



RECEIVED

JAN 14 2003

Department of Water Resources

U.S. Department of Justice

Environment and Natural Resources Division

DG:DAJ

90-6-2-63C

David A. Jarvis
Labat-Anderson, Inc.
999 Eighteenth Street
Suite 945, North Tower
Denver, Colorado 80202

Telephone (303) 312-7370
Facsimile (303) 312-7379

January 10, 2003

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Consolidated Subcase Nos. 65-11412 and 65-11412A

Dear Ms. Delaney:

Enclosed for filing is the following original document in the above mentioned subcase:

1. **NOTICE OF SERVICE OF UNITED STATES' SECOND SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSION TO EMMETT IRRIGATION DISTRICT.**

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosure

RECEIVED

JAN 14 2003

Department of Water Resources

THOMAS L. SANSONETTI
Assistant Attorney General
Environmental and Natural Resources Division

DAVID W. GEHLERT
Trial Attorney, General Litigation Section
Environmental and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945, North Tower
Denver, CO 80202
(303) 312-7352

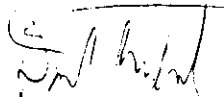
Attorneys for the United States of America

**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	)	Subcase Nos. 65-11412 and 65-11412A
	)	
Case No. 39576	)	NOTICE OF SERVICE OF UNITED
	)	STATES' SECOND SET OF
	)	INTERROGATORIES, REQUESTS
	)	FOR PRODUCTION, AND REQUESTS
	)	FOR ADMISSION TO THE EMMETT
	)	IRRIGATION DISTRICT
_____	)	

COMES NOW the United States by and through its counsel of record, David W. Gehlert, and pursuant to Idaho Rules of Civil Procedure 33(a)(5), 34(d) and 36(c)(2) hereby gives notice that on the 9th day of January 2003, the United States' Second Set of Interrogatories, Requests for Production, and Requests for Admission to the Emmett Irrigation District were served upon Scott L. Campbell, Attorney for the Emmett Irrigation District.

Dated this 10th day of January 2003.



David W. Gehlert
Attorney for the United States

Certificate of Service

I certify that on this 10th day of January 2003, I caused to be served a true and correct copy of the foregoing **NOTICE OF SERVICE OF THE UNITED STATES' SECOND SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSION TO EMMETT IRRIGATION DISTRICT** by placing a copy thereof in the United States mail, postage pre-paid, and addressed as follows:

via Federal Express mail:

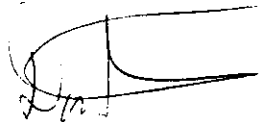
CLERK OF THE SRBA COURT (Original)
SRBA Courthouse
District Court
253 Third Ave. North
Twin Falls, Idaho 83301

via First-Class Mail:

United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street
MSC Box 033
Boise, ID 83724

IDWR
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Scott L. Campbell
Moffatt, Thomas, Barrett, Rock
& Fields, Chartered
P.O. Box 829
Boise, ID 83701-0829



RECEIVED

JAN 14 2003

Department of Water Resources

THOMAS L. SANSONETTI
Assistant Attorney General
Environmental and Natural Resources Division

DAVID W. GEHLERT
Trial Attorney, General Litigation Section
Environmental and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945, North Tower
Denver, CO 80202
(303) 312-7352

Attorneys for the United States of America

**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	)	Subcase Nos. 65-11412 and 65-11412A
	)	
Case No. 39576	)	
_____	)	

**UNITED STATES' SECOND SET OF INTERROGATORIES,
REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSION
TO THE EMMETT IRRIGATION DISTRICT**

This document contains the second set of interrogatories, requests for admission, and requests for production being submitted by the United States on behalf of the Department of Interior, Bureau of Reclamation, to the Emmett Irrigation District. These interrogatories, requests for admission and production are made pursuant to and are governed by the orders of the SRBA District Court and by Rules 26, 33, 34, and 36 of the Idaho Rules of Civil Procedure.

GENERAL INSTRUCTIONS

1. The United States requests that the Emmett Irrigation District, hereinafter "EID" answer the following interrogatories and requests for admission separately and fully, in writing, under oath, and in accordance with Rules 26, 33, and 36 of the Idaho Rules of Civil Procedure, and produce the documents requested, either by providing the United States with photocopies or by producing the responsive documents for inspection and copying, in accordance with Rules 26 and 34 of the Idaho Rules of Civil Procedure, at a time and location to be agreed upon by counsel for EID and the United States.

2. When answering these interrogatories, requests for admission, and requests for production, please type the interrogatory or request as well as your response or objection in accordance with all provisions of Rules 33, 34, and 36 of the Idaho Rules of Civil Procedure. Please serve the original type-written responses to these interrogatories, requests for admission, and requests for production with a copy of the notice of service on the United States Department of Justice, Environment and Natural Resources Division, 550 West Fort Street MSC 033, Boise, ID 83724.

3. These interrogatories, requests for admission, and requests for production are deemed continuing in nature, and your responses are to be supplemented as additional information and knowledge becomes available or known to you as provided in Rule 26(e) of the Idaho Rules of Civil Procedure.

4. In answering these interrogatories, requests for admission, and requests for production, furnish all information which is known or available to you, however obtained,

including, but not limited to, information known of your personal knowledge, hearsay, information obtainable by the diligent search of sources of information available to you, and all information in the possession of or available to any person or persons acting on your behalf or under your control or under the control of any of your attorneys, agents, employees, experts, subcontractors, independent contractors, insurers, investigators, representatives, or others with whom you have a relationship and from whom you are capable of deriving information, documents, or material.

5. If you withhold any information, in whole or in part, which is called for in an interrogatory, request for admission, or request for production on the ground that it is subject to attorney-client privilege, or other privilege, please provide the following information:

- (a) Principals. The name and title of the authors(s), sender(s), address(es), and recipient(s). Identify each person or entity having knowledge of the basis for each claim of privilege or other objection.
- (b) Date. The date the document was originated.
- (c) Publications. The date and title of each person to whom the contents of the document has been communicated (by copy, exhibition, reading, summarization, or otherwise).
- (d) Descriptions. A description of the nature and subject matter of the document.
- (e) Privilege. A statement of the privilege and the grounds upon which it is asserted, notwithstanding a claim that a document is privileged, any document so withheld must be produced with the portion claimed to be protected excised.

6. If you object to or otherwise decline to answer any portion of an interrogatory, request for admission, or request for production for reasons other than privilege, please state that a complete response is not provided, state the reason for the incomplete response, and provide all

information requested which is not subject to the objection or refusal to answer. If you object to an interrogatory on the ground that to provide an answer would constitute an undue burden, provide all requested information that can be supplied without undertaking an undue burden.

7. If you are unable to produce any document requested, state the reason you are unable to produce the document and identify the document with as much accuracy as possible.

INSTRUCTIONS FOR INTERROGATORIES

1. Responses to the interrogatories, and objections if any, must be served upon the United States within fifteen (15) days of service hereof. The response shall first set forth each interrogatory asked, followed by the answer or objection of the party given under oath.

2. Where exact statistical or numerical information, including dates, or times, cannot be furnished, estimated or approximate information is to be supplied, state in detail the reason(s) why exact statistical or numerical information cannot be furnished. Where an estimation or approximation is supplied, it should be so indicated, and an explanation provided as to the basis upon which the estimate or approximate information was derived.

3. When asked to "identify" a person, please state the following with respect to each such person:

1. Name;
2. Address and telephone number where that person can be reached during normal business hours;
3. Identity of employer;
4. Job title;

5. Relationship to the claimant, if any.

INSTRUCTIONS FOR REQUESTS FOR ADMISSION

1. The answer to a request for admission shall specifically admit or deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify your answer or deny only a part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder. If you claim to be without knowledge or information sufficient to form a belief as to the truth or falsity of the information sought by a request for admission, state the grounds for such an assertion with particularity. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made a reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny.

2. You will be deemed to have admitted the truth of the matters set forth in these Requests for Admission unless, within fifteen (15) days of the service of the request, you serve an answer or objection addressed to the matters set forth, signed under oath by you or your attorney. Your response shall set forth each request for admission, followed by the admission, denial, or objection.

3. If an objection is made to a requested admission, the reasons therefor shall be stated with particularity. You may not object to a request for admission solely on the ground that the matter of which an admission has been requested presents a genuine issue of fact for trial. You may not object to a request for admission on the ground that an answer requires an opinion

of fact or the application of law to fact.

INSTRUCTIONS FOR REQUESTS FOR PRODUCTION

1. Please provide, within fifteen (15) days from the date of service of this request, clear and legible photocopies of the requested documents by mailing them to the undersigned together with your responses to interrogatories and requests for admission. Alternatively, you may produce the documents and things for inspection and copying at a time and place which is mutually convenient for all counsel. Please contact the undersigned to discuss the time and place of such production. Inspection and copying will be conducted by the undersigned attorneys or their agents and will continue from time to time and from day to day until completed.
2. You are requested to provide a response within fifteen (15) days of service of this request stating whether you will produce the requested documents at the specified place and time and reasons for any objections. If you refuse to produce any document, you must identify it as specified in these instructions and state the legal grounds for non-production. If any document requested cannot be located, describe in detail:
 - (a) the type of document;
 - (b) the types of information contained therein;
 - (c) the effort made to locate the document;
 - (d) the person (name, affiliation, title, business address and telephone number) who made such an effort;
 - (e) the source and custodian of documentation consulted and searched;
 - (f) the identity of all persons having knowledge of the contents thereof;
 - (g) whether any government agencies would have retained a copy of any of the

document;

- (h) whether the document was destroyed, and if so, at whose direction, when, and the reasons for its destruction; and
- (i) whether the document was lost, and if so, at what approximate date, by whom, and under what circumstances.

DEFINITIONS

In answering these interrogatories, requests for admission, and requests for production, all terms retain their normal meaning. Terms used in these interrogatories when used in the singular shall be construed to include the plural, and vice versa. Words used with reference to a person of the male gender shall also be construed to refer to a person of the female gender, and vice versa. The following terms, in addition to their commonly understood definitions, shall have the following meanings:

1. The words "Objector(s)", "you", or "your clients" refer to the Emmett Irrigation District, and your present and former attorneys, officers, directors, employees, agents, representatives, subcontractors, consultants, investigators and any other persons who were and/or are presently authorized to act or purporting to act in your behalf.
2. The word "agent" when used without qualifying adjective, means all persons or entities presently or formerly associated with you, including employees, officers, directors, consultants, insurance company agents, contractors, subcontractors, representatives, investigators, shareholders, attorneys, trustees, and any other person authorized to act in your behalf.

3. The "United States" and "Government" include all agencies, subdivisions, or agents authorized to act in its behalf.
4. The "Bureau of Reclamation," "BOR," and "Reclamation" mean the federal agency responsible for the management of the Black Canyon Dam and Reservoir.
5. The term "person" as used herein, includes any natural person, corporation, partnership, or other business association or entity recognized by law, and the employees or independent contractors thereof, and any domestic or foreign government body, commission, board, agency, branch, department, component or element thereof.
6. The term "Snake River Basin Adjudication", "Adjudication", or "SRBA" refers to In Re SRBA No. 39576, (5th Judicial District, Twin Falls County, Idaho).
7. "Objection(s)" refers to the pleading(s) filed by or for you in SRBA subcase no. 65-11412.
8. The term "document" includes all items identified in Idaho Rules of Civil Procedure 34(a)(1), and also used in this First Set of Interrogatories, Requests for Production, and Requests for Admission in its broad and literal sense and at a minimum means any written, drawn, typed, printed, recorded, photostated, computer generated, microfiched, microfilmed or graphic matters, whether produced, reproduced, or stored on paper, cards, disc, tape, film, electronic facsimile, computer storage or any other media, whether an original, master or duplicate and all other papers, writings, drawings, recordings, or physical things

containing information, including all original and amended versions of the documents, preliminary and subsequent drafts or marginal notes appearing on any documents, however denominated or described by the parties to whom the particular interrogatories and/or requests for admission and requests for production are directed. "Document" shall further collectively include the original, duplicate original, and any or all copies or reproductions of the original document, to the extent that any or all copies are different in any way from the original document, which are in your possession, custody or control.

9. "Describe in detail" or "state in detail" as used herein, means the following:
Describe fully by reference to the underlying facts rather than ultimate facts or conclusions of law or facts, and particularize as to:
- (a) the identity of each person involved in each such event, including, but not limited to persons employed by plaintiff and those persons purporting to act for plaintiff;
 - (b) the specific acts of each person participating in each such event;
 - (c) the date and time of each such event;
 - (d) the address and location of such an event; and
 - (e) the identity of each person present during each such event.

10. "Identify" or "identity" shall have the following meanings:
- (a) When used in reference to an organization, the response shall state the full name and present or last known address of the corporation, partnership, firm or other entity.
 - (b) When used in reference to an individual, the response shall state his or her full name, present or last known address, present or last known business

affiliation and job description, any past or present affiliation with plaintiff or defendant, and the manner in which he or she relates to any of the issues or facts in this litigation, and the source and extent of his or her knowledge about any of these facts or issues. If you do not know the present address or present employer of any such person, please so indicate.

- (c) When used in reference to a document, the response shall state the type of document (e.g., memorandum, letter, note, contract), its date, author(s), addressee(s) (if any), synopsis of content, and present location. In lieu of providing this information, plaintiff may attach a copy of the document to its answers.
- (d) When used in reference to a source of information, the response shall identify each individual providing information. The response shall also state whether the information has been reduced to writing or other tangible form. If so, this writing or other record shall be identified in the manner described in subparagraph (10) above.

11. Documents to be identified or facts to be stated are described as those which "relate to" any entity, a person, an action, a document or event. For purposes of responding to these interrogatories, the term "relate to" shall mean to name, to refer to either directly or indirectly, to comment upon, analyze, review, report on, form the basis of, be considered in the preparation of, result from, be in any way connected with, emanate from, or have any logical relation to the entity, person, document, event, or action.

**INTERROGATORIES, REQUESTS FOR PRODUCTION, AND
REQUESTS FOR ADMISSION TO EMMETT IRRIGATION DISTRICT**

Interrogatory No. 18:

Identify each person who provided information for, or participated in, the preparation of the responses to these interrogatories, requests for production, and/or requests for admission, and

response to Interrogatory No. 19.

Request for Admission No. 12:

Please admit that Emmett Irrigation District was a party to the Payette Adjudication.

Answer:

Interrogatory No. 20:

If your response to Request for Admission No. 12 is anything but an unqualified admission, please provide a complete explanation of your response including, but not limited to identifying any facts which might support your response.

Answer:

Request for Production No. 7:

Please provide copies of, or make available for review, all claims filed by or on behalf of the Emmett Irrigation District in the Payette Adjudication.

Request for Production No. 8:

Please provide copies of, or make available for review, any objections or other form of opposition filed by or on behalf of the Emmett Irrigation against claims filed by the United States in the Payette Adjudication.

Interrogatory No. 21:

Please identify all water rights that are currently owned or held by Emmett Irrigation District, whether in the form of a license, permit, transfer, decree, or any other document issued by a court or other governmental entity which recognizes or evidences Emmett's ownership or holding of a water right.

Answer:

Request for Production No. 9:

Please provide copies or make available for review or provide copies of every document identified in Interrogatory No. 21.

Interrogatory No. 22:

Please provide the name, address, and phone number of every person who has served on the Board of Directors of the Emmett Irrigation District since 1980. Also indicate the month and year that each person began service on the board, the month and year that each person ended service on the board, list any board offices that each person held while serving, and the month and year when that service started and ended.

Request for Production No. 10:

Please make available for review or provide copies of the minutes for all Emmett Irrigation District meetings during the period January 1917 through December 1922.

Request for Production No. 11:

Please make available for review or provide copies of all correspondence between Emmett Irrigation District and the U.S. Bureau of Reclamation or its predecessor the U.S. Reclamation Service for the periods January 1912 through December 1925, January 1953 through December 1955, January 1980 through December 1985, and January 1988 through December 1990.

Request for Admission No. 13:

Please admit that the United States owns, operates and maintains the hydro-pumps (also referred to as direct-connected pumps).

Answer:

Interrogatory No. 23:

If your response to Request for Admission No. 13 is anything but an unqualified admission, please provide a complete explanation of your response including, but not limited to identifying any facts which might support your response.

Answer:

Request for Production No. 12:

Please provide copies of, or make available for review, all documents supporting your response to Interrogatory No. 19.

Request for Admission No. 13:

Please admit that the hydro-pumps (also referred to as direct-connected pumps) are located within the power plant (also referred to as the powerhouse) at Black Canyon Dam.

Answer:

Interrogatory No. 23:

If your response to Request for Admission No. 14 is anything but an unqualified admission, please provide a complete explanation of your response including, but not limited to identifying any facts which might support your response.

Answer:

Request for Production No. 14:

Please produce, or make available for review, any documents in your possession or under your control relating to the operation of Black Canyon Dam and/or the hydro-pumps (also referred to as direct-connected pumps).

Request for Production No. 15:

Please produce, or make available for review all correspondence between the

Emmett Irrigation District and either the Idaho Department of Water Resources or the United States (specifically the Bureau of Reclamation, the Department of Justice and Department of Interior's Office of the Solicitor) regarding the Payette Adjudication which is at all related to the filing of claims, or the prospect of filing claims, for the use of water at Black Canyon Dam, including but not limited to the use of water at the hydro-pumps.

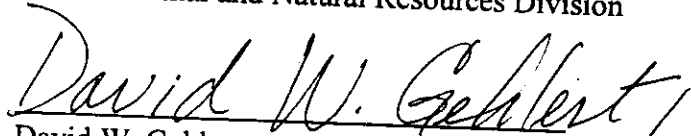
Request for Production No. 16:

Please produce, or make available for review, any documents you intend to rely on or may rely on in trial of this matter.

DATED this 9 day of January, 2003.

Respectfully submitted,

THOMAS L. SANSONETTI
Assistant Attorney General
Environmental and Natural Resources Division


David W. Gehlert

Attorney, General Litigation Section
Environmental and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945, North Tower
Denver, Colorado 80202
(303) 312-7352

Attorneys for the United States of America