

Brett and Nancy Casperson
8893 E. Maughan Road
Lava Hot Springs, Idaho 83246
208-776-5428

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OCT 03 2005
DEPARTMENT OF
WATER RESOURCES

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 No. 29-13406
	)	
	)	Claimants Response to First Interrogatories and
RE: Case No. 39576	)	Request for Production of Documents

COME NOW Brett and Nancy Casperson (Claimants) hereby submit our responses to the
"First Interrogatories and Request for Production of Documents" by the Respondents.

These continuing interrogatories will be supplemented as information is acquired or developed.

INTERROGATORIES

INTERROGATORY NO. 1: Please set forth the name, address and phone number of each person who is providing the information to answer each respective interrogatory.

RESPONSE: Brett and Nancy Casperson, 8893 E. Maughan Road
Lava Hot Springs, Idaho 83246 Phone 208-776-5428

INTERROGATORY NO. 2: Please provide the following personal information for each claimant and/or owner of Water Right No. 29-13406:

- a. full name;
- b. current address and addresses for the preceding five years;
- c. phone number;
- d. social security number;
- e. name, address, dates of attendance, nature of study or training and degree, diploma or certificate earned for each educational or training institution attended.

RESPONSE:

- a. Brett Harris Casperson and Nancy Elizabeth Casperson 8893 E. Maughan RD, Lava Hot Springs, ID 83246 (since 1984)
- b. (208) 776-5428
- c. Personal
- d. Both Graduates of Marsh Valley High School, Dist. 21, 12655 S. Old Hwy 91, Arimo, ID 83234 Brett grad. 1978, Nancy grad. 1983

INTERROGATORY NO. 3: State the name, address and telephone number of each and every person who has any knowledge of facts relating to the priority date, point of diversion, place of use and nature of use of Water Right No. 29-13406 from 1932 to date.

RESPONSE:

- a. Brett & Nancy Casperson, 8893 E Maughan Rd, Lava Hot Springs, ID 83246 208-776-5428
- b. Vance Casperson, St. George, UT 84790 Phone 435-628-3745
- c. J. Lowell Maughan ,3665 Marigold Way, St George, UT 84790
- d. June Benson, 357 South 100 East, Nephi, UT. 84648 Phone 435-623-1154
- d. Neil Hill, Maughan Rd, Lava Hot Springs, ID 83246 Phone 208 776-5309
- e. Gene Fagnant, PO Box 293, Lava Hot Springs, ID 83246 208-776-5289

Others will be added as proper approval and data is secured.

INTERROGATORY NO. 4: Please state the name and address of each person you intend to call as a witness at the trial of this matter and the substance of each person's expected testimony.

RESPONSE:

- a. Brett and Nancy Casperson Personal usage, application and knowledge of water right #29-13406 on land area in question.
- b. Vance Casperson, Personal usage, application and knowledge of water right and land area in question. Previous owner.
- c. J. Lowell Maughan Personal usage, application and knowledge of water right in question. Previous owner of the Casperson property between the years of 1947 and 1958. He was born 1921 and raised on the Casperson property.
- d. June Benson, Personal knowledge of water right and land area in question. Mr. Benson was raised and farmed many years on an adjacent farm, he was born back in 1918. He also served a President of the ditch company in that area.
- e. Neil Hill Personal knowledge and usage of the water right. Mr. Hill worked for the Maughans for several years doing tractor and farm work. Lives on adjacent farm.
- f. Gene Fagnant Personal knowledge of water right in question.

Others will be added as proper approval and data is secured.

INTERROGATORY NO. 5: Identify by name and address each and every person you intend to call as an expert at the trial of this matter and for each such person the following:

- a. The scientific, technical or other specialized knowledge possessed by such person.
- b. The knowledge, skill, experience, training and education which qualifies such person as an expert.
- c. All facts and data upon which the expert bases his opinion.
- d. All opinions and inferences to which the expert may testify and the reasons therefor.

RESPONSE: PENDING

INTERROGATORY NO. 6: Please describe in full and complete detail and provide a copy of any and all photographs, drawings, illustrations, memorandum, letters, contracts, warranty deeds, title reports, abstracts or other documents which you or your attorneys or witnesses are aware of which pertain to the priority date claimed and the historic diversion and use of water under Water Right No. 29-13406. In answering this interrogatory, describe the nature and subject matter of the item, its date, if applicable, the name, address, job title and capacity of the person preparing it, or with knowledge of it, and for each such item, whether or not you intend to utilize it at trial as an exhibit.

RESPONSE: PENDING

INTERROGATORY NO. 7: With respect to your claim of a 1932 priority date under Water Right No. 29-13406, please explain precisely and in detail:

- (a) why the initial claim you filed with IDWR asserted a priority date of April 1, 1962;
- (b) why your Amended Claim asserted a claim of August 7, 1932;
- (c) what evidence you have to support the claimed 1932 priority date;
- (d) for the year 1932 and each year thereafter, what evidence you have concerning the types of crops raised and the number of acres irrigated;
- (e) the method of irrigation and quantity of water used.

RESPONSE:

Priority date was wrongly set by IWDR, an assumption made from use of aerial photographic maps. The 1932 date was asserted because that is the date generally accepted by IWDR. We believe our witnesses and documents can prove even earlier dates than the 1932 priority date.

- a. The 1932 date was asserted because that is the date generally accepted by IWDR. We believe our witnesses and documents can prove even earlier dates than the 1932 priority date.
- b. Personal testimony from former land owners/operators. Personal detailed Diary from former landowner/operator.
- d. Personal testimony from witnesses who have operated or lived on or adjacent to property in question.
- e. Flood Irrigation and later sprinkler system.

INTERROGATORY NO. 8: Separately identify each field which you claim has been watered under Water Right No. 29-13406, stating each field's name, its acreage and its location.

RESPONSE: PENDING

INTERROGATORY NO. 9: Describe how each of the fields identified in your previous answer were prepared for planting for each of the year 1932 through 1942, including but not limited to:

- (a) a description of the plowing, cultivation or the agricultural practice or process;
- (b) a description of the equipment used to perform any agricultural practice or process;
- (c) the name, amount used and rate of application of any fertilizer, herbicide,

pesticide or other chemical applied;

(d) the quantity of water used for irrigation;

(e) the name and address of each person or entity performing each agricultural practice or process or applying any water.

RESPONSE: PENDING

INTERROGATORY NO. 10: Please describe when you acquired the real property which is the place of use under Water Right No. 29-13406 and the name and address and phone number of all previous owners from 1932 to date.

RESPONSE: PENDING

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents which pertain to and/or which you base your answer to the above interrogatories.

RESPONSE: PENDING

REQUEST FOR PRODUCTION NO. 2: Please produce as ASCS map or other maps or diagrams of each field identified in your Answer to Interrogatory No. 8.

RESPONSE: PENDING

REQUEST FOR PRODUCTION NO. 3: Produce all contracts and warranty deeds which evidence your purchase and ownership of the real property which is the place of use under Water Right No. 29-13406.

RESPONSE: PENDING

REQUEST FOR PRODUCTION NO. 4: Produce all Title Reports and Abstracts pertaining to the real property which is the place of use under Water Right No. 29-13406.

RESPONSE: PENDING

REQUEST FOR PRODUCTION NO. 5: Produce a copy of all documents which you intend to present as exhibits at the time of trial.

RESPONSE: PENDING

REQUEST FOR PRODUCTION NO. 6: Produce copies of all documents which evidence your claimed priority date of 1932 and the diversion and application to beneficial use for irrigation purposes of water under Water Right No. 29-13406 for each year from 1932 to date.

RESPONSE: PENDING

DATED this 29th day of September, 2005

By Brett Casperson
Brett and Nancy Casperson

Nancy Casperson

CERTIFICATE OF SERVICE

I **HEREBY** CERTIFY that on this 29th day of September, 2005, I mailed a true and Complete copy of the foregoing documents, postage prepaid, to each of the following:

Original to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twirl Falls, Idaho 83303-2707

Copies to:

Portneuf Irrigating Company
Randolph C. Stone
P.O. Box 910
Burley, Idaho 83318

Director of IDWR
P.O.Box 83720
Boise., Idaho 83720-0098

Marsh Valley Development Inc.
Randall C. Budge
PO Box 1391
201 E. Center, Ste A2
Pocatello, ID 83204-1391