

LARRY ECHOHAWK  
Attorney General  
State of Idaho

CLIVE J. STRONG  
Deputy Attorney General  
Chief, Natural Resources Division

A. LYNNE KROGH  
SUSAN E. HAMLIN  
Deputy Attorneys General  
Idaho Department of Water Resources  
P.O. Box 44449  
Boise, Idaho 83711-4449  
Telephone: (208) 327-7928

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     | ) | SUB-CASE NO: 34-07044         |
|                | ) |                               |
| Case No. 39576 | ) | IDWR'S FIRST SET OF           |
|                | ) | INTERROGATORIES AND REQUEST   |
|                | ) | FOR PRODUCTION OF DOCUMENTS   |
|                | ) | TO CAROL AND TERRENCE DONAHUE |

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DESCRIPTIVE SUMMARY

This document is IDWR's First Set of Interrogatories and Request for Production of Documents to Carol and Terrence Donahue.

TO: CAROL J. DONAHUE AND TERRENCE V. DONAHUE.

The Idaho Department of Water Resources (IDWR), pursuant to Idaho Rules of Civil Procedure 26, 33, and 34, hereby requests that you respond to the following interrogatories and requests for production of documents in the manner described below.

IDWR'S FIRST SET OF INTERROGATORIES  
AND REQUEST FOR PRODUCTION OF DOCUMENTS  
TO CAROL AND TERRENCE DONAHUE -- Page 1

## GENERAL INSTRUCTIONS

1. In answering the interrogatories, furnish all information which is known or available to you, including but not limited to, information known of your personal knowledge, information obtainable by the diligent search of sources of information available to you, and all information in the possession of or available to any person or persons acting on your behalf or under your control, including any of your attorneys, agents, employees, experts, insurers, independent contractors, investigators, representatives, or others with whom you have a relationship and from whom you are capable of deriving information, documents or material.

2. Unless otherwise indicated, these interrogatories refer to the time, place, and circumstances of the occurrence complained of or mentioned in the pleadings filed in this action.

3. These interrogatories and requests for production are deemed continuing in nature and your answers thereto are to be supplemented as additional information and knowledge becomes available or known to you as provided in Idaho Rule of Civil Procedure 26(e).

4. If you contend that any requested information or document is privileged, in whole or in part, or otherwise object to any part of the interrogatory or request for production, please do the following: (1) identify the information; (2) state the basis for each claim of privilege or other objection; and (3) identify each

person or entity having knowledge of the basis for each claim of privilege or other objection.

#### **INSTRUCTIONS FOR INTERROGATORIES**

You must respond to the interrogatories within fifteen days of service by fully setting forth each interrogatory followed by an answer or objection to each interrogatory under oath. Please serve the original written responses to those interrogatories, with the original certificate of service, on IDWR.

#### **INSTRUCTIONS FOR REQUESTS FOR PRODUCTION**

1. Please produce the documents for inspection and copying at the Eastern Region Office of the Idaho Department of Water Resources, 900 N. Skyline Drive, Idaho Falls, Idaho, on April 12, 1994, at 11:00 a.m., or at such other time and place as may be mutually agreed upon by the parties. Inspection and copying will be conducted by the undersigned attorneys or their agents and will continue from time to time and from day to day until completed.

2. If you will make originals of the requested documents available at a subsequent time requested by IDWR, upon reasonable notice, including trial, then the requests for production of documents may be satisfied by mailing true, correct, and legible copies of each and every requested document to Susan E. Hamlin, Idaho Department of Water Resources, P.O. Box 44449, Boise, Idaho 83711-4449, within the prescribed time.

3. You are required to provide a response within fifteen days of service of this request stating whether you will produce

the requested documents at the specified place and time and reasons for any objection. Your final response shall set forth each request, followed by (1) a list identifying the documents that respond to the particular request and produce the requested documents; or (2) your objection.

#### DEFINITIONS

A. The terms "you" and "your" refer to Carol and Terrence Donahue.

B. The term "document" or "documents" shall mean any kind of written, printed, typed, graphic, computerized or photographic matter of any kind or nature, however produced or reproduced, and all mechanical and electronic sound recordings and written transcripts thereof, however produced or reproduced, whether in your control or not, and including without limitation, originals, all file copies, all other copies no matter how or by whom prepared, and all drafts of such documents whether used or not, and if the original is not in existence and available to you, the best copy or reproduction thereof.

C. The terms "relating to" and "pertaining to" shall mean consisting of, referring to, reflecting, discussing, mentioning, summarizing or having any logical or factual connection with the matter discussed.

D. The term "identify" when used with respect to a document, or the description or identification of a document, shall be deemed to include a request for:

(1) the nature and substance of the document with sufficient particularity to enable the same to be precisely identified;

(2) the date, if any, that the document bears;

(3) the date and the persons to whom the document was sent;

(4) the date the document was received, and the persons who received it;

(5) the names of all persons executing the document and the names of all persons participating in the preparation thereof, if different from the persons executing it;

(6) the names of all persons to whom the document is addressed;

(7) the name and address of the custodian(s) of the original or, if none, of a legible copy of the document.

In lieu of the identification required by subparts (1) through (7) above, you may attach a legible copy of the document to the answers to these discovery requests if your answer to the particular interrogatory:

(a) is sufficient to enable a reader to determine which document or documents are referred to by your answer; and

(b) contains all information requested by subparts (1) through (7) above, not contained in the document itself.

F. The term "identify" when used with respect to a person, or a request for description or identification of a person, shall

be deemed to include a request for the following information with respect to such person:

- (1) the person's full name;
- (2) the person's last known business address, and if a natural person, the person's last known residence;
- (3) the person's business and residence telephone number;
- (4) the person's employment position or job title;
- (5) whether you will call the person as an expert witness;
- (6) as to a non-expert witness, a detailed statement of the subject matter on which he or she is expected to testify, and the substance of the facts to which he or she is expected to testify;
- (7) as to an expert witness, a detailed statement of the person's educational background, experience in the matter on which he or she is expected to testify, the substance of the facts and opinions to which he or she is expected to testify, a summary of the grounds for each opinion, and the manner in which he or she become familiar with the facts of this case.

#### **INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

INTERROGATORY NO. 1: State the legal grounds, and identify the witnesses you will call and the documents you will offer at trial, to support a determination that the licenses no 34-07044 was not a final determination of the extent of the appropriation from the well recommended as the point of diversion as of June 27, 1979, the date of the licensing field exam for water right no. 34-07044.

INTERROGATORY NO. 2: Identify the witnesses you will call and the documents you will offer at trial to show beneficial use of water for irrigation purposes from the well recommendation as the point of diversion of water right no. 34-07044, including the amount of water diverted in cubic feet per second, and the number of acres irrigated by quarter-quarter section, at the recommended place of use of water right no. 34-07044.

INTERROGATORY NO. 3: Identify the witnesses you will call and the evidence you will offer at trial to show the date the use described in your answers to Interrogatory No. 2 commenced.

INTERROGATORY NO. 4: Please identify each person with knowledge of the following regarding the use of your water right: (a) the amount of water used in cfs and (b) the place where water was used by number of acres per quarter quarter section.

INTERROGATORY NO. 5: Identify any other witnesses you will call and documents you will offer at trial not identified in your answers to the preceding interrogatories.

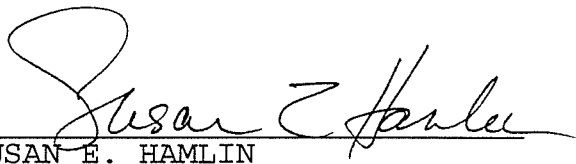
REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in your answers to the preceding interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce a copy of the current resume for each person identified in your answers to the preceding interrogatories whom you will offer at trial as an expert witness.

CERTIFICATE OF SERVICE

I hereby certify that on the 28<sup>th</sup> day of March, 1994, I served true and correct copies of the foregoing interrogatories and request for production of documents on the person(s) listed below, by mailing in the U.S. Mail, first class, with the correct postage affixed thereto.

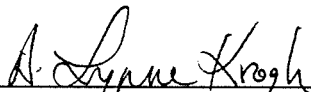
Carol J. Donahue  
Terrence V. Donahue  
Star Rt.  
Mackay, Idaho 83251

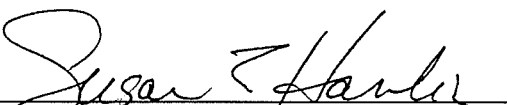
  
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SUSAN E. HAMLIN  
Deputy Attorney General

Dated this 28<sup>th</sup> day of March, 1994.

LARRY ECHOHAWK  
Attorney General

CLIVE J. STRONG  
Deputy Attorney General

  
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A. LYNNE KROGH  
Deputy Attorney General

  
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