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DEPARTMENT OF
WATER RESOURCES

Attorneys for Objectors
Terry and Anita Clark

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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. 37-01005

**OBJECTORS' FIRST SET OF DISCOVERY
REQUESTS TO MULDOON RANCH CO., LLC**

COME NOW Objectors Terry and Anita Clark ("Clark"), by and through undersigned counsel of record and pursuant to Idaho Rules of Civil Procedure 26, 33, 34, and 36, and hereby request that Muldoon Ranch Co., LLC respond to the following discovery requests no later than thirty (30) days from the date of receipt thereof as provided in said Rules.

**I.
INTRODUCTION**

In responding to these discovery requests, you are requested to furnish all information available to you, or subject to your reasonable inquiry, including information in the

possession of your attorneys, investigators, employees, agents, representatives, guardians, consultants, expert witnesses and/or any other person or persons acting on your behalf, and not merely such information as is known to you by your own personal knowledge.

In responding to these discovery requests, you must make a diligent search of your records and all other papers and materials that are in your possession or available to you or available to your representatives. If any item has subparts, please answer each part separately and in full. If you cannot answer any of the following discovery requests in full after exercising due diligence to secure the information necessary to do so, please so state and answer or respond to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

If you object to any of these discovery requests on the ground that the information sought is privileged and nondiscoverable, please state the basis for your claim of privilege and, in the case of any request for production, “identify” the “documents” and “records” which you object to producing in sufficient detail as to enable the court to rule upon a claim of privilege.

These discovery requests are deemed to be continuing. If, after responding to these discovery requests, you acquire any further information responsive to them, you are hereby requested, pursuant to Rule 26(e), to file and serve supplemental answers or responses containing such further information. If you fail to answer one or more of these discovery requests, or if your answer to one or more of these discovery requests is evasive or incomplete, Objectors may move for an order compelling you to fully answer these discovery requests and to pay the reasonable expenses, including attorney fees, incurred by them in obtaining the order.

If you fail to produce “documents” and “records” requested herein or fail to answer any interrogatory on the ground that the necessary information, “records” or

“documents” are not within your care, custody, possession, or control, please state what efforts you have made to obtain such information, “documents,” or “records.”

If you fail to answer or respond to any of these discovery requests in full, or fail to supplement your answers or responses as requested, Objectors may move the Court for an order precluding you from introducing into evidence, or otherwise using either at trial or at any hearing, any testimony, witness, exhibit, “document,” “record,” publication, or other item or information not timely disclosed in your response to these discovery requests.

II. DEFINITIONS

When asked to “identify” a person or entity or when asked for the “identity” of a person or entity, please state:

- (a) The name of the person or entity;
- (b) The present or last known address and telephone number of the person or entity;
- (c) The present or last known occupation, business, and employer of the person or entity; and
- (d) The present or last known address and telephone number of the employer of the person or entity.

When asked to “identify” a record or document or when asked for the “identity” of a “record” or “document,” please state:

- (a) The nature or type of “record” or “document” (*e.g.*, letter, photograph, tape recording, etc.);
- (b) The subject matter of the “record” or “document” and/or a general description of its contents;

- (c) The “identity” of the person who authored or created the “record” or “document”;
- (d) The date of the document or, if it bears no date, the date on which it was prepared or created; and
- (e) The physical location of the original and any copies of the “document” or “record” of which you are aware and the “identity” of the present custodian of the “record” or “document.”

In responding to these discovery requests, the following definitions shall apply:

The terms “document(s)” and/or “record(s)” mean any tangible thing upon which has been placed handwriting, e-mail transmission, typewriting, printing, photocopying, photographing, digital or computerized data, or any other form of recording, communication or representation, including but not limited to letters, words, pictures, sounds, magnetic impulses, symbols, numbers or any combination thereof, whether or not visible to the unassisted human eye. This definition shall include, but is not limited to, any and all originals, copies or drafts of any and all of the following: records, notes, summaries, schedules, contracts, agreements, drawings, blueprints, sketches, invoices, orders, acknowledgments, diaries, reports, findings, forecasts, tests, appraisals, reports, memoranda, medical records, telephone recordings, telephone logs, telephone lists, diaries, calendars, planners, daytimers, correspondence and letters, e-mail, telegrams, telexes, facsimiles and faxes, cables, tapes, tape recordings, statements, receipts, invoices, check registers, transcripts, recordings, photographs, witness statements, pictures, films, videotapes, computer programs, computer databases, models, surveys, things and materials of any nature whatsoever. Any “document” which contains any comment, notation, addition,

insertion or marking of any kind which is not part of another document is to be considered as a separate "document."

III. REQUEST FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that Muldoon Ditch (the irrigation ditch diverting water from Muldoon Creek in the NWSE quarter quarter section of Section 3, Township 02 North, Range 21 East, and traversing more or less the northern boundary of Muldoon Ranch) was constructed after 1900.

IV. INTERROGATORIES

INTERROGATORY NO. 1: Please state the name, address, and telephone number of each and every individual known to you who has any knowledge of, or who claims to have knowledge of, any facts or evidence discoverable in this matter (e.g., the historic source(s) of water right no. 37-1005, and/or the historic means of conveyance of said water right to its originally decreed place of use in Section 8, Township 02 North, Range 21 East), together with a brief summary of each person's knowledge.

INTERROGATORY NO. 2: Please state the name, address, and telephone number of any and all experts you plan to call upon at the trial of this matter and please:

- (a) Summarize each expert's background and qualifications;
- (b) State the subject matter of each expert's anticipated testimony;
- (c) State the substance of the facts and opinions to which each expert is expected to testify; and
- (d) Disclose all underlying facts and data upon which each expert bases his or her expert opinion(s).

INTERROGATORY NO. 3: Please identify each and every document that you intend to offer as an exhibit at the trial of this matter.

INTERROGATORY NO. 4: If your response to Request for Admission No. 1 is anything other than an unqualified admission, please describe in full and complete detail any and all grounds supporting your response.

INTERROGATORY NO. 5: Please describe in full and complete detail any and all facts supporting your contention that Muldoon Creek is a valid, historic source for water right no. 37-01005.

INTERROGATORY NO. 6: Please describe in full and complete detail the chronology of the construction of Muldoon Ditch (*i.e.*, when the ditch was constructed, who constructed the ditch, and if the ditch was constructed in stages, when the respective segments were constructed and where each segment terminated).

V.

REQUESTS FOR PRODUCTION OF DOCUMENTS

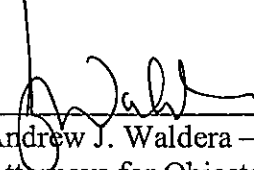
REQUEST FOR PRODUCTION NO. 1: Please produce any and all documents you intend to introduce as exhibits at the trial of this matter.

REQUEST FOR PRODUCTION NO. 2: If your response to Request for Admission No. 1 is anything other than an unqualified admission, please produce any and all documents supporting, either in whole or in part, your response.

REQUEST FOR PRODUCTION NO. 3: Please produce any and all documents supporting, either in whole or in part, your response to any of the Interrogatories contained herein.

DATED this 6th day of May, 2009.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 

Andrew J. Waldera – Of the Firm
Attorneys for Objectors Terry and Anita
Clark

CERTIFICATE OF SERVICE

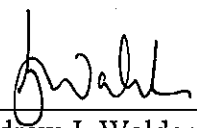
I HEREBY CERTIFY that on this 6th day of May, 2009, I caused a true and correct copy of the foregoing **OBJECTORS' FIRST SET OF DISCOVERY REQUESTS TO MULDOON RANCH CO., LLC** to be served by the method indicated below, and addressed to the following:

Gary D. Slette
Robertson & Slette, PLLC
P.O. Box 1906
Twin Falls, ID 83303-1906
Fax: (208) 933-0701

☐ 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



Andrew J. Waldera