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DEPARTMENT OF  
WATER RESOURCES

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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. 82-10354                     |
|                | ) |                                          |
|                | ) | STATE OF IDAHO'S FIRST SET OF DISCOVERY  |
|                | ) | REQUESTS TO UNITED STATES FOREST SERVICE |
| Case No. 39576 | ) |                                          |
|                | ) |                                          |
|                | ) |                                          |
|                | ) |                                          |

**INTRODUCTION**

This document contains the interrogatories, requests for admissions, and requests for production being submitted to the United States of America on behalf of the U.S.D.A. Forest Service. These interrogatories, requests for admissions, and requests for production are made pursuant to and are governed by Rules 26, 33, 34, and 36 of the Idaho Rules of Civil Procedure.

### **GENERAL INSTRUCTIONS**

1. Unless otherwise indicated, these interrogatories, requests for admissions, and requests for production refer to subcase no. 82-10354.

2. 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.

3. Any reference herein to an individual, partnership, corporation, or other entity, shall include the present and past agents, employees, representatives, and assigns of that individual or entity.

4. If you withhold any information, in whole or in part, which is called for in an interrogatory or request for production on the ground that it is subject to attorney-client privilege or other privilege, identify each person or entity having knowledge of the basis for each claim of privilege or other objection.

5. If, for reasons other than alleged privilege, you do not provide a complete response to any interrogatory or request for production, state with respect to such interrogatory or request for production that a complete response is not provided and state the reason for the incomplete response.

6. Serve the original written answers to these interrogatories, requests for admission, and responses to requests with a copy of the notice of serving on David J. Barber, Deputy Attorney General, Statehouse, Room 210, 700 W. Jefferson St., Boise, ID 83720.

### **INSTRUCTIONS FOR INTERROGATORIES**

1. Provide answers to these interrogatories within fifteen (15) days of service by fully setting forth each interrogatory followed by an answer or objection to each interrogatory under oath in accordance with I.R.C.P. 33.

### **INSTRUCTIONS FOR REQUESTS FOR ADMISSION**

1. Provide answers to these requests for admission within fifteen (15) days of service by fully setting forth each request for admission followed by an answer or objection to each request for admission under oath in accordance with I.R.C.P. 36.

### **INSTRUCTIONS FOR REQUESTS FOR PRODUCTION**

1. Please produce the documents and things for inspection and copying on the 7th day of February, 2006, at 9:00 a.m., at the Office of the Attorney General, in Room 210 of the Idaho Statehouse, 700 W. Jefferson Street, Boise, Idaho, or such other time and place as may be mutually agreed by the parties. 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. If you will make the original copies of the requested documents available at a subsequent time requested by the State of Idaho, upon reasonable notice, then the requests for production of documents may be satisfied by mailing a true, correct, and legible copy of each and every requested document to David J. Barber, Deputy Attorney General, P.O. Box 44449, Boise, Idaho 83711-4449 within the prescribed time.

3. Each document requested to be produced shall be provided in a manner which preserves its sequential relationship with other documents being produced and shall include the file folder and folder tabs associated with its file location. If the file location is not apparent on the folder and tabs, the document shall be accompanied by information indicating from where the file

was taken and such additional information as is necessary to enable the State of Idaho to determine the document's original pre-production location.

4. You are requested to provide a response within fifteen (15) days of service in accordance with I.R.C.P. 34.

**Definitions:**

In answering these interrogatories and requests for production, all terms used retain their normal meaning. The following terms, in addition to their commonly understood definitions, shall have the following meanings:

- A. The term **“U.S.D.A. Forest Service”** refers to the UNITED STATES OF AMERICA on behalf of the U.S.D.A. Forest Service, the claimant of subcase no. 82-10354.
- B. The term **“data,”** as used in this document, refers to measurements, estimates, and observations made for the purposes of establishing and quantifying the **U.S.D.A. Forest Service’s** claim to a federal reserved water right in subcase no. 82-10354. The term **“data”** includes all files prepared in conjunction with the claims.
- C. The term **“document”** shall be defined in the broadest possible manner and shall, at a minimum, mean any original or copy of words or information, whether produced in original or copy form by printing, typing, recording, retrieval from electronic storage, manual reproduction, or other process regardless of the form. The term **“document”** includes, but is not limited to, writings, agreements, communication, correspondence, electronic mail messages, reports, telegrams, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, diaries, records, maps, charts, plans, drawings, sketches, photographs, graphs, notes, summaries or records of meetings, conferences or congressional hearings, summaries or reports of investigations or

negotiations, opinions or reports of consultants, drafts of any document, phono-records, printouts from electronic storage or other data compilations from which information can be obtained or translated, if necessary, by the respondent through detection devices into reasonably usable form, marginal comments appearing on any document and all other writing.

D. The term “**identify**” means:

- (1) as to documents, give the date of each such document, the addresser’s name, position, and address, the addressee’s name, position and address, any file, index or other identification number, title and general character of the document, and specify the name, address and position of the person or persons having custody and control thereof. Alternatively, the document may be appended to your answer.
- (2) as to a person, or entity, give the full name, business address and telephone number, home address and telephone number, the person’s current employment, position and duties, the person’s relationship to the United States and the person’s educational background.
- (3) as to conversations, including telephone communications, or meetings, give:
  - a. the date, place and time such communication occurred;
  - b. the identity of each and every person between whom the communication was transmitted, who was present or who participated in the conversation, and any other person(s) who have knowledge of such communication;
  - c. the place at which such communication occurred, or in the case of telephone conversations, the location of each party; and

- d. a detailed statement of the substance of what was discussed or what actions were taken.
- (4) as to administrative, judicial, or congressional proceedings, give:
  - a. the caption of the proceeding;
  - b. the administrative or judicial tribunal or the name of congressional committee or subcommittee, including the business address and phone number; and
  - c. the date(s) a witness provided testimony.
- E. The terms “**entitled**” or “**entitlement**” refer to the facts relating to the existence of the claimed federal reserved water right, as opposed to quantification of the claimed right. Responses to requests relating to “entitlement” should: (1) describe the specific purposes for which water is alleged to be reserved; (2) describe the factual basis for determining that those purposes are the primary purposes of the treaty, act, or executive order alleged to create the claimed right, as opposed to secondary purposes; and (3) describe the factual basis for concluding that without the claimed water right those purposes would be entirely defeated. *See United States v. New Mexico*, 438 U.S. 696 (1978).
- F. The terms “**quantify**” or “**quantification**” refer to the scientific or other methodology used to establish, calculate or estimate the amount of water claimed by the **U.S.D.A. Forest Service**. A request for documents relating to quantification is intended to include initial studies from scientific, historic, economic, and other disciplines establishing the scope and parameters of the claimed rights. It is intended to include all data generated from laboratory and field studies. It is intended to include all documents defining how the data generated from laboratory and field studies was used to establish the quantity of

water claims for each claim.

- G. The term “**relied**,” when used in a request for all documents relied upon in the preparation of an answer or response, refers not only to documents containing information supporting the answer or response, but also all documents reviewed, obtained, or prepared by the United States of America on behalf of the U.S.D.A. Forest Service, or its employees, agents or contractors in the course of preparing its answer or response.

**INTERROGATORIES, REQUESTS FOR ADMISSION, AND  
REQUESTS FOR PRODUCTION**

**Interrogatory No. 1**

Identify the actual uses of water that occur under the claimed purpose of use, administrative, for subcase no. 82-10354.

**Interrogatory No. 2**

Identify the date when uses of water described in your answer to Interrogatory No. 1 first began.

**Interrogatory No. 3**

Explain with specificity the factual basis for the **U.S.D.A. Forest Service’s** claim that it is entitled to a federal reserved water right for administrative purposes in subcase no. 82-10354.

**Request for Production No. 1**

Produce all documents upon which the **U.S.D.A. Forest Service** relies in asserting that it is entitled to a federal reserved water right for the administrative purposes in subcase no. 82-10354.

**Request for Production No. 2**

Produce all reports, data, and other documents upon which the **U.S.D.A. Forest Service** relies in quantifying the amount of water claimed for administrative purposes in subcase no. 82-

10354.

**Interrogatory No. 4**

Identify all persons who assisted in the preparation of the notice of claim in subcase no. 82-10354.

**Interrogatory No. 5**

Please identify each and every person whom you expect to call as a fact witness in the trial of this matter, both as to entitlement issues and as to quantification, and state the substance of the facts upon which the person is expected to testify.

**Interrogatory No. 6**

Please identify each and every person whom you know has knowledge about subcase no. 82-10354.

**Interrogatory No. 7**

Please identify each and every person whom you expect to call as an expert witness in this matter, both as to entitlement and quantification. For each such person identified, please state the subject matter on which the expert is expected to testify, the substance of the opinions to which the expert is expected to testify, and the underlying facts and data upon which the expert opinions are based.

**Request for Production No. 3**

For each person identified in your response to Interrogatory No. 7, please produce: (1) a curriculum vitae or resume, including a list of publications authored by that person, if any, as well as any other information which would demonstrate the person's knowledge or qualifications to state the facts or express the opinions to which the person is expected to testify; and (2) all documents containing or evidencing the underlying facts or data described in your response to Interrogatory No. 7.

**Request for Production No. 4**

Please produce all documents that provide the history of the following: (1) Red River Ranger Station and (2) the use and development of water at the Red River Ranger Station. This request for production is not intended to request any documents that the U.S. Forest Service has produced in response to previous discovery requests.

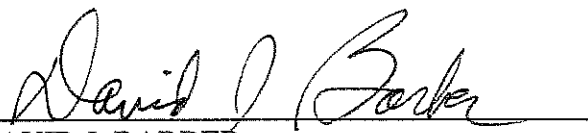
**Interrogatory No. 8**

Identify all persons who assisted in the preparation of the U.S.D.A. Forest Service's responses to these Interrogatories, Requests for Admission and Requests for Production.

DATED this 20<sup>th</sup> day of January 2006.

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

CLIVE J. STRONG  
DEPUTY ATTORNEY GENERAL  
STATE OF IDAHO

  
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DAVID J. BARBER  
Deputy Attorney General