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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. 31-11845
	)	
	)	STATE OF IDAHO'S MOTIONS TO LIMIT THE
	)	TESTIMONY OF BRYCE CONTOR, TO EXCLUDE
Case No. 39576	)	THE TESTIMONY OF CHUCK BROCKWAY, TO
	)	COMPEL DISCOVERY, AND FOR AN EXPEDITED
	)	HEARING
_____	)	

The State of Idaho, by and through the undersigned deputy attorneys general, hereby moves the Court for an order to limit the testimony of Bryce Contor, to exclude the testimony of Chuck Brockway, to compel discovery in the above-entitled matter, and for an expedited hearing.

The grounds for this motion are as follows:

STATE OF IDAHO'S MOTIONS TO LIMIT THE TESTIMONY OF BRYCE
CONTOR, TO EXCLUDE THE TESTIMONY OF CHUCK BROCKWAY,
TO COMPEL DISCOVERY, AND FOR AN EXPEDITED HEARING

1. This Court's *Order Granting Motion to Vacate Trial Date and Third Amended Trial Schedule* dated July 18, 2006 required all discovery be submitted no later than October 31, 2006.

2. In their *Answers to Interrogatories and Responses to Requests for Admissions and Production* and *Supplemental Answers to Interrogatories and Responses to Requests for Admissions and Production*, the Claimants/Objectors identify Bryce Contor as a "fact witness" who "can testify as to the beneficial use of the PPU over the last twenty years." Mr. Contor was not one of the persons identified as an expert witness in either discovery response.

3. This Court's *Order Granting Motion to Vacate Trial Date and Third Amended Trial Schedule* dated July 18, 2006 required all expert reports be submitted no later than October 31, 2006.

4. The State of Idaho has not received an expert report from the Claimants/Objectors' witness Bryce Contor. *See Affidavit of David I. Stanish Dated November 17, 2006.*

5. The State of Idaho has not received an expert report from the Claimants/Objectors' witness Chuck Brockway. *See Affidavit of David I. Stanish Dated November 17, 2006.*

6. A true and correct copy of pages four and five of the Claimants/Objectors' original discovery response and pages six, seven, and eight of the Claimants/Objectors' supplemental discovery response are attached to the *Affidavit of David I. Stanish Dated November 17, 2006.*

7. This motion is supported by the enclosed *Affidavit of David I. Stanish Dated November 17, 2006* and by the *Brief in Support of the State of Idaho's Motions to Limit the*

Testimony of Bryce Contor, to Exclude the Testimony of Chuck Brockway, to Compel Discovery, and for an Expedited Hearing.

8. Oral argument is requested on these motions.

PRAYER FOR RELIEF

1. That the Court grant the State of Idaho's motion to limit the testimony of Bryce Contor;
2. That the Court grant the State of Idaho's motion to exclude the testimony of Chuck Brockway;
3. That the Court grant the State of Idaho's motion to compel discovery in the above-entitled matter; and
4. That the Court grant such other or further relief as it deems proper.

RESPECTFULLY SUBMITTED this 17th day of November 2006.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID I. STANISH
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I certify that on the 17th day of November 2006, I caused to be served the original and/or copy of this STATE OF IDAHO'S MOTIONS TO LIMIT THE TESTIMONY OF BRYCE CONTOR, TO EXCLUDE THE TESTIMONY OF CHUCK BROCKWAY, TO COMPEL DISCOVERY, AND FOR AN EXPEDITED HEARING on each of the following persons by the indicated method.

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☒ Facsimile: (208) 736-2121
- ☐ Statehouse Mail

2. Copies to

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

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Claimant Ben Jernberg
Claimant Idaho Properties, LLC
Represented by:
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Michael P. Tribe
LING ROBINSON & WALKER
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Rupert, ID 83350

- ☐ U.S. Mail, postage prepaid
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IDWR Document Depository
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Not Applicable

DAVID I. STANISH
Deputy Attorney General