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Department of Water Resources

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Attorneys for Margaret Hagenbarth, David J. Hagenbarth and James F. Hagenbarth

**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. 39576

Subcase Nos. 31-10245 and 31-10740

**HAGENBARTH'S FIRST DISCOVERY REQUESTS TO
UNITED STATES OF AMERICA**

YOU WILL PLEASE TAKE NOTICE that Margaret, David and James Hagenbarth ("Hagenbarth") request that objector United States of America, acting through the Agricultural Research Service ("U.S.") answer, under oath, the following Interrogatories and serve a written response to the following Requests for Production of Documents within fifteen days from the date of service hereof pursuant to Idaho Rules of Civil Procedure 26, 33, 34, and 36.

PRELIMINARY STATEMENT

1. In answering these Interrogatories and Requests for Production, furnish all information available to you, including information in the possession of your attorneys (and investigators, employees, experts, etc., retained by you and your attorneys), not merely information known of your own personal knowledge.
2. If you cannot answer the following Interrogatories in full after exercising due diligence to secure the information to do so, answer to the extent possible, specify your inability to answer

the remainder, and state whatever information and knowledge you have concerning the unanswered portion.

3. Your answers to the following Interrogatories are to be supplemented as additional information and knowledge becomes available to you pursuant to the Idaho Rules of Civil Procedure.

4. This Request applies to all Documents in your possession or under your control, including Documents in the possession of your attorneys, accountants, expert witnesses or other agents or persons from whom you have a legal right to obtain such Document.

5. All responsive Documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories of this request.

6. If, after responding to this request you acquire any Documents requested herein, or any information related to any Document herein, which is not reflected by any Documents produced or any response to these requests, you must file a supplemental response.

7. If any information requested herein is or will be withheld from disclosure, production, inspection or copying (whether because it is claimed to be work product, communication from attorney to client, or is entitled to be withheld for any other reason) you shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that will enable Hagenbarth to assess the applicability of the privilege or protection. In addition, if any document is practically impossible of production, inspection, or copying, please fully identify such document and the reason for the practical impossibility.

8. Hagenbarth requests that you serve answers to these Interrogatories within fifteen (15) days of the date of service hereof. Hagenbarth further requests that you serve responses to these Requests for Production and produce each of the documents requested, or in the alternative provide copies of the documents requested, at the office of Givens Pursley LLP, 277 N. 6th Street, Boise, Idaho 83702 within fifteen (15) days of the date of service hereof.

DEFINITIONS

1. As used herein, the term “you” and “your” means U.S., all officers and directors, affiliated or associated organizations, departments, agencies, subdivisions, employees, independent contractors, owner operators, attorneys, investigators, brokers, agents, members or any other representatives.

2. “Document” means and includes any and all tangible things and papers, whether written, recorded, graphic, typewritten, printed, photographed or otherwise produced or reproduced, and whether produced manually or by mechanical, electrical, electronic, other artificial process or a combination of these methods, including but not limited to papers, computer records and/or files, agreements, contracts, letters, cables, wires, notes, memoranda, correspondence, telegrams, patents, books, reports, studies, minutes, records, accounting books, maps, plans, blueprints, sketches, charts, drawings, diagrams, photographs, movies, films, videotapes, computer printouts, tape recordings, information stored on computers, assignments, notebooks, ledgers, bills, statements, invoices, checks, receipts, analyses, surveys, transcriptions, and recordings, of which you have any knowledge or information, referring, relating or pertaining in any way to the subject matters in connection with which the word is used. The term “Document” includes, without limitation, originals, all file copies, and all of the copies no

matter how or by whom prepared and all drafts prepared in connection with such writings, whether used or not.

3. "Identify" when used with respect to a person means to provide such person's full name, occupation, mailing and physical address, and telephone number.

4. "*Suave v. Abbott* decree" means the decree in the case *Suave v. Abbott*, No. 635. In Equity, in the District Court of the United States for the District of Idaho, Eastern Division dated November 1, 1930.

5. The "Hagenbarth Rights" means the claims to water right numbers 31-10245 and, 31-10740 made by the Hagenbarths in the Snake River Basin Adjudication.

INTERROGATORIES AND REQUESTS FOR PRODUCTION

INTERROGATORY 1: The Objection you filed in subcases 31-10245 states that you object to the recommended priority date of 9/24/1912. Please identify all facts and documents that support your objection to the recommended priority date and indicate the priority date you believe the court should decree for this right.

INTERROGATORY 2: With regard to the Hagenbarths' claim to water right 31-10245, please identify 1) all water rights you hold, if any, that you believe would be injured if water rights 31-10245 were decreed as recommended, 2) the manner in which you believe each water right would be injured, and 3) all facts and documents that support your contentions of injury.

INTERROGATORY 3: With regard to the Hagenbarths' claim to water right 31-10740, please identify 1) all water rights you hold, if any, that you believe would be injured if

water rights 31-10740 were decreed as claimed, 2) the manner in which you believe each water right would be injured, and 3) all facts and documents that support your contentions of injury. .

INTERROGATORY 4: Do you contend that Hagenbarth or its predecessors have not historically irrigated the lands identified in the Idaho Department of Water Resources' recommendations of the Hagenbarth Rights in the SRBA? If your answer is yes, please identify which of the recommended lands you contend have not been irrigated, the years in which you contend the land have not been irrigated and all facts and documents that support your contention that these lands have not been irrigated.

INTERROGATORY 5: Do you contend that Hagenbarth does not own water rights 31-10245 or 31-10740. If your answer is yes, please identify all facts and documents that support your contention that Hagenbarth does not own these rights.

INTERROGATORY 6: Please identify each person whom you expect to call as an expert witness at the hearing on this matter, and for each person, identify:

- a. The qualifications upon which you intend to rely to establish said person as an expert witness;
- b. The substance of the facts and opinions to which he or she is expected to testify; and
- c. Set forth specifically and in detail the underlying facts and data upon which expert's opinion and testimony is based.

INTERROGATORY 7: Please identify each person you intend to call as a non-expert witness at any hearing in these subcases and provide a summary of each person's testimony.

INTERROGATORY 8: Please describe each documentary, written or tangible item of evidence you expect to introduce or use, or may use at the hearing in these subcases. Please provide sufficient detail (e.g., date, author, subject matter, etc.) so each such item may be identified and distinguished from other items of documentary, written or tangible evidence produced or used in this case.

INTERROGATORY 9: Please describe all statements, representations, communications and/or admissions relevant to the subcases at issue you attribute to Hagenbarth in full, complete and material detail and state, for each such statement, representation, communication or admission:

- a. The substance thereof;
- b. The identity of the person making the statement or admission;
- c. The date and/or place where said admission was made; and
- d. The identity of each person who heard, saw or observed each such statement or admission.

REQUESTS FOR PRODUCTION

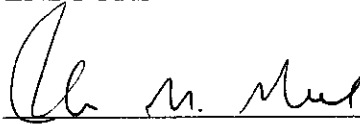
REQUEST FOR PRODUCTION 1: Please produce all documents identified in your responses to Interrogatory 1 to 9.

REQUEST FOR PRODUCTION 2: All documents and/or items of tangible evidence seen, reviewed, maintained or generated by any expert witness who will testify on behalf of the U.S. at any hearing in these subcases, including, but not limited to all documents which reflect, document or otherwise describe facts known and/or opinions held by any such expert witness.

REQUEST FOR PRODUCTION 3: A curriculum vitae or resume for each person you intend to call as an expert witness in these subcases.

Respectfully submitted this 6th day of January 2003.

GIVENS PURSLEY LLP

By: 
John M. Marshall

Certificate of Service

I hereby certify that on this 6th day of January 2003, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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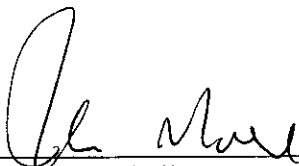
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