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DEPARTMENT OF
WATER RESOURCES

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*Attorneys for Claimants-Objectors Becky
Nelson and Susan Martell*

**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	)	Subcase No(s): 95-02138, 95-13699,
	)	95-14511, and 95-17232
Case No. 49576	)	
	)	CLAIMANTS-OBJECTORS' FIRST SET OF
	)	DISCOVERY REQUESTS TO DANIEL
	)	BARKLEY
	)	
	)	

TO: DANIEL BARKLEY

Claimants-Objectors Becky Nelson and Susan Martell (together, "Objectors"), by and through their attorney of record, pursuant to the May 3, 2021 *Scheduling Order* and Rules 26, 33, 34, and 36 of the Idaho Rules of Civil Procedure, hereby requests that Daniel Barkley ("Claimant") respond to the following interrogatories, requests for production of documents, and requests for admission (collectively, "Discovery Requests") in accordance with the instructions below within thirty (30) days after service, at the offices of Michael P. Lawrence, Givens Pursley LLP, 601 W. Bannock Street, Boise, Idaho 83702.

PRELIMINARY STATEMENT AND INSTRUCTIONS

In answering these Discovery Requests, 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 to produce, inspect, or copy, please fully identify such document and the reason for the practical impossibility.

If you cannot answer the following Discovery Requests 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 the Rules 33, 34, and 36 of the Idaho Rules of Civil Procedure, within thirty (30) days after service hereof you must answer the following Discovery Requests. Please produce your responses at the office of GIVENS PURSLEY LLP, 601 West Bannock Street, P.O. Box 2720, Boise, Idaho 83701 on or before said date. Unless you furnish copies of all of the requested documents by delivering, mailing, or emailing 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 Discovery Requests herein are deemed continuing. If, after responding to these Discovery Requests you or your agents, representatives, or attorneys gain access to or acquire any further information or any documents requested herein or any other information related to any Discovery Requests herein which is not reflected by any documents produced or any response to these Discovery Requests, you must file a supplemental response or indicate to Objectors' counsel the existence of such documents pursuant to Idaho Rule of Civil Procedure 26(e).

DEFINITIONS

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

1. "Objectors" means Becky Nelson and Susan Martell, their agents, representatives, or anyone acting on their behalf.
2. "You" or "Your" means Daniel Barkley, claimant to water right no. 95-13699, together with her counsel, consultants, experts, investigators, principals, agents, employees, representatives, predecessors-in-interest, or any other person acting on her 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 natural 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.

8. “Facility” or “Facilities” means the diversion and delivery works used to convey the water diverted under the relevant water right from the point of diversion to the place of use and to apply the water to beneficial use.

INTERROGATORIES

INTERROGATORY NO. 1: Please state the name, address, phone number, and relation to you of each person answering the Discovery Requests contained herein.

INTERROGATORY NO. 2: Please state the name, address, phone number, and relation to you of each person who has supplied information for answers to the Discovery Requests contained herein, and specify the Discovery Requests for which such person has supplied information.

INTERROGATORY NO. 3: Please identify each document that you may attempt to introduce into evidence at the trial in this matter, and explain the alleged significance of each document. As to each document that consists of more than 15 pages or more than 3,000 words, please quote or otherwise specifically designate the portion of such document that you contend is relevant to this matter.

INTERROGATORY NO. 4: Please state the name and last known address of each person consulted as an expert witness on your behalf concerning this matter; and, with respect to each, state the following:

- (a) The scientific, technical, or other specialized knowledge possessed by such person;
- (b) The knowledge, skill, experience, training, and education which qualifies such person as an expert;
- (c) All facts and data upon which the expert bases his opinion; and
- (d) All opinions and inferences to which the expert may testify and the reasons therefor.

INTERROGATORY NO. 5: Please name and identify the last known address and phone number of each person you may call as a witness at the trial in matter action and briefly state the facts to which you expect each such witness to testify.

INTERROGATORY NO. 6: Please state the name, address, and telephone number of each person with knowledge of facts relating to subcase nos. 95-14511, 95-13699, 95-02138, and 95-17232, and describe with particularity the substance of facts to which each person has knowledge.

INTERROGATORY NO. 7: Please identify and describe in detail all documents that you or your attorney are aware of that in any way pertain to or describe the grounds or bases of claims of beneficial use of water prior to 1971 under water right claim no. 95-13699.

INTERROGATORY NO. 8: Please identify and describe in detail all documents that you or your attorney are aware of that in any way pertain to or describe the grounds or bases of claims of beneficial use of water prior to 1971 under water right claim no. 95-14511.

INTERROGATORY NO. 9: Please describe your contentions and the basis for each such contention regarding the beneficial use of water prior to 1971 under water right claim no. 95-13699.

INTERROGATORY NO. 10: Please describe your contentions and the basis for each such contention regarding the beneficial use of water prior to 1971 under water right claim no. 95-14511.

INTERROGATORY NO. 11: Please describe all facts that tend to support or discredit claims of beneficial use of water prior to 1971 under water right claim no. 95-13699.

INTERROGATORY NO. 12: Please describe all facts that tend to support or discredit claims of beneficial use of water prior to 1971 under water right claim no. 95-14511.

INTERROGATORY NO. 13: Please identify and describe each communication between you or your counsel and any other person or entity relating to subcase nos. 95-14511

and 95-13699, including without limitation any past or present claimants of water right claim nos. 95-14511 and 95-13699 or any Idaho Department of Water Resources employee or agent.

INTERROGATORY NO. 14: Please identify and describe each communication between you or your counsel and any other person or entity relating to subcase nos. 95-02138 and 95-17232, including without limitation any claimants of water right claim nos. 95-02138 and 95-17232 or any Idaho Department of Water Resources employee or agent.

INTERROGATORY NO. 15: Please describe in chronological fashion the historical development of facilities used to divert and deliver water under water right claim no. 95-13699, including (but not limited to) all additions, modifications, expansions, and reconfigurations of such facilities.

INTERROGATORY NO. 16: Please describe in chronological fashion the historical development of facilities used to divert and deliver water under water right claim no. 95-14511 including (but not limited to) all additions, modifications, expansions, and reconfigurations of such facilities.

INTERROGATORY NO. 17: Please identify in full and complete detail each and every document, writing, or other piece of physical evidence which evidences or otherwise relates to your *Standard Form 2 Response to Objection* filed July 30, 2019 and pertaining to Subcase No. 95-2138.

INTERROGATORY NO. 18: Please identify in full and complete detail each and every document, writing, or other piece of physical evidence which evidences or otherwise relates to your *Standard Form 2 Response to Objection* filed July 30, 2019 and pertaining to Subcase No. 95-17232.

INTERROGATORY NO. 19: Please identify in full and complete detail each and every document, writing, or other piece of physical evidence which evidences or otherwise relates to your *Standard Form 2 Response to Objection* filed July 30, 2019 and pertaining to Subcase No. 95-14511.

INTERROGATORY NO. 20: Please describe in chronological fashion the historical use and development of Kootenai County Tax Parcel Nos. 52N04W248800, 52N04W248900, and 52N04W249750 from 1900 to present.

INTERROGATORY NO. 21: Please describe any and all expenses incurred for the diversion and delivery of water from the source to the place of use for water right claim no. 95-13699.

INTERROGATORY NO. 22: Please describe any and all expenses incurred for the diversion and delivery of water from the source to the place of use for water right claim no. 95-14511.

INTERROGATORY NO. 23: Please describe any wells or other water sources that are located on, or that have at any time supplied water to, Kootenai County Tax Parcel Nos. 52N04W248800, 52N04W248900, and 52N04W249750.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that evidence exists in IDWR's files that contradicts claims of beneficial use of water prior to 1971 under claimed water right nos. 95-14511 and 95-13699.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce each and every document, writing, or other piece of physical evidence that was identified in the above Interrogatories or

that otherwise relates, in whole or in part, to your answers to any and all of the above Interrogatories or Requests for Admission.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents and other physical evidence that you intend to introduce at the trial in this matter.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents or records, including without limitation maps, diagrams, drawings, surveys, GIS shape files, charts photographs, schematics, or other representations that illustrate or show the past and/or present water delivery facilities for water right claim nos. 95-14511 and 95-13699.

REQUEST FOR PRODUCTION NO. 4: Please produce any and all statements and other documents from persons with knowledge of the subject matter of the above-captioned subcases.

REQUEST FOR PRODUCTION NO. 5: Please produce each and every document that tends to support or discredit claims of beneficial use of water prior to 1971 under water right claim nos. 95-14511 and 95-13699.

REQUEST FOR PRODUCTION NO. 6: Please produce each and every document that concerns water flows from the source(s) claimed to supply water right claim nos. 95-14511 and 95-13699.

REQUEST FOR PRODUCTION NO. 7: Please produce the following materials and information for each expert who has consulted you in the above-captioned subcases:

- a. All data or other information considered by the expert in forming the opinions, including any and all exhibits to be used as a summary or to support the expert's opinion.
- b. The qualifications of the expert, including a list of all publications authored by the expert within the preceding ten years.

- c. All reports and draft reports which relate directly or indirectly to this proceeding.
- d. List of all cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

REQUEST FOR PRODUCTION NO. 8: Please produce a copy of each communication among you and any other person or entity relating to subcase nos. 95-14511 and 95-13699, including without limitation correspondence and records and notes of communications with any past or present claimants of water right claim nos. 95-14511 and 95-13699 or any Idaho Department of Water Resources employee or agent.

REQUEST FOR PRODUCTION NO. 9: Please produce a copy of each communication among you and any other person or entity relating to subcase nos. 95-02138 and 95-17232, including without limitation correspondence and records and notes of communications with any claimants of water right claim nos. 95-02138 and 95-17232 or any Idaho Department of Water Resources employee or agent.

REQUEST FOR PRODUCTION NO. 10: Please produce any and all reports or other documents prepared by persons who have been used as consultants by you in this proceeding.

REQUEST FOR PRODUCTION NO. 11: Please produce each and every document in your possession relating to Subcase Nos. 95-2138, 95-13699, 95-14511 and 95-17232.

REQUEST FOR PRODUCTION NO. 12: Please produce a copy of each and every communication relating to the administration of water right nos. 95-02138, 95-1369, 95-14511 and 95-17232.

DATED this 30th day of July, 2021.

GIVENS PURSLEY LLP

A handwritten signature in blue ink, appearing to read 'MPL', is written above a horizontal line.

By: _____

Michael P. Lawrence

*Attorneys for Claimants-Objectors Becky Nelson
and Susan Martell*

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July, 2021, a true and correct copy of the foregoing was served to the following by the method indicated below:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

☒	U.S. Mail, postage prepaid
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Michael P. Lawrence