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OCT 29 2010
DEPARTMENT OF
WATER RESOURCES

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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	)	Subcase No. 27-04096
	)	
Case No. 39576	)	UNITED STATES' MOTION TO
	)	QUASH DISCOVERY REQUESTS
_____	)	AND BRIEF IN SUPPORT

The United States, on behalf of the Department of Interior, Bureau of Indian Affairs, files this motion to quash the "State of Idaho's Discovery Requests to the United States," which were served on September 29, 2010. The grounds for this motion are that these discovery requests are out of time and in violation of this Court's Trial Scheduling Order.

Brief in Support

On September 1, 2009 the Special Master issued a Trial Scheduling Order for the Test Case for Tribal Volumetric Objections (Subcase 27-04096) which, *inter alia*, set a "Deadline for Discovery to Be Completed" on September 30, 2010 at 5:00 PM. That Order,

therefore, establishes a “cut-off” date for the *completion* of discovery of September 30, 2010. It says nothing about service of initial discovery requests. Indeed, the period for discovery has been open for many months. Recognizing this fact, the United States and the Shoshone-Bannock Tribes served their discovery upon the State in this sub-case on August 30, 2010, that date having been chosen in order to account for the 30 day period for serving responses. See I.R.Civ.P. 33(a)(2) (interrogatories); I.R.Civ.P. 34(b)(2) (requests for production); I.R.Civ.P. 36(a)(requests for admission).

On September 29, 2010, a mere one day before the deadline for the completion of discovery, the State of Idaho served State of Idaho’s Discovery Requests to the United States in Subcase No. 27-04096 upon counsel for the United States. Inasmuch as responses to these discovery requests would not be due for at least 30 days, the requests are untimely and in contravention of the Special Master’s scheduling order, and should be declared null and void, and no responses should be required from the United States. To declare otherwise would impose an undue burden on the United States by permitting the State of Idaho to extend the discovery period unilaterally and without Court approval.

The State of Idaho had ample opportunity to serve discovery on the United States at any time over the past year but opted to wait until one day before the discovery period closed and all discovery was to be completed to make this request. For the United States to have to respond to this request would artificially extend the discovery period an additional thirty days beyond what the Court had intended.

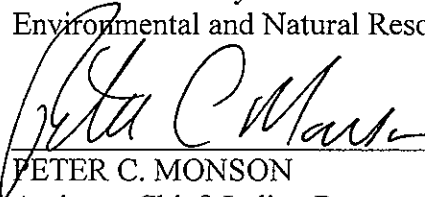
The United States should be allowed to use the time leading up to the November 17 pretrial conference and the December 6 week-long trial to prepare for that trial, not to investigate and respond to the untimely discovery requests of the State of Idaho.

Therefore, the United States petitions the SRBA Court for an Order Quashing the State of Idaho's Discovery Requests to the United States, dated September 29, 2010, or such other order as would relieve the United States from any obligation to respond to the State's untimely discovery requests.

DATED this 26th day of October, 2010.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on October 26, 2010, I served true and correct copies of the foregoing **UNITED STATES' MOTION TO QUASH DISCOVERY REQUESTS AND BRIEF IN SUPPORT** as follows:

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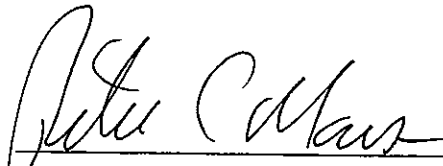
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