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8 ISB # 3198
9 lrlm\litig\ABC\Muldoon\discovery requests

10 *Attorneys for Muldoon Ranch Co., LLC*

RECEIVED

MAY 20 2009

DEPARTMENT OF
WATER RESOURCES

11
12 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
13 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

14 * * * * *

15 IN Re SRBA) Subcase No. 37-01005
16)
17) MULDOON RANCH CO., LLC'S
18 Case No. 39576) FIRST SET OF DISCOVERY
19) REQUESTS DIRECTED TO
20) OBJECTORS

21 COMES NOW MULDOON RANCH CO., LLC (hereinafter "Muldoon"), by and
22 through the undersigned, and hereby requires you to answer and respond to the following
23 interrogatories, requests for production and requests for admission under oath, within thirty (30)
24 days after service hereof, in the manner prescribed by Rules 33, 34 and 36 of the Idaho Rules of
25 Civil Procedure.

26 INTRODUCTION

In responding to these requests for admission, interrogatories, and requests for production, 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,

1
2 employees, agents, representatives, guardians, consultants, expert witnesses and/or any other
3 person or persons acting on your behalf, and not merely such information as is known to you by
4 your own personal knowledge.

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

13 If you object to any requests for admission, interrogatories, or request for production on
14 the ground that the information sought is privileged and nondiscoverable, please state the basis
15 for your claim of privilege and, in the case of any request for production, "identify" the
16 "documents" and "records" which you object to producing in sufficient detail as to enable the
17 court to rule upon a claim of privilege.

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

26 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 requests for admission, interrogatories, or
requests for production in full or fail to supplement your answers or responses as requested,

1
2 Muldoon may move the Court for an order precluding you from introducing into evidence, or
3 otherwise using either at trial or at any hearing, any testimony, witness, exhibit, "document,"
4 "record," publication, or other item or information not timely disclosed in your response to these
5 requests for admission, interrogatories, and requests for production.

6 DEFINITIONS

7 When asked to "identify" a person or entity or when asked for the "identity" of a person
8 or entity, please state:

- 9 (a) The name of the person or entity;
10 (b) The present or last known address and telephone number of the person or
11 entity;
12 (c) The present or last known occupation, business, and employer of the
13 person or entity; and
14 (d) The present or last known address and telephone number of the employer
15 of the person or entity.

16 When asked to "identify" a record or document or when asked for the "identity" of a
17 "record" or "document," please state:

- 18 (a) The nature or type of "record" or "document" (e.g., letter, photograph, tape
19 recording, radiology report, etc.);
20 (b) The subject matter of the "record" or "document" and/or a general
21 description of its contents;
22 (c) The "identity" of the person who authored or created the "record" or
23 "document";
24 (d) The date of the document or, if it bears no date, the date on which it was
25 prepared or created; and
26 (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 requests for admission, interrogatories, and requests for production, the following definitions shall apply:

1
2 The terms "document(s)" and/or "record(s)" mean any tangible thing upon which has
3 been placed handwriting, e-mail transmission, typewriting, printing, photocopying,
4 photographing, digital or computerized data, or any other form of recording, communication or
5 representation, including but not limited to letters, words, pictures, sounds, magnetic impulses,
6 symbols, numbers or any combination thereof, whether or not visible to the unassisted human
7 eye. This definition shall include, but is not limited to, any and all originals, copies or drafts of
8 any and all of the following: records, notes, summaries, schedules, contracts, agreements,
9 drawings, blueprints, sketches, invoices, orders, acknowledgments, diaries, reports, findings,
10 forecasts, tests, appraisals, reports, memoranda, medical records, telephone recordings, telephone
11 logs, telephone lists, diaries, calendars, planners, daytimers, correspondence and letters, e-mail,
12 telegrams, telexes, facsimiles and faxes, cables, tapes, tape recordings, statements, receipts,
13 invoices, check registers, transcripts, recordings, photographs, witness statements, pictures, films,
14 videotapes, computer programs, computer databases, models, surveys, things and materials of
15 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."

16 REQUESTS FOR ADMISSION

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

20 REQUEST FOR ADMISSION NO. 2: Please admit that Muldoon Ditch (the irrigation
21 ditch diverting water from Muldoon Creek in the NWSE quarter quarter section of Section 3,
22 Township 02 North, Range 21 East, and traversing more or less the northern boundary of
23 Muldoon Ranch) was constructed before 1886.

24 INTERROGATORIES

25 INTERROGATORY NO. 1: Please state the name, address, and telephone number of
26 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

1
2 originally decreed place of use in Section 8, Township 02 North, Range 21 East), together with a
3 brief summary of each person's knowledge.

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

- 6 (a) summarize each expert's background and qualifications;
7 (b) state the subject matter of each expert's anticipated testimony;
8 (c) state the substance of the facts and opinions to which each expert is expected
9 to testify; and
10 (d) disclose all underlying facts and data upon which each expert bases his or her
11 expert opinion(s).

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

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

17 INTERROGATORY NO. 5: If your response to Request for Admission No. 2 is anything
18 other than an unqualified admission, please describe in full and complete detail any and all
19 grounds supporting your response.

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

24 REQUESTS FOR PRODUCTION OF DOCUMENTS

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

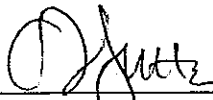
1
2
3 REQUEST FOR PRODUCTION NO. 2: If your response to Request for Admission No.
4 1 is anything other than an unqualified admission, please produce any and all documents
5 supporting, either in whole or in part, your response.

6 REQUEST FOR PRODUCTION NO. 3: If your response to Request for Admission No.
7 2 is anything other than an unqualified admission, please produce any and all documents
8 supporting, either in whole or in part, your response.

9 REQUEST FOR PRODUCTION NO. 4: Please produce any and all documents
10 supporting, either in whole or in part, your response to any of the Interrogatories contained
11 herein.

12 DATED this 19 day of May, 2009.

13 ROBERTSON & SLETTE, PLLC

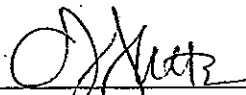
14 By 
15 Gary D. Slette

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18 CERTIFICATE OF SERVICE

19 The undersigned certifies that on the 19 day of May, 2009, he caused a true and correct
20 copy of the foregoing instrument to be served upon the following persons in the following manner:

21 Scott L. Campbell [] Hand Deliver
22 Andrew J. Waldera [x] U.S. Mail
23 MOFFATT THOMAS BARRETT [] Overnight Courier
24 P.O. Box 829 [] Facsimile Transmission - 208-385-5384
25 Boise, ID 83701-0829 [] Email slc@moftatt.com
26 ajw@moftatt.com

27 Director [] Hand Deliver
28 Idaho Dept of Water Resources [x] U.S. Mail
29 P.O. BOX 83720 [] Overnight Courier
30 Boise, ID 83720-0098 [] Facsimile Transmission - 208-287-6700


Gary D. Slette