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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Claimants Steve and Deanne Hawks

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

In re CSRBA

Case No. 49576

Steve and Deanne Hawks,

Claimant(s),

vs.

Coeur d'Alene Tribe, a federally-recognized
Indian tribe,

Objector.

Subcase No. 91-7102

**CLAIMANTS' ANSWERS AND
RESPONSES TO OBJECTOR'S
SECOND REQUESTS FOR
DISCOVERY**

COME NOW Claimants Steve and Deanne Hawks (“Claimants”), by and through undersigned counsel of record, and answer and respond to Objector’s Second Requests for Discovery to Claimants as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 16: Please admit that Claimants are citizens of the State of Idaho.

RESPONSE TO REQUEST FOR ADMISSION NO. 16: Claimants admit they are residents of the State of Idaho and deny the remainder of the Request for Admission.

REQUEST FOR ADMISSION NO. 17: Please admit that documents attached hereto as Attachment “1,” bates numbers “CDAT OBJ-7102 0006 – 0037,” are the documents Claimants referenced in their answer or amended answer to interrogatory number 7 and responses and/or amended responses to Objector’s requests for production of documents numbers 1, 4, 5, 6, 7, 8, 9, 11, 12, and 13. If only some of the documents referenced are responsive to a certain interrogatory or request for production of documents, please qualify your answer indicating which document is responsive to such certain interrogatory or request for production.

RESPONSE TO REQUEST FOR ADMISSION NO. 17: Admit.

REQUEST FOR ADMISSION NO. 18: Pursuant to I.R.C.P. 36, please admit that the documents attached hereto as Attachment “1,” bates numbers “CDAT OBJ-7102 0001 – 0037,” are admissible, true, accurate, and correct copies of documents (or in other words are “authentic” and/or “genuine” within the meaning of I.R.E. 901) that Claimants referenced in their response and/or amended response to Objector’s First Requests for Discovery to Claimants.

RESPONSE TO REQUEST FOR ADMISSION NO. 18: Admit.

REQUEST FOR ADMISSION NO. 19: Pursuant to I.R.C.P. 36, please admit that the documents attached hereto as Attachment “1,” bates numbers “CDAT OBJ-7102 0001 – 0005,” are admissible, true, accurate, and correct copies of documents (or in other words are “authentic” and/or “genuine” within the meaning of I.R.E. 901) that Claimants produced to Objector or referenced in response to Objector’s First Requests for Discovery to Claimants as Exhibit “A” thereto.

RESPONSE TO REQUEST FOR ADMISSION NO. 19: Admit.

REQUEST FOR ADMISSION NO. 20: Please admit that the source of water of the Claimants’ water rights claim is the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 20: Admit.

REQUEST FOR ADMISSION NO. 21: Please admit that the point of diversion for the Claimants’ water right claim is a point at which water is diverted from the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 21: Claimants admit that IDWR water right license no. 91-7102 states that the location of the point of diversion is the St. Joe River and deny the remainder of the Request for Admission. The point of diversion for the Claimants’ water right claim is a point at which water is diverted from a man-made lagoon off the St. Joe River.

REQUEST FOR ADMISSION NO. 22: Please admit that the Claimants, individually and/or collectively, are members of the group known as the North Idaho Water Rights Alliance which has filed a Response to Objection in the foregoing subcase.

RESPONSE TO REQUEST FOR ADMISSION NO. 22: Admit. However, Claimants were not members of the group known as the North Idaho Water Right Alliance at the

time the Response to Objection in the foregoing subcase was filed. Responses were filed by the members of the group known as the North Idaho Water Right Alliance.

REQUEST FOR ADMISSION NO. 23: Please admit that Claimants' diversionary works extend past the legal description of Claimants' property on Blocks 1 and 2 of Sylvia's Haven, Benewah County, Idaho. [Please review documents Bates CDAT OBJ-7102 0022 and CDAT OBJ-7102 0023, attached hereto, prior to answering this request for admission.]

RESPONSE TO REQUEST FOR ADMISSION NO. 23: Deny. Claimants' understanding is that their property extends a few feet into the lagoon and encompasses the diversionary works. Claimants have measured the property according to the legal description and confirmed that the property extends past the diversionary works.

REQUEST FOR ADMISSION NO. 24: Please admit that there is water at Claimants' point of diversion at all times of the year. [Please review document at Bates CDAT OBJ-7102 0008, attached hereto as part of Attachment "1", prior to answering this request for admission.]

RESPONSE TO REQUEST FOR ADMISSION NO. 24: Deny. As explained by Claimants in their deposition on May 2, 2016, the lagoon does dry up at times during the year.

REQUEST FOR ADMISSION NO. 25: Please admit that Claimants' point of diversion is below the ordinary low water mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 25: Deny. As stated in the deposition of Claimants on May 2, 2016, the lagoon dries up completely at times during the year. Therefore, the point of diversion could not be below the ordinary low water mark.

REQUEST FOR ADMISSION NO. 26: Please admit that neither IDWR water permit no. 91-7102 nor IDWR water right license no. 91-7102 could have been initiated in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 26: Objection is made to Request for Admission No. 26 because it seeks a legal conclusion. Without waiving the objection, Claimants admit that neither IDWR water permit no. 91-7102 nor IDWR water right license no. 91-7102 could have been initiated in trespass, but deny that they were initiated in trespass.

REQUEST FOR ADMISSION NO. 27: Please admit that in issuing IDWR water permit no. 91-7102 and/or IDWR water right license no. 91-7102, IDWR could not have authorized trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 27: Objection is made to Request for Admission No. 27 because it seeks a legal conclusion. Without waiving the objection, Claimants admit that in issuing IDWR water permit no. 91-7102 and/or IDWR water right license no. 91-7102, IDWR could not have authorized trespass, but deny that IDWR needed to authorize trespass in issuing the permit and license.

REQUEST FOR ADMISSION NO. 28: Please admit that neither IDWR water permit no. 91-7102 nor IDWR water right license no. 91-7102 authorize access to or across land not owned by Claimants.

RESPONSE TO REQUEST FOR ADMISSION NO. 28: Objection is made to Request for Admission No. 28 because it seeks a legal conclusion. Without waiving the objection, Claimants admit that neither IDWR water permit no. 91-7102 nor IDWR water right

license no. 91-7102 authorize access to or across land not owned by Claimants, but deny that they authorize access to or across land not owned by Claimants.

REQUEST FOR ADMISSION NO. 29: Please admit the Claimant(s) cannot enter any lands, including submerged lands, owned by the Coeur d'Alene Tribe or by the United States in trust for the benefit of the Coeur d'Alene Tribe without permission from either the Tribe or the United States.

RESPONSE TO REQUEST FOR ADMISSION NO. 29: Claimants admit the Claimant(s) cannot enter any lands, including submerged lands, owned by the Coeur d'Alene Tribe or by the United States in trust for the benefit of the Coeur d'Alene Tribe without permission from either the Tribe or the United States, but deny that they have entered any lands, including submerged lands, owned by the Coeur d'Alene Tribe or by the United States in trust for the benefit of the Coeur d'Alene Tribe.

REQUEST FOR ADMISSION NO. 30: Please admit that Claimants' riparian and/or littoral rights do not include the right to make any consumptive use of the waters of the St. Joe River or any right of access for the purpose of appropriating water from the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 30: Claimants admit that Claimants' riparian and/or littoral rights do not include the right to make any consumptive use of the waters of the St. Joe River without a valid water right, but deny that Claimants' riparian and/or littoral rights do not include any right of access for the purpose of appropriating water from the St. Joe River.

REQUEST FOR ADMISSION NO. 31: Please admit that Claimants' do not have title insurance for the real property associated with the above-captioned water right claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 31: Admit.

REQUEST FOR ADMISSION NO. 32: Please admit that the Coeur d'Alene Tribe is entitled to the exclusive use, occupancy, and right to quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River that are owned by the United States in trust for the Coeur d'Alene Tribe.

RESPONSE TO REQUEST FOR ADMISSION NO. 32: Objection is made to Request for Admission No. 32 on the ground that it has been asked and answered in Request for Admission No. 2 and Response to Request for Admission No. 2. Claimants also object to Request for Admission No. 32 on the ground that it seeks a legal conclusion regarding who owns "the bed and banks of the Coeur d'Alene Lake and the St. Joe River" and attorney work product. Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe are entitled to the exclusive use, occupancy and right to the quiet enjoyment of all the bed and banks of Lake Coeur d'Alene and the St. Joe River, specifically not at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 33: Please admit that the water level at Claimants' point of diversion is capable of floating boats or canoes.

RESPONSE TO REQUEST FOR ADMISSION NO. 33: Claimants admit that the water level at Claimants' point of diversion is capable of floating boats or canoes when the

lagoon has water in it, but deny that the water level at Claimants' point of diversion is capable of floating boats or canoes when the lagoon is dry.

REQUEST FOR ADMISSION NO. 34: Please admit that the St. Joe River at Claimants' point of diversion is a natural water source.

RESPONSE TO REQUEST FOR ADMISSION NO. 34: Claimants admit that the IDWR water right license no. 91-7102 states that the point of diversion is the St. Joe River, which is a natural water source, and deny the remainder of the Request for Admission. The point of diversion for the Claimants' water right claim is a point at which water is diverted from a man-made, artificially built lagoon off the St. Joe River.

INTERROGATORIES

INTERROGATORY NO. 9: If your answer to any of the Requests for Admission is anything other than an unqualified "admit" identify and describe in detail the facts upon which you rely in making your responses, all individuals with knowledge regarding such facts, and all documents relating in any way to your response(s).

ANSWER NO. 9:

With regard to Request for Admission No. 16, Claimants do not understand what "citizens of Idaho" means. The term was not defined.

With regard to Request for Admission Nos. 21, 23, 24 and 25, the Response speaks for itself.

With regard to Request for Admission Nos. 26, 27, 28 and 29, *see* Answer to Interrogatory No. 10.

With regard to Request for Admission No. 30, please *see* Idaho Code Sections 42-1101, 42-1102, 42-1105 and 58-1302.

With regard to Request for Admission No. 32, *see* Answer to Interrogatory

No. 10.

With regard to Request for Admission Nos. 33 and 34, the Response speaks for itself.

INTERROGATORY NO. 10: If Claimants are claiming ownership of real property below the OHWM at the claimed point of diversion, please identify the basis of such an assertion of ownership. If Claimants are not claiming ownership of such real property, please indicate such disclaimer.

ANSWER NO. 10: The U.S. Supreme Court and the Ninth Circuit Court of Appeals specifically recognized that the United States reserved, or set aside, the submerged lands that existed prior to Statehood in 1890. *See generally Idaho v. United States*, 533 U.S. 262 (2001), and *United States v. Idaho*, 210 F.3d 1067 (9th Cir. 2000) (upholding the finding that the United States reserved 1873 submerged lands for the Tribe). It is these submerged lands within the reservation—and only these submerged lands—that are owned by the United States. It is well known that additional lands within the reservation boundary became submerged only after the construction of one or more dams, culminating with the construction of Post Falls Dam in 1907. *In re Sanders Beach*, 143 Idaho 443, 147 P.3d 75 (2006); *Erickson v. State*, 132 Idaho 208, 970 P.2d 1 (1998); *Deffenbaugh v. Wash. Water Power Co.*, 24 Idaho 514, 135 P. 247 (1913); *Petajaniemi v. Wash. Water Power Co.*, 22 Idaho 20, 124 P. 783 (1912); *Wash. Water Power Co. v. Waters*, 19 Idaho 595, 115 P. 682 (1911). These additional submerged lands are beyond those recognized in *Idaho v. United States*. The United States only reserved those submerged lands that existed prior to Statehood. They did not—could not—reserve lands that would not become submerged until after the dams were built.

In addition, although the ordinary high water mark (“OHWM”) is currently 2128 feet and has been at that level since 1907 (*Erickson*, 132 Idaho at 211, 970 P.2d at 4), this higher level is the result of “the dam [that] raised the water level . . . in both the lake and in the Coeur d’Alene and St. Joe rivers that feed into the lake.” The dam has been recognized as “raising the elevation of the water . . . approximately 6 1/2 feet This increased height in the dam naturally resulted in submerging the lands adjacent to Coeur d’Alene Lake and the streams flowing into the lake to an elevation of at least 2,126.5 feet.” *In re Sanders Beach*, 143 Idaho 443, 147 P.3d 75 (emphasis added); *see also Deffenbaugh*, 24 Idaho at 520-21, 135 P.2d at 253-54 (“the elevation is raised six or eight feet above the ordinary elevation of the water in the summer and fall”). Claimants’ point of diversion is higher than 2120 feet, the elevation of the water above the submerged lands prior to Statehood, which precludes it from ownership by the United States.

INTERROGATORY NO. 11: Please identify, by bates numbers, those documents contained in Attachment “1” hereto that Claimants reference and specifically rely upon in their response or amended response to request for production number 5 contained in Objector’s first requests for discovery to Claimants.

ANSWER NO. 11: Claimants rely on all documents in their licensing file, Bates CDAT OBJ-7102 0006 – 0037, to provide the information requested from Request for Production No. 5.

INTERROGATORY NO. 12: Please identify, by bates numbers, those documents contained in Attachment “1” hereto that Claimants reference and specifically rely upon in their response or amended response to request for production number 6 contained in Objector’s first requests for discovery to Claimants.

ANSWER NO. 12: Claimants rely on all documents in their licensing file, Bates CDAT OBJ-7102 0006 – 0037, to provide the information requested from Request for Production No. 6.

INTERROGATORY NO. 13: Please identify, by bates numbers, those documents contained in Attachment “1” hereto that Claimants reference and specifically rely upon in their response or amended response to request for production number 7 contained in Objector’s first requests for discovery to Claimants.

ANSWER NO. 13: Claimants rely on Bates CDAT OBJ-7102 0006 – 0010 and 0022 – 0023.

INTERROGATORY NO. 14: Please state whether Claimants are relying upon and/or referencing any other documents which are not produced as part of Attachment “1” hereto (bates CDAT OBJ-7102 0001-0037) in any of their answers to interrogatories or responses to requests for production of documents in response to Objector’s First Requests for Discovery. If so, please identify such documents by the title and date of such document.

ANSWER NO. 14: Claimants did not rely on any other documents that were not produced as part of Attachment “1” in any of their answers to interrogatories or responses to requests for production of documents in response to Objector’s First Requests for Discovery. However, Claimants reserve the right to supplement their responses in a timely manner.

INTERROGATORY NO. 15: Please state the Benewah County tax identification number for the real property upon which Claimants’ point of diversion is physically located. If there is no such tax identification number, please indicate as much.

ANSWER NO. 15: As reported on the Director's Report, the Benewah County tax identification number for the real property upon which Claimants' point of diversion is physically located is Parcel No. RP005300200061A.

INTERROGATORY NO. 16: Please give the legal description of the "current boundaries of the Coeur d'Alene Indian Reservation" as that term is understood by Claimants and used by Claimants in their amended response for admission number 5.

ANSWER NO. 16: Claimants do not know the exact legal description of the "current boundaries of the Coeur d'Alene Indian Reservation" but know the "current boundaries of the Coeur d'Alene Indian Reservation" as indicated on road signs on the highway and as commonly depicted on maps of the current Reservation.

INTERROGATORY NO. 17: Please state the basis or describe the basis Claimants' denials in Requests for Admission Nos. 1, 5 10, 11, and 13 wherein Claimants' deny that "the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion," and Claimants' response to Interrogatory No. 8 wherein Claimants' assert that "Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion."

ANSWER NO. 17: The U.S. Supreme Court and the Ninth Circuit Court of Appeals specifically recognized that the United States reserved, or set aside, the submerged lands that existed prior to Statehood in 1890. *See generally Idaho v. United States*, 533 U.S. 262 (2001), and *United States v. Idaho*, 210 F.3d 1067 (9th Cir. 2000) (upholding the finding that the United States reserved 1873 submerged lands for the Tribe). It is these submerged lands within the reservation—and only these submerged lands—that are owned by the United States. It is well known that additional lands within the reservation boundary became submerged only after

the construction of one or more dams, culminating with the construction of Post Falls Dam in 1907. *In re Sanders Beach*, 143 Idaho 443, 147 P.3d 75 (2006); *Erickson v. State*, 132 Idaho 208, 970 P.2d 1 (1998); *Deffenbaugh v. Wash. Water Power Co.*, 24 Idaho 514, 135 P. 247 (1913); *Petajaniemi v. Wash. Water Power Co.*, 22 Idaho 20, 124 P. 783 (1912); *Wash. Water Power Co. v. Waters*, 19 Idaho 595, 115 P. 682 (1911). These additional submerged lands are beyond those recognized in *Idaho v. United States*. The United States only reserved those submerged lands that existed prior to Statehood. They did not—could not—reserve lands that would not become submerged until after the dams were built.

INTERROGATORY NO. 18: Please state, by legal citation, court cases which discuss the legal theory or theories set forth in the answer to interrogatory number 17 above. [In lieu of answering, Claimants may provide documents responsive to this interrogatory.]

ANSWER NO. 18: Objection is made to Interrogatory No. 18 on the grounds that it calls for legal citation to court cases and thus is outside the scope of discovery allowed under Idaho Rule of Civil Procedure 33. Without waiving the objection and without waiving the right to cite additional cases in legal briefing in this subcase, *see* cited cases in Answer to Interrogatory No. 17.

INTERROGATORY NO. 19: Please identify and describe in detail those facts that Claimants' rely upon in their denials of Requests for Admission Nos. 1, 5 10, 11, and 13 wherein Claimants' deny that "the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion," and Claimants' response to Interrogatory No. 8 wherein Claimants' assert that "Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion." Please identify all individuals

with knowledge regarding any such facts, and all documents relating in any way to your response.

ANSWER NO. 19: *See Answer to Interrogatory No. 17.* In addition, Claimants' point of diversion is not only higher than the elevation of the water above the submerged lands prior to Statehood, which precludes it from ownership by the United States, but the lagoon from which Claimants receive their water at their point of diversion was not even constructed until after the construction of the dams.

All individuals with knowledge regarding such facts are Claimants.

INTERROGATORY NO. 20: Please state the elevation, in feet above mean sea level, of the ordinary, historic or natural high water mark of the St. Joe River, as referenced in Claimants' answers to Requests for Admission Nos. 6 and 7, and the ordinary low water mark of the St. Joe River. Please identify all individuals with knowledge regarding any facts stated in your response, and all documents relating in any way to your response.

ANSWER NO. 20: Objection is made to Interrogatory No. 20 on the ground that the ordinary low water mark was not referenced in Claimants' Responses to Requests for Admission Nos. 6 and 7. Without waiving the objection, the ordinary low water mark of the lagoon is the level of the water when the lagoon is completely dry. The ordinary high water mark is 2120. *See also* Response to Request for Admission No. 17.

All individuals with knowledge regarding such facts are Claimants.

INTERROGATORY NO. 21: Please provide the basis or describe the basis for the answer to Interrogatory No. 20, as well as the basis for Claimants' denial in Responses to Request for Admission Nos. 6 and 7 that "the historic OHWM or the natural high water mark for Coeur d'Alene Lake and the St. Joe River is or has always been 2128 feet," and that "the point of

diversion and/or some or all of the diversion works at issue in this claim are below the applicable natural or ordinary high water mark.” Please identify all individuals with knowledge regarding any facts stated in your response, and all documents relating in any way to your response.

ANSWER NO. 21: Although the ordinary high water mark (“OHWM”) is currently 2128 feet and has been at that level since 1907 (*Erickson*, 132 Idaho at 211, 970 P.2d at 4), this higher level is the result of “the dam [that] raised the water level . . . in both the lake and in the Coeur d’Alene and St. Joe rivers that feed into the lake.” The dam has been recognized as “raising the elevation of the water . . . approximately 6 1/2 feet This increased height in the dam naturally resulted in submerging the lands adjacent to Coeur d’Alene Lake and the streams flowing into the lake to an elevation of at least 2,126.5 feet.” *In re Sanders Beach*, 143 Idaho 443, 147 P.3d 75 (emphasis added); *see also Deffenbaugh*, 24 Idaho at 520-21, 135 P.2d at 253-54 (“the elevation is raised six or eight feet above the ordinary elevation of the water in the summer and fall”). Claimants’ point of diversion is higher than 2120 feet, the elevation of the water above the submerged lands prior to Statehood, which precludes it from ownership by the United States.

All individuals with knowledge regarding such facts are Claimants.

INTERROGATORY NO. 22: Please provide the basis or describe the basis for Claimants’ denial in Responses to Request for Admission Nos. 10 and 11 that “the United States or the Coeur d’Alene Tribe owns the land upon which the diversion works may have been constructed and further deny that any such permission was needed.” Please identify all individuals with knowledge regarding any facts stated in your response, and all documents relating in any way to your response.

ANSWER NO. 22: *See* Answers to Interrogatory Nos. 17, 18, 19, 20 and 21.

All individuals with knowledge regarding such facts are Claimants.

INTERROGATORY NO. 23: Please provide the elevation of the submerged lands at your point of diversion and/or the lowest part of the diversion works within the St. Joe River, the elevation of the high/low point of the water line, the length of water line (in feet) that is located underwater at all times of the year, and the depth of the pump.

ANSWER NO. 23: Claimants have insufficient knowledge and information to give the elevation of the submerged lands at their point of diversion and the elevation of the high/low point of the water line. The lowest part of the diversion works within the lagoon is a few feet in depth and length and is only located underwater for the irrigation season, March 15 through November 15. The pump is not located in the water.

INTERROGATORY NO. 24: If Claimants have any other water right claims filed in the CSRBA other than the above-captioned claim, please list the applicable claim numbers.

ANSWER NO. 24: Claimants have three other claims, identified by Subcase Nos. 91-7153, 91-7173 and 91-7822.

INTERROGATORY NO. 25: Identify each person who provided information for, or participated in, the preparation of the responses to these discovery requests, and identify the specific discovery requests or parts thereof, for which each person provided information.

ANSWER NO. 25: Norman Semanko, Sarah McCormack and Steve and Deanne Hawks, c/o Moffatt, Thomas, Barrett, Rock and Fields, Chartered, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 26: Identify each person who has personal knowledge of the facts that form the basis for your claim and/or defense to the Tribe's objection.

ANSWER NO. 26: Claimants Steve and Deanne Hawks, c/o Norman Semanko, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 27: Identify all exhibits you may rely upon as evidence at trial and/or as evidence in support of, or in opposition to, dispositive motions.

ANSWER NO. 27: Claimants plan to use any and all documents produced with their responses to Objector's first and second discovery requests as evidence at trial and/or as evidence in support of, or in opposition to, dispositive motions. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the Court.

INTERROGATORY NO. 28: Describe all facts which support the basis for your claim and/or your defense to the Tribe's objections.

ANSWER NO. 28: Objection is made to Interrogatory No. 28 on the basis that it is overly broad and burdensome. Without waiving the objection, Claimants rely on the facts stated in the prior Responses to Requests for Admission and Answers to Interrogatories.

INTERROGATORY NO. 29: Identify all documents that support your claim and/or your defense to the Tribe's objections.

ANSWER NO. 29: Objection is made to Interrogatory No. 29 on the basis that it is overly broad and burdensome. Without waiving the objection, Claimants rely on the documents produced in these answers and responses. Claimants also reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the Court.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 14: Please produce any other documents, if any, which Claimants relied upon, reviewed, and/or reference in their answers to interrogatories and/or requests for production of documents in response to Objector's First Requests for Discovery and which are not part of Attachment "1" hereto.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14: *See* documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 15: Please produce all documents which you allege support your assertion of legal title to the property underlying your claimed point of diversion. If you took legal title to the by [sic] operation of law, in lieu of responding to the foregoing request, Claimants may state the method by which they took legal title, and give legal citation to legal authority which discusses Claimants' alleged legal title by operation of law.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15: *See* Hawks 0001-2879.

REQUEST FOR PRODUCTION NO. 16: Please produce all documents you may rely upon at trial or any hearing in this matter, in support of dispositive motions, or in opposition to dispositive motions, or at any other stage of this proceeding.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16: Claimants plan to rely on any and all documents produced with their responses to Objector's first discovery requests, *see* CDAT OBJ-7102 0001 – 0005, and second discovery requests, *see* Hawks 0001-2879, at trial. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 17: Please produce all exhibits you may rely upon at trial or any hearing in this matter, in support of dispositive motions, or in opposition to dispositive motions, or at any other stage of this proceeding.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17: *See* Response to Request for Production No. 16.

REQUEST FOR PRODUCTION NO. 18: Please produce those documents in your possession, as well as the location, if known, of any documents not in your possession you reviewed, referred to, rely upon, and/or you assert support your basis in answering Requests for Admission Nos. 1-34 and Interrogatories Nos. 1-24.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18: *See* Response to Request for Production No. 16. Claimants did not rely on any other documents which were not produced in any of their answer to interrogatories or responses to requests for production of documents in response to Objector's first and second sets of discovery. However, Claimants reserve the right to supplement their responses in a timely manner.

REQUEST FOR PRODUCTION NO. 19: Please produce any other documents in your possession, as well as the location, if known, of any documents not in your possession you assert support the above-captioned claim.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19: See Response to

Request for Production No. 16. Claimants did not rely on any other documents which were not produced in any of their answer to interrogatories or responses to requests for production of documents in response to Objector's first and second sets of discovery. However, Claimants reserve the right to supplement their responses in a timely manner.

DATED this 13th day of May, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

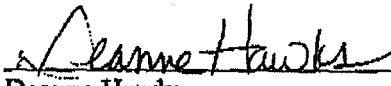
By 

Sarah A. McCormack – Of the Firm
Attorneys for Claimants Steve and
Deanne Hawks

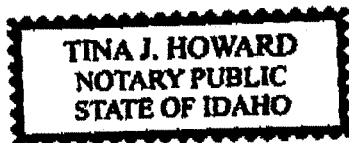
STATE OF IDAHO)
) ss.
County of Benewah)

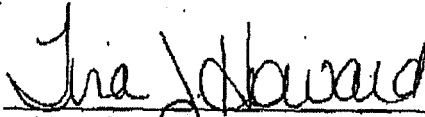
DEANNE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing **CLAIMANTS' ANSWERS AND RESPONSES TO OBJECTOR'S SECOND REQUESTS FOR DISCOVERY**, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.


Deanne Hawks

SUBSCRIBED AND SWORN to before me this 12th day of May, 2016.




NOTARY PUBLIC FOR IDAHO
Residing at St. Charles
My Commission Expires 11/8/2016

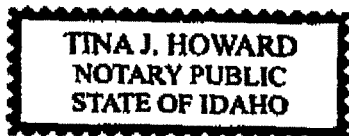
STATE OF IDAHO)
) ss.
County of Benewah)

STEVE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing **CLAIMANTS' ANSWERS AND RESPONSES TO OBJECTOR'S SECOND REQUESTS FOR DISCOVERY**, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.

Steve Hawks
Steve Hawks

SUBSCRIBED AND SWORN to before me this 12th day of May, 2016.



Tina J. Howard
NOTARY PUBLIC FOR IDAHO
Residing at SR Maries
My Commission Expires 11/0/2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS' ANSWERS AND RESPONSES TO OBJECTOR'S SECOND REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, ID 83816-0969
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kmihara@indian-law.org
dhedden@indian-law.org

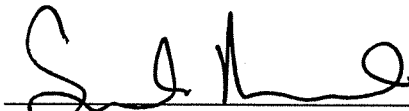
☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-Mail

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
700 W. State St., 2nd Floor
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☐ Overnight Mail
☐ Facsimile
☐ E-Mail

Director
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Sarah A. McCormack