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DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 15 2006	
By _____	Clerk
_____	Deputy Clerk

Attorneys for Objectors/Claimants,
 Ben D. Jernberg and Idaho Properties, LLC

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

In re: 36596

) Subcase No.31-11845
)
)
) **OBJECTION TO STATE'S MOTION**
) **TO SHORTEN TIME, TO COMPEL**
) **DISCOVERY, AND FOR AN**
) **EXPEDITED HEARING**
)

COMES NOW Ling, Robinson, and Walker the attorneys of record for Objector/Claimants, Ben D. Jernberg and Idaho Properties, LLC, (hereinafter "Claimants") and do hereby Object to the State of Idaho's *Motion to Shorten Time, To Compel Discovery*, and for an *Expedited Hearing* for the reason that the Claimants have not had adequate time to prepare a brief in opposition to the State's Motion and that the deadline for responding to the State's discovery requests have not passed pursuant to the Idaho Rule of Civil Procedure.

On August 14, 2006, The State advised counsel for the Claimants that the Special Master was available for the hearing for this Motion on either the 14th or the 15th of August. Neither date provides adequate time for the Claimants to prepare to the State's *Motion, Brief in Support of the Motion*, or the *Affidavit of David J. Barber*.

The Claimants have consulted potential experts in this case and have not yet

OBJECTION TO MOTION TO SHORTEN TIME - 1 -

decided if they will accompany the State's experts to the Claimants' property to observe the soil sample methods as well as the other "scientific investigations incidental thereto". This shortened period of time does not allow the Claimants to give their experts adequate notice to confirm their availability for any dates the State intends on examining the Claimant's property.

The State has claimed a good faith intention for the Motion to Shorten time:

The State of Idaho's discovery was served on August 9, 2006 by e-mail and by U.S. Mail. Responses to this discovery are due on September 9, 2006. If the State of Idaho waited until September 9, 2006, for a response to this Request for Production No. 13, the State of Idaho would have a very limited period of time to conduct the necessary field examination, to prepare the expert reports, and to submit those reports to Claimant Ben Jernberg and Claimant Idaho Properties, LLC. Claimant Ben Jernberg and Claimant Idaho Properties LLC need sufficient time to review the expert reports, to determine whether to take any depositions, and to take any necessary depositions of Idaho's experts by the deadline of October 31, 2006 accordance with the *Order Granting Motion To Vacate Trial Date and Third Amended Trial Schedule*. It is therefore critical that the Court shorten the time for response to Request for Production No. 13 and that the Court hear this matter on an expedited basis.

However, the Court has set its discovery deadline. The Claimants are capable of responding to the deadlines as ordered by the Court. The Claimants were served with discovery requests on August 9, 2006, and are entitled to 30 days to respond to such requests.

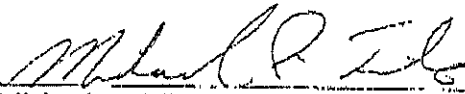
Finally, the State has yet to establish a scientific reason that fifteen to forty six-foot deep pits need to be dug to establish what the volume of Claimants water right should be recommended as. The Claimants do not grow any crops with roots that extend six feet into the ground. The Motion should be denied until the Department can establish why the pits must be so deep, thus requiring a back loader or until the Claimants can provide information as to why the pits are inappropriate in a water right adjudication of. The Claimants are not equipped to argue

the merits of the Motion to Compel because they have not had time to consult their expert on this matter. This matter should be properly briefed by the parties, which would require additional time.

For the above stated reasons, the States Motion to Shorten Time should be denied until the Claimants are given proper time to prepare a response to the States Motion to Compel.

DATED this 14th of August, 2006.

LING, ROBINSON & WALKER

By: 
Michael P. Tribe

Attorneys for Objectors/Claimants,
Ben D. Jernberg and Idaho Properties, LLC

CERTIFICATE OF MAILING

I certify that on August 14, 2006, I served the original and copies of *Objection to State of Idaho's Motion to Shorten Time, To Compel Discovery, and for an Expedited Hearing* via U.S. mail, postage prepaid, or by facsimile to the following:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707

Twin Falls, Idaho 83303-2707

by facsimile (208) 736-2121

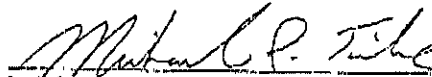
2. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
David J. Barber, Deputy Attorney General
Natural Resources Division
P. O. Box 44449
Boise, Idaho 83711-4449

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


Michael P. Tribe