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DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimants Rebekah Tlucek,
Kevin Tlucek, Shelley Tlucek, and Byron Tlucek

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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 No. 63-10435

**REBEKAH TLUCEK, KEVIN TLUCEK,
SHELLEY TLUCEK, AND BYRON TLUCEK'S
SUPPLEMENTAL RESPONSES TO STATE OF
IDAHO'S FIRST SET OF DISCOVERY
REQUESTS**

COME NOW the above-named claimants, Rebekah Tlucek, Kevin Tlucek, Shelley Tlucek, and Byron Tlucek ("Claimants"), by and through undersigned counsel of record, and pursuant to Rules 26, 33, and 34 of the Idaho Rules of Civil Procedure, hereby submits the following supplemental responses to the State of Idaho's first set of discovery requests.

**REBEKAH TLUCEK, KEVIN TLUCEK, SHELLEY TLUCEK,
AND BYRON TLUCEK'S SUPPLEMENTAL RESPONSES
TO STATE OF IDAHO'S FIRST SET OF DISCOVERY REQUESTS - 1**

Client:1123266.1

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 Claimants' use of water.

- 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 Claimants: Engineer for Claimants
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 Claimants: Engineer for Claimants
Educational Background: M.S., Geological Engineering, University of Idaho; B.S., Geological Engineering, University of Idaho

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 5: These

individuals are expected to testify that water can be beneficially used in excess of the 4.5 acre-foot per acre per year standard relied upon by the Idaho Department of Water Resources for its inclusion of new annual diversion volume limitations on the water rights involved in this proceeding. Water can be beneficially used in excess of that standard, even when utilizing an irrigation system with a reasonable and acceptable efficiency, and particularly if climatological variations result in higher temperatures, less precipitation, and drier conditions, either during a particular irrigation season or over time. The primary underlying facts and data for this opinion are derived from the data available from the "ET Idaho" website, available at <http://www.kimberly.uidaho.edu/ETIdaho/>, as well as the "Report Regarding Evaluation of Irrigation Diversion Rates," submitted to the SRBA District Court on or about January 14, 1999, by Karl J. Dreher and David R. Tuthill, Jr. Both of these sources were discussed extensively at the depositions of these individuals. Other facts and data underlying this opinion are derived from the sources enumerated in response to Request for Production No. 6, below. In addition to this opinion, these individuals may testify in response to any technical representations or arguments advanced by the State of Idaho in its summary judgment briefing.

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. Claimants currently do not possess other documents responsive to this request. Claimants object 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. Claimants also object 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, Claimants will supplement this response in accordance with the Idaho Rules of Civil procedure and any relevant orders of the Court.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Below is a list of publications demonstrating the person's knowledge or qualifications to state the facts or express the opinions described in the response to Interrogatory No. 5.

Scott King's list of publications:

- Idaho Department of Water Resources, 1998. Eastern Snake Plain Aquifer Water Measurement Program: A Summary of Measurement Activity & Results from Basin 36 Project Area, 1995-1996, and a Review of Program Expansion in 1997.
- King, 2002. The Effective Discharge Concept in Gravel-Bed Stream Restoration: The Twelve Mile Reach of the Salmon River at Challis,

Idaho. Masters of Science with a major in Civil Engineering Thesis
Project.

Terry Scanlan's list of publications:

- Kiilsgaard, T.H., T.M. Scanlan, and D.E. Stewart, 1997, Geology of the Boise Basin Vicinity, Boise, Ada, and Elmore Counties, Idaho. Idaho Geological Survey, Map No. 7.
- Scanlan, T.M., 1986, Geology and Landslide Hazards of the Dunnigan Creek 7.5-Minute Quadrangle, Boise County, Idaho. Moscow, University of Idaho, M.S. Thesis, 68 p.

Below is a list of documents containing or evidencing the underlying facts or data described in the response to Interrogatory No. 5. Please note that the majority of these documents were produced at the deposition duces tecum of the two designated expert witnesses. Therefore, in order to save time, money, and paper, separate copies of such documents are not provided herein. However, copies will be provided upon request of the State of Idaho.

1. Allen, R. G., and C. E. Brockway, 1983. Estimating Consumptive Irrigation Requirements for Crops in Idaho. Research Technical Completion Report, Idaho Water and Energy Resources Research Institute, University of Idaho, Moscow, ID.
2. Allen, Richard G. and Charles E. Brockway, undated. Estimating Consumptive Use on a Statewide Basis.
3. Allen, Richard G. and Clarence W. Robison, 2006 (Revised 2007). Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID.

4. Doorenbos, J., and W.O. Pruitt, 1977. Crop Water Requirements. Irrigation and Drainage Paper No. 24, (rev) FAO, Rome.
5. ETIdaho---Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, web site (<http://www.kimberly.uidaho.edu/ETIdaho/>).
6. Fortier, Samuel and Arthur A. Young, 1930. Irrigation Requirements of the Arid and Semiarid Lands of the Columbia River Basin. Technical Bulletin No. 200. United States Department of Agriculture, Washington, D.C.
7. Hubble Engineering, Inc., and Associated Earth Sciences, 1991. Guidelines for the Evaluation of Irrigation Diversion Rates.
8. Hubble Engineering, Inc., and Associated Earth Sciences, 1991. Evaluation Workbook for Irrigation Diversion Rates for the Snake River Basin.
9. Idaho Department of Water Resources, 1996. Report Regarding Development of Standards for Annual Volume of Irrigation Requirements at the Field Headgate. Report to the SRBA District Court.
10. Idaho Department of Water Resources, 1998. Eastern Snake Plain Aquifer Water Measurement Program, A Summary of Measurement Activity & Results from Basin 36 Project Area, 1995-1996, and a Review of Program Expansion in 1997.
11. Idaho Department of Water Resources, 1999. Report Regarding Evaluation of Irrigation Diversion Rates. Report to the SRBA District Court.
12. Idaho Department of Water Resources, various years. All department records including but not limited to adjudication claim files and water right files for and related to water right numbers 63-2529, 63-3163, 63-3274, 63-3323, 63-3324, 63-9109, and 63-10435.

13. Jensen, M.E., 1968. Water Deficits and Plant Growth, Vol 2. Water Consumption by Agricultural Plants (Chapter 1). Academic Press Inc., New York.
14. Jensen, M.E., R.D. Burman, and R.G. Allen (ed). 1990. Evapotranspiration and Irrigation Water Requirements. ASCE Manual 70.
15. Robinson, T.W. and A.I. Johnson, 1960. Selected Bibliography on Evaporation and Transpiration. Open-file Report. United States Department of the Interior Geological Survey, Hydrologic Laboratory, Denver, CO.
16. Sutter, R. J., and G. L. Corey, 1970. Consumptive Irrigation Requirements for Crops in Idaho. University of Idaho, Moscow, ID.
17. USDA Soil Conservation Service, 1967 (Revised 1970). Irrigation Water Requirements. Technical Release No. 21.
18. USDA Soil Conservation Service, 1970 (Rev). Irrigation Guide for Southern and Southeastern Idaho, Boise, ID.

DATED this 17th day of February, 2009.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Dylan B. Lawrence – Of the Firm
Attorneys for Claimants Rebekah Tlucek,
Kevin Tlucek, Shelley Tlucek, and Byron
Tlucek

CERTIFICATE OF SERVICE

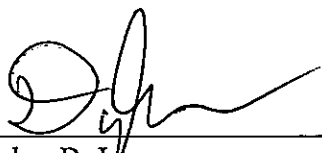
I HEREBY CERTIFY that on this 17th day of February, 2009, I caused a true and correct copy of the foregoing **REBEKAH TLUCEK, KEVIN TLUCEK, SHELLEY TLUCEK, AND BYRON TLUCEK'S SUPPLEMENTAL RESPONSES TO STATE OF IDAHO'S FIRST SET OF DISCOVERY REQUESTS** to be served by the method indicated below, and addressed 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
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☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Dylan B. Lawrence