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10929-1_890728_2

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DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimant W & H Limited Liability Company

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. 63-32910

**CLAIMANT W & H LIMITED
LIABILITY COMPANY'S FIRST
SET OF DISCOVERY REQUESTS
TO GREG OBENDORF**

TO: GREG OBENDORF AND HIS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE THAT CLAIMANT W & H LIMITED LIABILITY COMPANY ("W&H"), by and through its attorneys of record, Givens Pursley LLP, require you to answer under oath the following Interrogatories and Requests for Production within thirty (30) days from the date of service hereof, pursuant to and in conformance with all provisions of Rules 33 and 34 of the Idaho Rules of Civil Procedure.

PRELIMINARY STATEMENT AND INSTRUCTIONS

In answering these Interrogatories and Requests for Production, please furnish all information and documents available to you, including information and documents in the

possession of your attorneys, accountants, expert witnesses or other agents or persons from whom you have a legal right to obtain such information or documents.

If any document or any portion of any document or any other information which is requested herein is or will be withheld from your answers or from production, inspection or copying (whether because it is claimed to be work product, communication from attorney to client, or is claimed to be entitled to be withheld for any other reason), please fully identify each such document or portion thereof in your response and fully state in your response the reason it is or will be withheld. In addition, if any document is practically impossible of production, inspection or copying, please fully identify such document and the reason for the practical impossibility.

If you cannot answer the following Interrogatories and Requests for Production in full after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information and knowledge you have concerning the unanswered portion.

Pursuant to Rules 33 and 34 of the Idaho Rules of Civil Procedure, it is requested that within thirty (30) days after service hereof, you answer the following Interrogatories and produce the documents herein requested. You may produce said documents at the Office of GIVENS PURSLEY LLP, 601 West Bannock Street, P.O. Box 2720, Boise, Idaho 83701, or by copying or mailing said documents to Claimant's attorney via U.S. Mail, on or before said date. Unless you furnish copies of all of the following requested documents by delivering or mailing them to counsel, upon production you will be required to keep such documents available for a reasonable time thereafter to enable counsel to inspect and to photocopy said documents.

All of the Interrogatories and Requests for Production herein are deemed continuing. If, after responding to these Interrogatories and Requests for Production, you acquire any further information or any documents requested herein or any other information related to any document herein which is not reflected by any documents produced or any response to these Interrogatories and Requests for Production, you must file a supplemental response or indicate to Claimant's counsel the existence of such documents. Such supplemental response is in addition to any required by the Idaho Rules of Civil Procedure.

DEFINITIONS

As used in these Interrogatories and Requests for Production, the following terms have the following meanings (whether capitalized or not):

1. "Claimant" or "W&H" means W & H Limited Liability Company, its representatives, or anyone acting on its behalf.
2. "You" or "Your" means Greg Obendorf ("Obendorf"), Respondent in the above-entitled action, together with his counsel, consultants, experts, investigators, principals, agents, employees, representatives, predecessors-in-interest, and any other person acting on his behalf, including without limitations, any accountants, bookkeepers, and attorneys. If your answer applies to only one of your predecessors-in-interest, identify to which of the predecessors-in-interest it applies.
3. "Person" means and includes a natural person, partnership, corporation or other legal entity together with its principals, agents, employees, representatives and assigns or any organization, including divisions, departments, and other units, and shall include, but not be limited to, any public or private corporation, limited liability company, joint venture, voluntary

or unincorporated association, proprietorship, trust, or estate, and any governmental agency, commission, bureau, or department.

4. “Document” or “Documentary” means and includes any and all tangible things and papers of any kind or description, whether written, drawn, recorded, electronic, graphic, typewritten, printed, photographed or otherwise produced or reproduced, and whether produced, reproduced, stored, or transmitted manually or by mechanical, electronic, or other process or a combination of these methods, including but not limited to papers, computer records and/or files, objects, maps, charts, surveys and things similar to any of the foregoing, kept by written, electronic, photographic, mechanical or other means, regardless of their authority or origin, and however denominated by you, of which you have any knowledge or information, referring, relating or pertaining in any way to the subject matters in connection with which the word is used. The term “Document” or “Documentary” includes, without limitation, originals, all file copies, and all the copies no matter how or by whom prepared and all drafts prepared in connection with such writings, whether used or not.

5. “Date” means the day, month and year if known or ascertainable and, if not, the closest approximation that can be made.

6. “Identify” means (regardless of whether any claim of privilege is asserted):

- (a) for a person, provide that person’s full name and home and business addresses and telephone numbers;
- (b) for a corporation, unincorporated association, partnership, trust, estate, governmental agency, division, bureau, or other entity, provide its full legal name and other names under which it does business or is known to you (including trade names), its principal place of its business, the state or government under which it is organized, its telephone number,

and the identities of all natural persons associated with the entity who have knowledge relevant to these proceedings;

(c) for a document, provide the date, title, author(s), recipient(s), type of document (e.g., letter or memorandum), generic subject matter, and, if not in your possession, custody, or control, other information necessary to identify the document for purposes of a subpoena duces tecum, including the custodian, and the location of the document;

(d) for an oral communication or other event, describe and summarize its substance; state the time and place it occurred; and identify participants and all others present;

(e) for tangible or intangible property, describe the property, give a legal description or street address for real property, identify its owner(s) and any other person(s) with a legal interest in the property, such as lienholders and lessors, and state the date acquired by the current owner(s), if known.

7. “Relate to” or “relating to” means constituting, evidencing, reflecting, representing, supporting, contradicting, referring to, containing, mentioning, recording, noting, embodying, studying, analyzing, evaluating, relevant to, generated in anticipation of or as a result of, or relied upon, referred to, or mentioned in connection with any item or event. The term “relate to,” as applied to a specific document, requests that specific document as well any documents otherwise relating to it.

INTERROGATORIES

INTERROGATORY NO. 1: Please state the name, address and telephone number of each and every person who has knowledge of facts concerning the subject matter of this action, and for each such person, state:

a. His or her residence address and telephone number.

- b. His or her business address and telephone number.
- c. Whether you, your agents, representatives and/or attorneys have spoken with said person and, if so, whether any oral or written statement has been obtained from said person;
- d. Identify each and every document, writing, photograph or other item of tangible or documentary evidence obtained by you, your agents, representatives and/or attorneys from said person or known to you, your agents, representatives and/or attorneys to be in the possession of said person.

INTERROGATORY NO. 2: Please set forth the name, address and telephone number of each and every person you expect to call as a lay witness at the hearing of this matter, and for each such person, state the substance of his or her expected testimony.

INTERROGATORY NO. 3: Please state the name, address and telephone number of each and every person you expect to call as an expert witness at the trial of this matter, and for each such person, state:

- a. The qualifications upon which you intend to rely to establish said person as an expert witness;
- b. The substance of the facts and opinions to which he or she is expected to testify;
and
- c. Specifically and in detail the underlying facts and data upon which the expert's opinion and testimony is based.

INTERROGATORY NO. 4: Please describe each and every documentary, written or tangible item of evidence known to you that concerns the subject matter of this action. Please provide sufficient detail (e.g., date, author, subject matter, etc.) so each such item may be identified and distinguished from other items of documentary, written or tangible evidence.

INTERROGATORY NO. 5: Please describe each and every documentary, written or tangible item of evidence that you expect to introduce or use, or may use at the hearing of the above-described matter. Please provide sufficient detail (e.g., date, author, subject matter, etc.) so each such item may be identified and distinguished from other items of documentary, written or tangible evidence.

INTERROGATORY NO. 6: Please state the full name and address of the person(s) participating in answering this discovery.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any and all documents and/or items of tangible evidence which you expect to introduce or use, or may use at trial of the above-described matter.

REQUEST FOR PRODUCTION NO. 2: Please produce any and all documents and/or items of tangible evidence, including but not limited to statements, reports, notes, diaries, or memoranda, in any form whatsoever obtained by you, your attorneys or representatives, or anyone acting on your or their behalf, from any person believed by you or by your attorney to have knowledge of any of the events or happenings referred to in the pleadings or otherwise at issue in this case.

REQUEST FOR PRODUCTION NO. 3: Please produce any and all documents and/or items of tangible evidence seen, reviewed, maintained or generated by any expert witness who will testify on your behalf at the trial of this matter, including, but not limited to all documents which reflect, document or otherwise describe facts known and/or opinions held by any such expert witness.

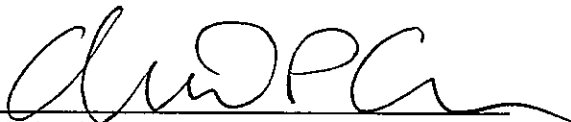
REQUEST FOR PRODUCTION NO. 4: Please produce any and all documents and/or

items of tangible evidence which were referred to, or contain information responsive to, any of the Interrogatories set out above and served contemporaneously herewith.

REQUEST FOR PRODUCTION NO. 5: Please produce any and all documents, including but not limited to data, records, reports, summaries, measurements or observations in your possession or reviewed by you, of historical flow conditions in, or water diversions from, Baldridge and Meadows Drain, Upper Haas Ditch, and Lower Haas Ditch, including but not limited to any and all water diversions made by you.

DATED this 1st day of July, 2010.

GIVENS PURSLEY, LLP

By: 
Michael P. Lawrence
Attorneys for W & H Limited Liability
Company

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of July, 2010, a true and correct copy of the foregoing was served upon the following individual(s) by the means indicated:

Greg Obendorf

Represented by:

Dana L. Hofstetter

608 W. Franklin St.

Boise, ID 83702

☐

U.S. Mail, postage prepaid

☐

Express Mail

☒

Hand Delivery

☐

Facsimile (208) 424-8774

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Director of IDWR

IDWR Document Depository

PO Box 83720

Boise, ID 83720-0098

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Facsimile

U.S. Department of Justice

Environment and Natural Resources Division

550 W. Fort St., MSC 033

Boise, ID 83724

☒

U.S. Mail, postage prepaid

☐

Express Mail

☐

Hand Delivery

☐

Facsimile

Chief, Natural Resources Division

Office of the Atty. General

State of Idaho

700 West Jefferson, Room 210

P.O. Box 44449

Boise, ID 83711-4449

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U.S. Mail, postage prepaid

☐

Express Mail

☐

Hand Delivery

☐

Facsimile

The **original** of *Claimant W & H Limited Liability Company's First Set of Discovery Requests to Greg Obendorf* will be retained at the office of Givens Pursley LLP.



Michael P. Lawrence