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DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimant Pioneer Irrigation
District

Scott L. Campbell, ISB No. 2251
Dylan B. Lawrence, ISB No. 7136
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
18946.0126

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. 63-02529 & 63-09109

**PIONEER IRRIGATION DISTRICT'S
RESPONSES TO THE STATE OF IDAHO'S
FIRST SET OF DISCOVERY REQUESTS**

COMES NOW the above-named claimant, Pioneer Irrigation District
("Claimant"), by and through undersigned counsel of record, and hereby answers and responds
to the State of Idaho's first set of discovery requests to Claimant as follows:

**I.
GENERAL OBJECTIONS**

Claimant has not completed its own investigations and/or discovery.

Accordingly, the responses that follow are based upon the best knowledge, information, and

belief of Claimant at this time. Claimant reserves the right to make any further responses if it appears that any omission or error has been made in connection with these responses or that more accurate information is or has become available. These responses are made without prejudice to Claimant's rights to use in later discovery or to present at trial, such evidence as may later be discovered or evaluated.

Claimant objects to the definitions and instructions to the extent they purport to require discovery requests beyond that required under the Idaho Rules of Civil Procedure. These responses are provided in accordance with the Idaho Rules of Civil Procedure irrespective of any definitions and instructions that may accompany these discovery requests.

These responses are made subject to all objections as to competence, relevance, materiality, and admissibility. These responses are subject to all objections that would require the exclusion of any statement, material, or information herein provided if such interrogatory were asked of or any statement, material, or information provided were made by witnesses present and testifying in court. All such objections are reserved and may be interposed at the time of trial.

Claimant specifically objects to these discovery requests to the extent they seek information protected by the attorney-client privilege, the attorney work product doctrine, and the rules governing the discovery of facts of experts as set forth in Rule 26(b)(4), Idaho Rule of Civil Procedure. This objection is intended to apply to all of the discovery requests that seek such information and will not necessarily be repeated for each request to which it applies. Claimant has, to the extent possible, construed each request as requesting only information and/or documents not subject to any applicable protection.

No incidental or implied admissions are intended. The fact that Claimant has responded to any discovery request, or part thereof, should not be taken as an admission that Claimant accepts that the discovery request or the response or objection thereto constitutes admissible evidence. Claimant's answers to any discovery requests herein do not constitute a waiver of their rights to object to any future, additional, or supplemental discovery requests regarding the same or similar matter.

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

REQUEST FOR PRODUCTION NO. 1: Produce a true and correct copy of the deed that evidences the claimant's acquisition of the points of diversion for subcase nos. 63-02529 and 63-09109.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Pursuant to I.R.C.P. 34(b), non-privileged documents responsive to this request will be made available for inspection at Pioneer's office located at 3084 S. Lake Avenue, Caldwell, Idaho, 83605, on a date and at a time mutually agreeable to the parties.

INTERROGATORY NO. 1: Please identify the model numbers and manufacturers of the pumps and electric motors that divert water from the wells which are the points of diversion for subcase nos. 63-02529 and 63-09109.

ANSWER TO INTERROGATORY NO. 1: These two water rights involve 28 different groundwater wells. Claimant is still in the process of compiling the requested information and will timely supplement this response when it has completed its investigation. To the extent that already-existing non-privileged documents are responsive to this request, such documents will be made available for inspection at Pioneer's office located at 3084 S. Lake

Avenue, Caldwell, Idaho, 83605, on a date and at a time mutually agreeable to the parties, pursuant to I.R.C.P. 33(c).

INTERROGATORY NO. 2: Please describe any changes you have made to the wells, pumps or electric motors that divert water at the points of diversion for subcase nos. 63-02529 and 63-09109.

ANSWER TO INTERROGATORY NO. 2: Pursuant to I.R.C.P. 33(c), non-privileged documents responsive to this request will be made available for inspection at Pioneer's office located at 3084 S. Lake Avenue, Caldwell, Idaho, 83605, on a date and at a time mutually agreeable to the parties.

REQUEST FOR ADMISSION NO. 1: Please admit that one cubic foot per second of water diverted for a period of twenty four hours is equivalent to a volume of water of 1.9835 acre feet, more or less.

ANSWER TO ADMISSION NO. 1: Admit.

REQUEST FOR ADMISSION NO. 2: Please admit that if the recommended diversion quantity of 87.1 cubic feet per second of water for water right no. 63-02529 is diverted for the 260 day period from March 1 through November 15 that the equivalent volume of water is 44,918.3 acre feet, more or less.

ANSWER TO ADMISSION NO. 2: Admit.

REQUEST FOR ADMISSION NO. 3: Please admit that if the recommended diversion quantity of 5.04 cubic feet per second of water for water right no. 63-09109 is diverted for the 246 day period from March 15 through November 15 that the equivalent volume of water is 2,459.2 acre feet, more or less.

ANSWER TO ADMISSION NO. 3: Admit.

REQUEST FOR PRODUCTION NO. 2: Produce all power records for the wells, pumps, and electric motors that divert water at the points of diversion for subcase nos. 63-02529 and 63-09109.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Pursuant to I.R.C.P. 34(b), non-privileged documents responsive to this request will be made available for inspection at Pioneer's office located at 3084 S. Lake Avenue, Caldwell, Idaho, 83605, on a date and at a time mutually agreeable to the parties.

REQUEST FOR PRODUCTION NO. 3: Produce all documents related to the construction of the wells that are the points of diversion for subcase nos. 63-02529 and 63-09109.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Pursuant to I.R.C.P. 34(b), non-privileged documents responsive to this request will be made available for inspection at Pioneer's office located at 3084 S. Lake Avenue, Caldwell, Idaho, 83605, on a date and at a time mutually agreeable to the parties.

REQUEST FOR PRODUCTION NO. 4: Produce all data regarding measurements of the output of the wells for subcase nos. 63-02529 and 63-09109.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Claimant does not possess data regarding measurements of the output of the wells associated with these two water rights.

REQUEST FOR PRODUCTION NO. 5: Produce all pictures or video of the points of diversion for subcase nos. 63-02529 and 63-09109.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Pursuant to I.R.C.P.

34(b), non-privileged documents responsive to this request will be made available for inspection at Pioneer's office located at 3084 S. Lake Avenue, Caldwell, Idaho, 83605, on a date and at a time mutually agreeable to the parties.

INTERROGATORY NO. 3: Identify all persons who assisted in the preparation of the notices of claim for subcase nos. 63-02529 and 63-09109.

ANSWER TO INTERROGATORY NO. 3:

- Name: Scott Campbell
Business Address and Telephone Number: 101 South Capitol Blvd, 10th Floor, Boise, Idaho 83702; (208) 385-5432
Current Employment, Position, and Duties: Moffatt Thomas Barrett Rock & Fields, Chartered, Attorney, Partner
Relationship to Claimants: Attorney for Claimant
Educational Background: Undergraduate degree, Whitman College, 1974; J.D., University of Idaho, 1978
- Name: Angela Schaer Kaufmann
Business Address and Telephone Number: 2270 Old Penitentiary Road, Boise, 83712; (208) 332-8509
Current Employment, Position, and Duties: Idaho Department of Agriculture, Office of the Attorney General, Deputy Attorney General
Relationship to Claimants: Former Attorney for Claimant
Educational Background: B.A., Pacific Lutheran University, 1991; J.D., University of Idaho, 1996
- Name: Tiffany Hudak
Business Address and Telephone Number: 101 South Capitol Blvd, 10th Floor, Boise, Idaho 83702; (208) 385-5435
Current Employment, Position, and Duties: Moffatt Thomas Barrett Rock & Fields, Chartered, Paralegal, assist attorneys for Claimant

Relationship to Claimants: Paralegal for Claimant

Educational Background: High school graduate; Paralegal Certificate, California State Polytechnic University

- Name: Lonnie Freeman

Business Address and Telephone Number: Retired. Home address and telephone number are P.O. Box 4053, Brookings, OR 97415; (541) 469-7572

Current Employment, Position, and Duties: Retired from Pioneer Irrigation District

Relationship to Claimants: Former Superintendant of Pioneer Irrigation District

Educational Background: High school graduate

- Name: Naida Kelleher

Business Address and Telephone Number: 3804 Lake Avenue, Caldwell, ID 83606; (208) 459-3617

Current Employment, Position, and Duties: Pioneer Irrigation District, Secretary

Relationship to Claimants: Secretary

Educational Background: High school graduate

INTERROGATORY NO. 4: Please identify each and every person whom you expect to call as a fact witness in the trial of this matter, and state the substance of the facts upon which the person is expected to testify.

ANSWER TO INTERROGATORY NO. 4: The following individuals may testify regarding Pioneer's history and operations, including its operation of the groundwater wells at issue in these subcases.

- Lonnie Freeman, P.O. Box 4053, Brookings, OR 97415;
- Jeff Scott, Pioneer Irrigation District, 3804 Lake Avenue, P.O. Box 426, Caldwell, Idaho 83606; and
- Mark Zirschky, Pioneer Irrigation District, 3804 Lake Avenue, P.O. Box 426, Caldwell, Idaho 83606.

INTERROGATORY NO. 5: Please identify each and every person whom you expect to call as an expert witness in this matter. 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.

ANSWER TO INTERROGATORY NO. 5: The following individuals may testify regarding potential inadequacies of annual diversion volume limitations generally, as well as in response to any arguments made and conclusions drawn by the State of Idaho or IDWR regarding the Claimant's use of water.

- Scott King, SPF Water Engineering, LLC, 300 East Mallard Drive, Suite 350, Boise, Idaho 83706; and
- Terry Scanlan, SPF Water Engineering, LLC, 300 East Mallard Drive, Suite 350, Boise, Idaho 83706.

REQUEST FOR PRODUCTION NO. 6: For each person identified in your response to Interrogatory No. 5, 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. 5.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Copies of the curriculum vitae for Scott King and Terry Scanlan are attached and labeled as Bates No. TLU000056-TLU000064. Claimant currently does not possess other documents responsive to this request. Claimant objects to this request on the grounds and to the extent that it seeks

documents protected by the attorney-client privilege and/or the work product doctrine. Claimant also objects to this request on the grounds and to the extent that it exceeds the scope of the Idaho Rules of Civil Procedure applicable to disclosure of expert witnesses, and on the grounds and to the extent that it seeks the identity of and/or disclosure of opinions or documents held by consultants contacted in anticipation of litigation or in preparation for trial, but who may not be called as a witness at trial. Subject to and without waiving said objections, Claimant will supplement this response in accordance with the Idaho Rules of Civil procedure and any relevant orders of the Court.

INTERROGATORY NO. 6: Identify all persons who assisted in the preparation of the claimants' responses to these interrogatories and requests for production.

ANSWER TO INTERROGATORY NO. 6

- Name: Mark Zirschky
Business Address and Telephone Number: 3804 Lake Avenue, Caldwell, ID 83606;
(208) 459-3617
Current Employment, Position, and Duties: Pioneer Irrigation District, Assistant Superintendent
Relationship to Claimants: Assistant Superintendent
Educational Background: High school graduate; Chemical training necessary to obtain a Chemical Applicator's license, Continuing education to keep Chemical Applicator's license
- Name: Dawn Fowler
Business Address and Telephone Number: 3804 Lake Avenue, Caldwell, ID 83606;
(208) 459-3617
Current Employment, Position, and Duties: Pioneer Irrigation District, Secretary
Relationship to Claimants: Secretary
Educational Background: High School Graduate; Legal Assistant Program, Kinman Business University in Spokane, WA

- Name: Naida Kelleher
Business Address and Telephone Number: 3804 Lake Avenue, Caldwell, ID 83606;
(208) 459-3617
Current Employment, Position, and Duties: Pioneer Irrigation District, Secretary
Relationship to Claimants: Secretary
Educational Background: High school graduate
- Name: Scott Campbell
Business Address and Telephone Number: 101 South Capitol Blvd, 10th Floor, Boise,
Idaho 83702; (208) 385-5432
Current Employment, Position, and Duties: Moffatt Thomas Barrett Rock & Fields,
Chartered, Attorney, Partner
Relationship to Claimants: Attorney for Claimant
Educational Background: Undergraduate degree, Whitman College, 1974; J.D.,
University of Idaho, 1978
- Name: Dylan Lawrence
Business Address and Telephone Number: 101 South Capitol Blvd, 10th Floor, Boise,
Idaho 83702; (208) 385-5417
Current Employment, Duties and Position: Moffatt Thomas Barrett Rock & Fields,
Chartered, Attorney, Associate
Relationship to Claimants: Attorney for Claimant
Educational Background: B.B.A., University of Texas, 1997; J.D., University of Texas,
2002
- Name: Tiffany Hudak
Business Address and Telephone Number: 101 South Capitol Blvd, 10th Floor, Boise,
Idaho 83702; (208) 385-5435
Current Employment, Position, and Duties: Moffatt Thomas Barrett Rock & Fields,
Chartered, Paralegal, assist attorneys for Claimant
Relationship to Claimants: Paralegal for Claimant
Educational Background: High school graduate; Paralegal Certificate, California State
Polytechnic University

- Name: Lela Wood

Business Address and Telephone Number: 101 South Capitol Blvd, 10th Floor, Boise, Idaho 83702; (208) 385-5442

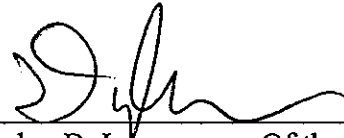
Current Employer, Position, and Duties: Moffatt Thomas Barrett Rock & Fields, Chartered, Administrative Assistant, assist attorneys for Claimant

Relationship to Claimants: Administrative Assistant to attorneys for Claimant

Educational Background: High school graduate; Secretarial Certificate from ITT Technical Institute

DATED this 13th day of January, 2009.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Dylan B. Lawrence – Of the Firm
Attorneys for Claimant Pioneer
Irrigation District

CERTIFICATE OF SERVICE

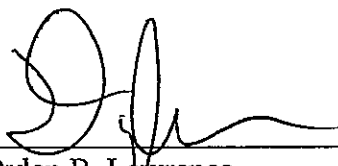
I HEREBY CERTIFY that on this 13th day of January, 2009, I caused a true and correct copy of the foregoing **PIONEER IRRIGATION DISTRICT'S RESPONSES TO THE STATE OF IDAHO'S FIRST SET OF DISCOVERY REQUESTS** to be served by the method indicated below, and addressed to the following:

Representing: State of Idaho
David J. Barber
Office of the Attorney General
STATE OF IDAHO
700 West State Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0010
Fax: (208) 854-8072

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098
Fax: (208) 287-6700

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Dylan B. Lawrence