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DEPARTMENT OF
WATER RESOURCES

Names of Party Filing Document:

NEZ PERCE TRIBE

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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

Case No. 39576

Subcase Nos.: 85-00016, 85-02049,
85-02063, 85-02065, 85-02146,
85-02147, 85-04483, 85-11087 and
85-15424

NOTICE OF DEPOSITION OF
CARTER FRITSCHLE, P.E.,
DUCES TECUM

**TO: CARTER FRITSCHLE, P.E., THE STATE OF IDAHO, THE UNITED STATES
OF AMERICA, THE LEWISTON ORCHARDS IRRIGATION DISTRICT,
THEIR ATTORNEYS OF RECORD AND ALL INTERESTED PARTIES:**

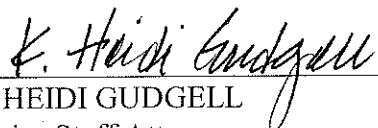
Please take notice that the Nez Perce Tribe will take the deposition upon oral examination of **CARTER FRITSCHLE, P.E.**, an employee of the State of Idaho Department of Water Resources (the "Deponent"), pursuant to Rule 30 of the Idaho Rules of Civil Procedure. *The deposition will commence at 9:00 a.m. on March 12, 2008, at the offices of the State of Idaho Department of Water Resources, 322 E. Front Street, Boise, Idaho 83706*, before a certified

certified court reporter or some other officer authorized to administer oaths, and will continue until completed.

NOTICE OF DUCES TECUM / REQUEST FOR PRODUCTION OF DOCUMENTS

Consistent with Rules 30(b)(5) and 34 of the Idaho Rules of Civil Procedure, the Deponent is further instructed to bring to said deposition all of the materials described in "Attachment A" hereto, in accordance with the definitions and instructions contained therein, excepting materials that have already been provided to the Nez Perce Tribe in response to previous Requests for Production.

Dated this 4th day of March, 2008.



K. HEIDI GUDGELL
Senior Staff Attorney
Nez Perce Tribal Executive Committee
Office of Legal Counsel

DEFINITIONS

In answering the *duces tecum* portion of this Deposition Notice, all terms retain their normal meaning. Singular terms shall be construed to include the plural, and vice versa. Words used with reference to a person of the male gender shall also be construed to refer to a person of the female gender, and vice versa. The following terms, in addition to their commonly understood definitions, shall have the meanings set forth below.

1. The word "Deponent" means the person named in this Deposition Notice, Carter Fritschle, P.E.
2. The words "you" or "your" refer to Carter Fritschle, P.E., and/or the State of Idaho.
3. The term "State of Idaho" includes all agencies, subdivisions, or agents authorized to act on its behalf, including but not limited to the Idaho Department of Water Resources ("IDWR") and the Idaho Attorney General's Office.
4. The term "Supplemental Director's Report" refers to the Supplemental Director's Report prepared by IDWR, David R. Tuthill, Jr., Director, Donald V. Shaff, Adjudication Bureau Chief, dated September 6, 2007, and filed with the SRBA District Court in the instant subcases.
5. The word "agent" when used without qualifying adjective, means all persons or entities presently or formerly associated with you, including employees, officers, directors, consultants, insurance company agents, contractors, subcontractors, representatives, investigators, shareholders, attorneys, trustees, and any other person authorized to act in your behalf.
6. The term "Tribe" or "Nez Perce Tribe" means the federally recognized Indian tribe of that name.
7. The term "Lewiston Orchards Project" or "LOP" means the water system owned by the United States Bureau of Reclamation, operated by the Lewiston Orchards Irrigation District ("LOID"), and located in Nez Perce County, Idaho, including the reservoirs, storage facilities, water mains, conduits, aqueducts, pipelines, pumping stations, filtration plants, and all appurtenances and machinery necessary or useful for obtaining, storing, treating, or transporting water for use within LOID.
8. The term "Lewiston Orchards Irrigation District" or "LOID" means the irrigation district of that name located in Lewiston, Idaho, which operates the LOP water system and which

owns and operates its own water system for providing potable drinking water to its customers, including storage facilities, water mains, conduits, aqueducts, pipelines, pumping stations, filtration plants, and all appurtenances and machinery necessary or useful for obtaining, storing, treating, or transporting potable drinking water for use by customers of LOID.

9. The term "person" as used herein, includes any natural person, corporation, partnership, or other business association or entity recognized by law, and the employees or independent contractors thereof, and any domestic or foreign government body, commission, board, agency, branch, department, component or element thereof.
10. The term "Snake River Basin Adjudication," "Adjudication," or "SRBA" refers to In Re SRBA No. 39576 (5th Judicial District, Twin Falls County, Idaho).
11. The term "document" includes all items identified in Idaho Rule of Civil Procedure 34(a), and, also is used herein in its broad and literal sense and at a minimum means any written, drawn, typed, printed, recorded, photostated, computer generated, microfiched, microfilmed or graphic matters, whether produced, reproduced, or stored on paper, cards, disc, tape, film, electronic facsimile, computer storage or any other media, whether an original, master or duplicate including, but not limited to accounts, advertisements, affidavits, agreements, analyses, appraisals, applications, appointment books, appointment calendars, bank checks, bills, blueprints, books, bookkeeping entries, bulletins, cablegrams, cache logs, calculations, canceled checks, cashier's checks, catalogs, charts, check stubs, circulars, communications, compilations, computer printouts, computer source codes and object codes, contracts, correspondence, court filings, day books, data, declarations, depositions, desk calendars, diagrams, diaries, diary entries, documents, drafts, drawings, electronic mail, electronic files stored on a computer disk, CD-ROM, or other computer disk or tape technology, expense reports, field notebooks, files, financial statements, flowcharts, forecasts, graphs, invoices, itineraries, interview notes, ledgers, letters, lists, log books, mailgrams, manuals, memoranda, minutes, notebooks, note pads, notes, pamphlets, papers, periodicals, photographs, plans, projections, proposals, prospectuses, publications, receipts, records, reports, returns, sketches, sound recordings, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, summaries or records of meetings, conferences or legislative, judicial, or other public hearings, summaries or reports of investigations or negotiations, opinions and/or reports of consultants, tax returns, telefax, telegrams, telephone logs, tickets, time records, time sheets, transcriptions, transcripts, travel reports, travel vouchers, vouchers, working papers, worksheets, and all other papers, writings, drawings, recordings, or physical things containing information, including all original and amended versions of the documents, preliminary and subsequent drafts or marginal notes appearing on any documents, however denominated or described by the parties to whom the particular interrogatories and/or requests for admission and requests for production are directed. The term "document" shall further collectively include the original, duplicate original, and any or all copies or reproductions

of the original document, to the extent that any or all copies are different in any way from the original document, whether by interlineation, receipt stamps, notation, indication of copies sent or received otherwise, which are in your possession, custody or control.

12. The term "data," as used herein, refers to measurements, estimates, and observations made by you, to be made by, made for you, or relied upon by you in the instant subcases. The following list illustrates, but does not limit, the types of documents that should be produced by you:
 - (a) summaries of any research;
 - (b) field data books and all data, both raw and calibrated; and
 - (c) map(s) of study sites, including maps showing permanent benchmarks, transects and dimensions necessary to relocate all study areas.
13. "Describe in detail" or "state in detail" as used herein, means to identify fully by reference to the underlying facts, rather than the ultimate facts or conclusions of law, and to particularize as to:
 - (a) the identity of each person involved in each such event;
 - (b) the specific acts of each person participation in each such event;
 - (c) the date and time of each such event;
 - (d) the address and location of such an event; and
 - (e) the identity of each person present during each such event.
14. "Identify" or "identity" shall have the following meaning:
 - (a) when used in reference to an organization, the full name and present or last known address of the corporation, partnership, firm or other entity;
 - (b) when used in reference to an individual, individual's the full name, present or last known address, present or last known employer or business affiliation and job description, any past or present affiliation with you or any of the parties to the instant subcases, and the manner in which the individual relates to any of the issues or facts in this litigation, and the source and extent of the individual's knowledge about any of these facts or issues (if you do not know the present address, present business affiliation, or present employer of any such person, please so indicate);

- (c) when used in reference to a document, the type of document (e.g., memorandum, letter, note, contract), its date, author(s), addressee(s) if any, synopsis of content, and present location; and
 - (d) when used in reference to a source of information, the identity of each individual providing information and whether the information has been reduced to writing or other tangible form. If so, this writing or other record shall be identified in the manner described above.
15. The word "substantiate" means to: identify with precision, specificity and particularity each document upon which you rely in making the reference, contention, or response; to identify each person whose statements are or will be relied upon to support the reference, contention, or response; to state with precision, specificity and particularity any other facts relating to the reference, contention, or response; and to identify any and all legal bases (including common law, statutes, regulations, etc.) for the reference, contention or response.
16. Some documents to be identified or facts to be stated are described herein as "related to" or "relating to" an entity, individual, action, document or event. The term "relate to" or "relating to" means to name, to refer to either directly or indirectly, to comment upon, analyze, review, report on, form the basis of, be considered in the preparation of, result from, be in any way connected with, emanate from, or have any logical relation to the entity, person, document, event, or action.
17. "Possession, custody or control" of documents, samples and tangible things means documents, samples or tangible things within your actual or constructive possession, custody or control.
18. The word "communication" or "communications" means all oral conversations, discussions, letters, telegrams, meetings, conferences, memorandum, and any other transmission of information in any form both written and oral, and the documents reflecting such transmission in any such manner.

INSTRUCTIONS

1. All documents produced by the Deponent shall be produced as they are kept in the usual course of business and shall be organized and labeled in a manner which clearly identifies and indicates that the documents are being produced in response to a particular request.
2. If any requested documents or categories of documents called for cannot be produced in full or in part, the Deponent shall be prepared to state the reasons for the inability to produce any portion of the documents or categories of documents called for.

3. If any document called for is withheld on the grounds of any privilege, the Deponent or his attorney shall be prepared to specify the basis of such privilege and provide a complete description of the document, including the date, all addresses, all authors or preparers, all recipients of copies, subject matter, number of pages (including all attachments, appendices, etc.), and other relevant circumstances sufficient to enable the Court to decide whether the privilege has been properly invoked. The Deponent shall nonetheless produce any portion of the document that is not privileged.
4. The Deponent shall produce all responsive documents in his possession, custody and control, whether actual or constructive.

DOCUMENTS TO BE PRODUCED

1. All documents cited, discussed, or relied upon in the Supplemental Director's Report.
2. All documents relied upon either in whole or in part by Mr. Fritschle for the opinions and text stated in the Supplemental Director's Report.
3. All documents considered either in whole or in part by Mr. Fritschle in forming the opinions and text set forth in the Supplemental Director's Report.
4. Copies of all working notes, drafts and other documents reflecting Mr. Fritschle's work in the instant subcases, including but not limited to documents reflecting all research conducted.
5. All drafts of the Supplemental Director's Report, along with any other documents reflecting any opinions or conclusions reached by Mr. Fritschle during the preparation of the Supplemental Director's Report, whether or not those opinions or conclusions were included in the final draft of the Supplemental Director's Report.
6. All correspondence between Mr. Fritschle and any other person relating to the preparation of the Supplemental Director's Report or any other work performed in relation to the instant subcases.
7. All documents received by Mr. Fritschle from any person regarding or suggesting changes and revisions to the Supplemental Director's Report, including suggestions in the form of marginal notations.
8. All notes taken by Mr. Fritschle in relation to meetings held in relation to the instant subcases or telephone conversations relating to the instant subcases.
9. All documents prepared by Mr. Fritschle, under Mr. Fritschle's supervision, or pursuant to Mr. Fritschle's direction, relating to the instant subcases.

10. All documents received by Mr. Fritschle relating to the instant subcases.
11. All recordings, notes or other documentation taken by or on behalf of Mr. Fritschle of oral conversations relating to the instant subcases.
12. All documents describing and reflecting the scope of work to be undertaken by Mr. Fritschle in the instant subcases.
13. All documents, including but not limited to notes and letters, describing work performed by Mr. Fritschle and the scope of work or tasks requested of Mr. Fritschle by the State of Idaho in the instant cases.
14. All documents provided to Mr. Fritschle by the State of Idaho or any other party, including the counsel for such party, related to the instant subcases.
15. Transcripts of all previous testimony given by Mr. Fritschle, including by deposition and at hearing or trial, in any administrative or court proceeding other than the instant subcases.
16. A list of any director's reports or supplemental director's reports authored or co-authored by Mr. Fritschle other than the Supplemental Director's Report for the instant subcases.
17. All other documents relied upon and/or related in any way to Mr. Fritschle's proposed testimony in the instant subcases.
18. All documents, including but not limited to notes and agendas, reflecting any and all meetings and conversations relating to Mr. Fritschle's work in the instant subcases.
19. All personal or working files kept or maintained by Mr. Fritschle related to the instant subcases including but not limited to Mr. Fritschle's curriculum vitae and/or resume and/or any documents, not otherwise specifically requested herein, relied upon by Mr. Fritschle in preparing the Supplemental Director's Report in the instant subcases.
20. All materials reviewed by Mr. Fritschle in preparation for this deposition.
21. All documents reflecting any further work done by Mr. Fritschle in relation to the instant subcases after the completion of the Supplemental Director's Report.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 4th day of March, 2008, I served a true and correct copy of the foregoing **NOTICE OF DEPOSITION OF CARTER FRITSCHLE, P.E., DUCES TECUM** as follows:

IDWR Document Depository
322 E. Front Street
Boise, Idaho 83706

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Christopher M. Bromley
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83706
Facsimile: (208) 287-6700

☐ United States Mail postage pre-paid
☒ Facsimile
☐ Federal Express
☐ Hand Delivery

United States Department of Justice
Environment & Natural Resources Div.
800 Park Blvd., Suite 600
Boise, Idaho 83712
Facsimile: (208) 334-9375

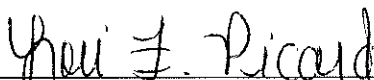
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Earl L. McGeoghegan
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Lewiston, Idaho 83501
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Lori F. Picard, Legal Secretary