions to the use of a water right that he has no ownership interest in. Specifically, he is seeking to delete comments on the "Purpose of Use" and the quantity restriction of 13,000 gallons per day. However, since Mr. Olivas does not have an interest in the water right, there is no justification for his request to amend the right. Mr. Olivas' can not claim that his objection to the recommendation is based on a desire to protect his water rights, if any, since he is attempting to broaden WaterOne

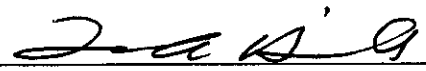
California's rights. Therefore, even if Mr. Olivas is a proper party to the adjudication, he has no valid reason for intervention and amendment of this water right.

Mr. Olivas' attempt to delete language in the water right is merely an attempt, once again, to delay the proceedings. WaterOne California is therefore seeking its expenses incurred in responding to this Motion. *See* Motion for Attorneys Fees and Costs, filed concurrently herewith.

The Standard Form 5 and 2nd Amended Special Master Recommendation for Partial Decree for Water Right 51-04037 accurately reflects the water right agreed to by the parties to the subcase, and as recommended by Idaho Department of Water Resources. Mr. Olivas' has no interest in the water right and has no valid reason to seek the deletion of language limiting the right. Mr. Olivas' Motion to Alter or Amend should therefore be denied and Mr. Olivas should be assessed attorneys fees and costs for pursuit of this frivolous motion.

Dated this 10th day of July, 2003

STOEL RIVES LLP

By: 
Teresa A. Hill
Attorneys for WaterOne Enterprises, LLC

VERIFICATION

State of Idaho)
) ss.
County of Ada)

Teresa A. Hill, duly sworn, upon oath deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



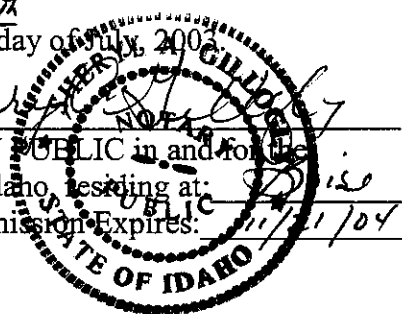
TERESA A. HILL

SUBSCRIBED AND SWORN to before me this 10th day of July, 2004


NOTARY PUBLIC in and for the

State of Idaho, residing at:

My Commission Expires: 11/11/04



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 10th day of July, 2003, I caused to be served a true copy of the foregoing via U.S. Mail upon the following:

David J. Barber
Deputy Attorney General
Natural Resources Division
P.O. Box 4449
Boise, Idaho 83711-4449

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

Mathew Olivas
359 North 400 West
Paul, Idaho 83347

☒ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
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Janet O'Crowley
16 Stubb Road
Carey, Idaho 83320-5026

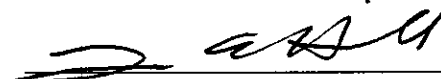
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Idaho Department of Water Resources
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United States Department of Justice
Environment and Natural Resources Division
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Boise, Idaho 83724

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Teresa A. Hill