

Michael C. Creamer [ISB No. 4030]
Michael P. Lawrence [ISB No. 7288]
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com

Attorneys for Wilson Properties LP

**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: 63-4607B

**WILSON PROPERTIES LP'S
FIRST SET OF INTERROGATORIES,
REQUESTS FOR ADMISSION, AND
REQUESTS FOR PRODUCTION TO
BOISE-KUNA IRRIGATION DISTRICT**

Wilson Properties LP ("Claimant"), through its counsel Givens Pursley LLP, hereby requires Boise-Kuna Irrigation District to answer this First Set of Interrogatories, Requests for Admission, and Requests for Production within thirty days from the date of service herein, and in comformance with all provisions of the Idaho Rule of Civil Procedure.

GENERAL INSTRUCTIONS

A. Definitions and General Instructions

1. The term "you" or "your" refers to Boise-Kuna Irrigation District, its principals or Board members, agents, employees, representatives, investigators, consultants, experts, attorneys, predecessors in interest and any other Person acting on its behalf.

**WILSON PROPERTIES LP'S FIRST SET OF
INTERROGATORIES, REQUESTS FOR
ADMISSION, AND REQUESTS FOR PRODUCTION
TO BOISE-KUNA IRRIGATION DISTRICT - 1**
S:\CLIENTS\5142\23\1st Discovery Request - Wilson Properties.DOC

2. The term "Recommendation" means the Director's Report recommendation filed by the Director of the Idaho Department of Water Resources for water right number 63-4607B in the Snake River Basin Adjudication Court.

3. The term "Wilson Properties' point of diversion" means the point of diversion listed in the Recommendation.

4. The term "Ten Mile Creek" means the source listed in the Recommendation.

5. The term "document" shall mean any kind of written, printed, typed, graphic, electronic, computerized, or photographic matter of any kind or nature including, but not limited to, statements, however, produced or reproduced, and all mechanical and electronic sound recordings and written transcripts thereof, however produced or reproduced, whether in your control or not, and including without limitation, originals, all file copies, all other copies no matter how or by whom prepared, and all drafts of such documents whether used or not.

6. The term "identify" when used with respect to a document, or the description or identification of a document, shall be deemed to request the nature and subject matter of the document; the date thereof; the title or name thereof; the name, address and job title or job capacity of the person who prepare it or who has knowledge of it; the name, address, and job title or job capacity of the recipient thereof; and the Bates number or other identifier as applicable.

7. The term "identify" when used with respect to a person, shall be deemed to request the person's full name, job title, last known business and residence addresses, and respective telephone numbers.

8. The term "identify" when used with respect to oral communications, shall be deemed to request whether said communication was in person or by telephone, an identification

of each person who participated in or heard any part of said communication, and the substance of what was said by each person who participated in said communication.

9. In answering these interrogatories and requests for production, please furnish all information which is known or available to you including, but not limited to, information known of your personal knowledge, information obtainable by the diligent search of sources of information available to you, and all information in the possession of, or available to, any person or persons acting on your behalf or under your control or under the control of any of your attorneys, agents, employees, experts, independent contractors, investigators, representatives, or others with whom you have a relationship and from whom you are capable of deriving information, documents, or material.

10. Any interrogatory which may be answered in whole or in part by reference to documents is deemed to request those responsive documents.

11. If any documents requested by a Request for Production or which should be produced in response to an interrogatory cannot be produced in full, you are required to produce them to the fullest extent possible, specifying clearly the reasons for your inability to produce the remainder and stating whatever information, knowledge, or belief you have concerning the unproduced portions.

12. If any of the documents requested herein were at one time in existence, but are no longer in existence, please so state, specifying for each document:

- (a) The type of document;
- (b) The types of information contained therein;
- (c) The date upon which it ceased to exist;
- (d) The circumstances under which it ceased to exist;

(e) The identity of all persons having knowledge of the circumstances under which it ceased to exist; and

(f) The identity of each person having knowledge of the contents thereof.

13. With respect to any documents called for by this request but withheld due to any claim or privilege, list for each such document:

(a) The paragraph to which the document is otherwise responsive;

(b) Its title and general subject matter;

(c) Its date;

(d) The name(s) and title(s) of its author or preparer;

(e) The name(s) and title(s) of the person(s) for whom it was prepared, and all person to whom it was sent or shown; and

(f) The nature of the privilege claimed.

14. If you assert a privilege as to a portion of any category of the material described, please produce the remainder of that category as to which you do not assert a privilege.

15. Please produce the documents and things for inspection and copying on the 14th day of December 2007, at 9:00 a.m. at the law offices of Givens Pursley LLP, 601 W. Bannock Street, Boise, Idaho 83702, or at 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.

16. 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 Claimant to determine the document's original pre-production location.

B. Instructions Regarding Supplementation

1. 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.

2. Where knowledge or information in the possession of a party is requested, such request includes information and knowledge either in your possession, under your control, within your dominion, or available to you or which becomes subject to your possession, control, or dominion regardless of whether this information is in your personal possession or is possessed by your agents, attorneys, servants, employees, independent contractors, representatives, insureds, or others with whom you have a relationship, and from whom you are capable of deriving information, documents, or materials.

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

REQUEST FOR ADMISSION NUMBER 1: Please admit that Ten Mile Creek is a natural waterway.

INTERROGATORY NUMBER 1: If your response to Request for Admission Number 1 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 1.

REQUEST FOR PRODUCTION NUMBER 1: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 1 and Interrogatory Number 1.

REQUEST FOR ADMISSION NUMBER 2: Please admit that Ten Mile Creek was a natural waterway in existence prior to the establishment of Boise-Kuna Irrigation District and its predecessors.

INTERROGATORY NUMBER 2: If your response to Request for Admission Number 2 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 2.

REQUEST FOR PRODUCTION NUMBER 2: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 2 and Interrogatory Number 2.

REQUEST FOR ADMISSION NUMBER 3: Please admit that Ten Mile Creek may at any time during the irrigation season contain natural water flow (i.e., water that is not waste water) at Wilson Properties' point of diversion.

INTERROGATORY NUMBER 3: If your response to Request for Admission Number 3 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 3.

REQUEST FOR PRODUCTION NUMBER 3: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 3 and Interrogatory Number 3.

REQUEST FOR ADMISSION NUMBER 4: Please admit that some portion of surface water used for irrigation under Boise-Kuna Irrigation District's water rights seeps below the root zone of crops.

INTERROGATORY NUMBER 4: If your response to Request for Admission Number 4 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 4.

REQUEST FOR PRODUCTION NUMBER 4: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 4 and Interrogatory Number 4.

REQUEST FOR ADMISSION NUMBER 5: Please admit that Boise-Kuna Irrigation District does not regulate water that seeps below the root zone of crops.

INTERROGATORY NUMBER 5: If your response to Request for Admission Number 5 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 5.

REQUEST FOR PRODUCTION NUMBER 5: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 5 and Interrogatory Number 5.

REQUEST FOR ADMISSION NUMBER 6: Please admit that Boise-Kuna Irrigation District does not exert any form of physical control over water that seeps below the root zone of crops.

INTERROGATORY NUMBER 6: If your response to Request for Admission Number 6 is anything other than an unqualified admission, please set forth each and every fact you are aware

of that supports or tends to support, in whole or in part, your response to Request for Admission Number 6.

REQUEST FOR PRODUCTION NUMBER 6: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 6 and Interrogatory Number 6.

REQUEST FOR ADMISSION NUMBER 7: Please admit that Boise-Kuna Irrigation District does not regulate water flowing into Ten Mile Creek.

INTERROGATORY NUMBER 7.1: If your response to Request for Admission Number 7 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 7.

INTERROGATORY NUMBER 7.2: If your response to Request for Admission Number 7 is anything other than an unqualified admission, please identify and describe any and all means of water regulation and measurements of water flowing into Ten Mile Creek.

REQUEST FOR PRODUCTION NUMBER 7: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 7 and Interrogatory Numbers 7.1 and 7.2.

REQUEST FOR ADMISSION NUMBER 8: Please admit that Boise-Kuna Irrigation District does not regulate water flowing through Ten Mile Creek.

INTERROGATORY NUMBER 8.1: If your response to Request for Admission Number 8 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 8.

INTERROGATORY NUMBER 8.2: If your response to Request for Admission Number 8 is anything other than an unqualified admission, please identify and describe any and all means of water regulation and measurements of water flowing through Ten Mile Creek.

REQUEST FOR PRODUCTION NUMBER 8: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 8 and Interrogatory Numbers 8.1 and 8.2.

REQUEST FOR ADMISSION NUMBER 9: Please admit that Boise-Kuna Irrigation District does not regulate water flowing out of Ten Mile Creek.

INTERROGATORY NUMBER 9.1: If your response to Request for Admission Number 9 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 9.

INTERROGATORY NUMBER 9.2: If your response to Request for Admission Number 9 is anything other than an unqualified admission, please identify and describe any and all means of water regulation and measurements of water flowing out of Ten Mile Creek.

REQUEST FOR PRODUCTION NUMBER 9: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 9 and Interrogatory Numbers 9.1 and 9.2.

REQUEST FOR ADMISSION NUMBER 10: Please admit that Boise-Kuna Irrigation District does not exert any form of physical control over water flowing into Ten Mile Creek.

INTERROGATORY NUMBER 10.1: If your response to Request for Admission Number 10 is anything other than an unqualified admission, please set forth each and every fact you are

aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 10.

INTERROGATORY NUMBER 10.2: If your response to Request for Admission Number 10 is anything other than an unqualified admission, please identify any and all control structures and measurements of water flowing into Ten Mile Creek.

REQUEST FOR PRODUCTION NUMBER 10: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 10 and Interrogatory Numbers 10.1 and 10.2.

REQUEST FOR ADMISSION NUMBER 11: Please admit that Boise-Kuna Irrigation District does not exert any form of physical control over water flowing through Ten Mile Creek.

INTERROGATORY NUMBER 11.1: If your response to Request for Admission Number 11 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 11.

INTERROGATORY NUMBER 11.2: If your response to Request for Admission Number 11 is anything other than an unqualified admission, please identify any and all control structures and measurements of water flowing through Ten Mile Creek.

REQUEST FOR PRODUCTION NUMBER 11: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 11 and Interrogatory Numbers 11.1 and 11.2.

REQUEST FOR ADMISSION NUMBER 12: Please admit that Boise-Kuna Irrigation District does not exert any form of physical control over water flowing out of Ten Mile Creek.

INTERROGATORY NUMBER 12.1: If your response to Request for Admission Number 12 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 12.

INTERROGATORY NUMBER 12.2: If your response to Request for Admission Number 12 is anything other than an unqualified admission, please identify any and all control structures and measurements of water flowing out of Ten Mile Creek.

REQUEST FOR PRODUCTION NUMBER 12: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 12 and Interrogatory Numbers 12.1 and 12.2.

REQUEST FOR ADMISSION NUMBER 13: Please admit that Ten Mile Creek at Wilson Properties' point of diversion may at any time during the irrigation season contain water that percolates to the surface from ground water.

INTERROGATORY NUMBER 13: If your response to Request for Admission Number 13 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports or tends to support, in whole or in part, your response to Request for Admission Number 13.

REQUEST FOR PRODUCTION NUMBER 13: Please produce each and every document that supports or tends to support, in whole or in part, your response to Request for Admission Number 13 and Interrogatory Number 13.

INTERROGATORY NUMBER 14: Have you conducted, or relied upon, any study, evaluation, or analysis of irrigation return flows in Ten Mile Creek?

REQUEST FOR PRODUCTION NUMBER 14: If your response to Interrogatory Number 14 is in the affirmative, please produce all documents regarding any study, evaluation, or analysis conducted or relied upon.

INTERROGATORY NUMBER 15: Have you conducted, or relied upon, any study, evaluation, or analysis of natural water flows in Ten Mile Creek?

REQUEST FOR PRODUCTION NUMBER 15: If your response to Interrogatory Number 15 is in the affirmative, please produce all documents regarding any study, evaluation, or analysis conducted or relied upon.

INTERROGATORY NUMBER 16: Please identify the lay witnesses who you may call to testify at the trial or hearing of this matter. In addition to the identity of any lay witness who you may call, the Claimant requests:

- a) The subject matter upon which each witness is expected to testify;
- b) The substance of the testimony to which each witness is expected to testify;
- c) The underlying facts and data upon which each witness's testimony is based.

INTERROGATORY NUMBER 17: Please identify the expert witnesses who you may call to testify at the trial or hearing of this matter. In addition to the identity of any expert witness who you may call, the Claimant requests:

- d) The subject matter upon which each expert is expected to testify;
- e) The substance of the opinions to which each expert is expected to testify;
- f) The underlying facts and data upon which each expert opinion is based.

REQUEST FOR PRODUCTION NUMBER 16: Please produce the curriculum vitae of each person identified in your response to Interrogatory Number 17.

REQUEST FOR PRODUCTION NUMBER 17: Please produce each and every document upon which the persons identified in your responses to Interrogatory Numbers 16 and 17 will base their testimony.

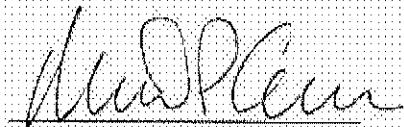
REQUEST FOR PRODUCTION NUMBER 18: Please produce each and every document upon which you relied in preparing your responses to Interrogatory Numbers 16 and 17.

REQUEST FOR PRODUCTION NUMBER 19: Please identify and produce any and all water discharge and/or water flow measurements or estimates of which you are aware for Ten Mile Creek.

REQUEST FOR PRODUCTION NUMBER 20: Please identify and produce each and every document that supports or tends to support, in whole or in part, the statement "The source of this right [water right number 63-4607B] is waste water."

Dated this 14th day of November 2007.

GIVENS PURSLEY LLP



Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November 2007, the foregoing was filed, served, or copied as follows:

Shelley M. Davis
Barker, Rosholt & Simpson, LLP
1010 W. Jefferson Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Fax: 208-344-6034

☐ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ E-mail

Bruce Castleton
950 W. Bannock, Ste. 610
Boise, ID 83702
Fax: 208-383-9516

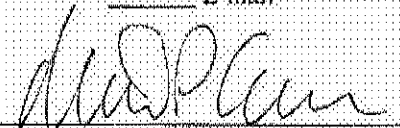
☐ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ E-mail

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724
Fax: 208-378-5102

☐ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ E-mail

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098
Fax: 208-287-6700

☐ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ E-mail


Michael P. Lawrence