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DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimant DBSI Tiegs 979, LLC

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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. 63-03163 and 63-03274

**DBSI TIEGS 979, LLC'S RESPONSES TO
STATE OF IDAHO'S FIRST SET OF
DISCOVERY REQUESTS**

COMES NOW the above-named claimant, DBSI Tiegs 979, LLC ("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 AND REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce a true and correct copy of the deed that evidences the acquisition of the place of use for subcase nos. 63-03163 and 63-03274 by DBSI TIEGS 979 LLC.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: The following are attached hereto as Bates Nos. DBS000001-DBS000052: (1) a deed conveying the property to DBSI Tiger 979, LLC; and (2) a quitclaim deed of the property from DBSI Tiger 979, LLC to DBSI Tiegs 979, LLC. Please note that subsequent to these deeds, DBSI Tiegs 979, LLC granted a tenant-in-common interest in portions of the property to a third party, Kline Enterprises, Inc., a California corporation.

INTERROGATORY NO. 1: Please identify the members of the limited liability company entitled DBSI TIEGS 979 LLC.

ANSWER TO INTERROGATORY NO. 1: DBSI Inc. (formerly DBSI Housing Inc.) is the sole member of DBSI Tiegs 979, LLC. Its address is 1550 South Tech Lane, Meridian, Idaho 83642.

INTERROGATORY NO. 2: Please identify the shareholders of DBSI Inc.

ANSWER TO INTERROGATORY NO. 2: The shareholders are Douglas L. Swenson, Charles E. Hassard, John Mayron, and Gary Bringhurst. These individuals do not have any knowledge of the farming or irrigation of the Tiegs property. Their only relationship to

DBSI Tiegs 979 LLC is indirectly through their ownership in DBSI, Inc. All of these individuals can be reached at 12426 W. Explorer Drive, Suite 220, Boise, Idaho 83713; (208) 489-2500.

INTERROGATORY NO. 3: 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. 63-03163 and 63-03274.

ANSWER TO INTERROGATORY NO. 3: The above-ground motor for 63-3163 is a Hollow Shaft Pump Motor, manufactured by U.S. Electrical Motors, Inc., serial number 1213175. The above-ground motor for 63-3274 is a High Thrust Pump, manufactured by U.S. Electrical Motors, Inc., serial number R-6232-05-846 R2137312 MM. Claimant was unable to obtain responsive information as to any submersible pumps associated with these wells.

INTERROGATORY NO. 4: 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. 63-03163 and 63-03274.

ANSWER TO INTERROGATORY NO. 4: To the best of Claimant's information and belief, while the pumps and motors have been periodically repaired/rebuilt as needed and regularly maintained, no other changes have been made to the wells, pumps, or electric motors.

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. 63-03163 and 63-03274.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Power records for 2008 are attached as Bates Nos. DBS000053-DBS000068.

INTERROGATORY NO. 5: Please identify all persons who have knowledge about the farming of the place of use or who have assisted in the irrigation of the place of use for subcase nos. 63-03163 and 63-3274, since you acquired the place of use for subcase nos. 63-03163 and 63-03274.

ANSWER TO INTERROGATORY NO. 5:

- Name: Cleo Miller
Business/Home Address and Telephone Number: Miller Farms, 1910 S. Middleton Road, Nampa, Idaho 83686; (208) 466-4819 business; (208) 467-7753 home
Current Employment, Position, and Duties: Miller Farms, Owner, Farming
Relationship to Claimant: For many years before Claimant acquired the Tiegs property, and for a period of time after Claimant acquired the farm, Miller Farms farmed the property. Mr. Miller, the owner of Miller Farms, is familiar with all farming and irrigation activities that took place on the property while he leased the property.
Educational Background: Unavailable.
- Name: Adam Duckett
Business/Home Address and Telephone Number: South Mountain Land & Livestock, LLC, 5755 Dry Lake Road, Nampa, Idaho 83651; (208) 409-8524 business; (208) 461-9693 home
Current Employment, Position, and Duties: South Mountain Land & Livestock, LLC, Farmer, current tenant farming the Tiegs property.
Relationship to Claimant: Mr. Duckett lives on the Tiegs property and is familiar with all farming and irrigation activities that have taken place while South Mountain has been the tenant. He has no relationship with DBSI Tiegs 979 LLC, except as a farm tenant.
Educational Background: Unavailable.

REQUEST FOR PRODUCTION NO. 3: Produce all documents related to the construction of the wells that are the points of diversion for sub case nos. 63-03163 and 63-03274.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimant does not possess documents responsive to this request.

REQUEST FOR PRODUCTION NO. 4: Produce all data regarding measurements of the output of the wells for subcase nos. 63-03163 and 63-03274.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Claimant does not possess documents responsive to this request.

REQUEST FOR PRODUCTION NO. 5: Produce all pictures or video of the place of use and points of diversion for subcase nos. 63-03163 and 63-03274.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Photos responsive to this request are attached as Bates Nos. DBS000069-DBS000074.

REQUEST FOR PRODUCTION NO. 6: Please provide access to the production wells that are the points of diversion for subcase nos. 63-03163 and 63-03274 for purposes of conducting a flow measurement test, which measures the output of each well under normal operating conditions. A technician from IDWR will conduct the flow measurement test during the month of November. Please provide a date and time when DBSI TIEGS 979 LLC will provide such access. The electricity must be available at the well for the flow measurement test to occur; the discharge pipe from the well must also be connected to the sprinkler system, if the place of use is irrigated with a sprinkler system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Claimant objects to this request for several reasons. First, pursuant to Idaho Code Section 42-1401B(1), IDWR is required to be an “independent expert and technical assistant,” not an expert that acts on behalf of a particular party to a subcase. (Emphasis added). This request for access creates a situation in which IDWR is acting on behalf of one party against the interests of another party, rather than

acting as an “independent,” objective expert. This request therefore violates Section 42-1401B. Second, pursuant to Idaho Code Sections 42-1409, 42-1410, and 42-1411, IDWR is supposed to investigate claims before it issues its recommendation. This is supported by Rule 5(a) of AO1, which requires IDWR to obtain permission from the Claimant or leave of Court to conduct a field examination to investigate a claim after the Director’s Report recommendation has been issued. In essence, IDWR is attempting to use the State of Idaho’s discovery as a means for re-evaluating claims that it should have fully investigated prior to issuing the recommendations, in contravention of the adjudication statutes and rules. Third, Claimant is not authorized to withdraw groundwater after November 15, as that date constitutes the end of the official irrigation season for this area of Idaho. Fourth, withdrawals of groundwater outside of the irrigation season are not necessarily indicative of groundwater withdrawals during the irrigation season. Therefore, Claimant would be unable to replicate “normal operating conditions,” as the State of Idaho has specified.

INTERROGATORY NO. 6: Identify all persons who assisted in the preparation of the notices of claim for subcase nos. 63-03163 and 63-03274.

ANSWER TO INTERROGATORY NO. 6: These notices of claim were submitted prior to acquisition by DBSI Tiegs 979, LLC. Claimant therefore lacks the information responsive to this request.

INTERROGATORY NO. 7: 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 person is expected to testify.

ANSWER TO INTERROGATORY NO. 7:

- Name: Leland Tiegs

Business/Home Address and Telephone Number: 10971 Chicken Dinner Road,
Caldwell, Idaho 83607; (208) 454-3666

Current Employment, Position, and Duties: Tiegs Ag Consulting and Tiegs Family
Farms LPS, Farmer and Agriculture Consultant

Relationship to Claimant: The Tiegs family owned and operated the Tiegs farm for
several generations before selling it to Claimant. Mr. Tiegs is familiar with the history of
the farm, including the water rights that apply to the farm.

Educational Background: Unavailable.

- Name: Cleo Miller (Please see Answer to Interrogatory No. 5.)
- Name: Adam Duckett (Please see Answer to Interrogatory No. 5.)

INTERROGATORY NO. 8: 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. 8:

- Name: Scott King
Business Address and Telephone Number: 300 E. Mallard Drive Suite 350, Boise, Idaho
83706; (208) 383-4140
Current Employment, Position, and Duties: SPF Water Engineering, LLC, Supervising
Engineer, provides consulting services on water rights issues, pump design, irrigation
system evaluation, surface water hydrology, surface water modeling, and river hydraulics
Relationship to Claimant: Engineer for Claimant
Educational Background: M.S., Civil Engineering, University of Idaho; B.S., General
Engineering, Idaho State University
- Name: Terry Scanlan

Business Address and Telephone Number: 300 E. Mallard Drive Suite 350, Boise, Idaho 83706; (208) 383-4140

Current Employment, Position, and Duties: SPF Water Engineering, LLC, Principal Engineer/Hydrogeologist, provides water resource consulting and engineering services

Relationship to Claimant: Engineer for Claimant

Educational Background: M.S., Geological Engineering, University of Idaho; B.S., Geological Engineering, University of Idaho

REQUEST FOR PRODUCTION NO. 7: For each person identified in your response to Interrogatory No. 8, 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. 7.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: 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. 9: Identify all persons who assisted in the preparation of the responses by DBSI TIEGS 979 LLC to these interrogatories and requests for production.

ANSWER TO INTERROGATORY NO. 9:

- Name: Wayne Forrey
Business Address and Telephone Number: 12426 W. Explorer Drive, Boise, Idaho 83616; (208) 489-9448
Home Address and Telephone Number: 1952 S. Wilde Creek Way, Boise, Idaho 83709; (208) 362-9345
Current Employment, Position and Duties: DBSI, Inc. and Kastera Development LLC, Kastera Development's Director of Planning and Development, oversees all land development projects and is directly involved with the planning and entitlements for the Tiegs property
Relationship to Claimant: Employee
Educational Background: Bachelor's of science degree, and is a certified land planner (AICP)
- Name: Tom Morris
Business Address and Telephone Number: 12426 W. Explorer Drive, Boise, Idaho 83616; (208) 921-4021
Home Address and Telephone Number: 3684 N. Bunchberry Way, Boise, Idaho 83704; (208) 322-1184
Current Employment, Position and Duties: DBSI, Inc., provides consulting and legal services to DBSI, Inc. for various properties and projects including the Tiegs property
Relationship to Claimant: Former General Legal Counsel for Kastera Development LLC
Educational Background: Attorney with a JD degree
- Name: Adam Duckett (Please see Answer to Interrogatory No. 5.)
- 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 Claimants

Educational Background: J.D., University of Texas, 2002; B.B.A., University of Texas,
1997

- 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 Claimants

Educational Background: Undergraduate degree, Whitman College, 1974; J.D.,
University of Idaho, 1978

- Name: Lela Wood

Business Address and Telephone Number: 101 South Capitol Blvd, 10th Floor, Boise,
Idaho 83702; (208) 385-5435

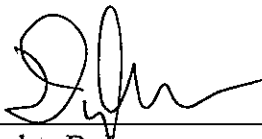
Current Employer, Position, and Duties: Moffatt Thomas Barrett Rock & Fields,
Chartered, Administrative Assistant, assist attorneys for Claimants

Relationship to Claimants: Administrative Assistant to attorneys for Claimants

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

DATED this 3rd day of February, 2009.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 

Dylan B. Lawrence – Of the Firm
Attorneys for Claimant DBSI Tiegs 979, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of February, 2009, I caused a true and correct copy of the foregoing **DBSI TIEGS 979, LLC'S RESPONSES TO 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