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DEPARTMENT OF
WATER RESOURCES

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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF THE APPLICATION
FOR TRANSFER NO. 84698 IN THE NAME
OF MARION OGLE

**SALUBRIA HOLDINGS LLC'S FIRST
SET OF DISCOVERY REQUESTS TO
MARION OGLE**

TO: MARION OGLE

Protestant Salubria Holdings LLC ("Salubria" or "Protestant"), by and through its attorneys Givens Pursley LLP, pursuant Rules 521 and 522 of the Idaho Department of Water Resources ("IDWR") Rules of Procedure, IDAPA 37.01.01.521 and .522, and the Director's October 20, 2021 *Hearing Notice/Scheduling Order* (the "Order"), submits the following discovery requests to Marion Ogle ("Ogle" or "Applicant") and her attorney of record.

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 to produce, inspect, or copy, 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 and the Order, it is requested that within fourteen (14) days after service hereof, you answer the following Interrogatories and Requests for Production. 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 Salubria'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 Salubria'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. "Salubria" means Salubria Holdings LLC, its representatives, or anyone acting on its behalf.

2. "You" or "Your" means Marion Ogle, Applicant in the above-entitled action, together with her counsel, consultants, experts, investigators, principals, agents, employees, representatives, predecessors-in-interest, or any other person acting on her behalf, including without limitation, 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 use 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.

9. “Application” means Ogle’s Application for Transfer No. 84698.

INTERROGATORIES

INTERROGATORY NO. 1: Please state the name, address, phone number, and relation to you of each person answering these interrogatories.

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

INTERROGATORY NO. 3: Please identify each document that you may attempt to introduce into evidence at the hearing 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, quote or otherwise specifically designate the portion of such document that you contend is relevant to this matter.

INTERROGATORY NO. 4: 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: Name and identify the last known address and phone number of each person you may call as a witness at the hearing in matter action and briefly state the facts to which you expect each such witness to testify.

INTERROGATORY NO. 6: State the name, address, and telephone number of each person with knowledge of facts relating to your Application, the water rights that are the subject of the Application, and the pond that is the subject of Interrogatory No. 15, and describe in a general fashion the substance of facts to which each person has knowledge.

INTERROGATORY NO. 7: Identify and describe in detail all documents that you or your attorney are aware of that in any way pertain to or describe the basis of your Application.

INTERROGATORY NO. 8: Please describe your contentions and the basis for each such contention regarding how your Application satisfies each criterion for application approval set forth in Idaho Code Section 42-222.

INTERROGATORY NO. 9: For each water right your Application would transfer and for any other water rights used on the same place of use as that proposed in your Application, please describe the following:

- (a) The water right number for each such water right;
- (b) The previous owner of each such water right;
- (c) The source of each such water right;
- (d) The date each such water right was last beneficially used;
- (e) The complete factual basis for your contention that such water right may be properly transferred per the Application;
- (f) The current authorized and actual point(s) of diversion location designated by GPS location coordinates and U.S. Public Land Survey description, and any common diversion name or water district diversion identifier, if applicable, as well as the IDWR metal tag number / point of diversion identifier for each such water right;
- (g) Since each water right's initial appropriation, the quantities of water actually diverted at each point of diversion under each such water right, including when such diversions commenced and ended each year at each point of diversion;
- (h) The current and proposed place(s) of use for each such water right, designated by acreage (if irrigation) and U.S. Public Land Survey description;
- (i) Since each irrigation water right's initial appropriation, the number of acres irrigated each year within the place of use for each such water right and location of such

acreage, designated by a map and/or U.S. Public Land Survey description or, in the case of stockwater, the numbers and locations of stock for which water was diverted each year;

- (j) A complete description of the diversion and delivery system for the water used under each such water right, including without limitation, descriptions, illustrations, maps, GIS shape files, or schematics of points of diversion, points of injection, points of re-injection, water diversion, and delivery works and any and all channels or delivery paths within which water is conveyed to the place of use;
- (k) The conveyance losses (actual, assigned, and/or assumed) for each identified channel or delivery path in sub-paragraph (j) of this Interrogatory, and the method for measuring, determining, or calculating such conveyance losses (actual, assigned, and/or assumed);
- (l) Since each water right's initial appropriation, on an annual basis, any and all expenses incurred for the diversion and delivery of water from the source to the place of use for each such water right, and for the maintenance of all channels and delivery paths from the source to the place of use for each such water right;
- (m) Since each irrigation water right's initial appropriation, on an annual basis, the methods of irrigation water application for each irrigation water right (e.g. gravity, sprinkler, etc.);
- (n) Since each irrigation water right's initial appropriation, on an annual basis, a description of the crops planted on the irrigated acreage comprising the place of use of each such water right;

- (o) Since each irrigation water right's initial appropriation, on an annual basis, the annual crop yields from the irrigated acreage comprising the place of use of each such water right; and
- (p) Since each stock water right's initial appropriation, on an annual basis, a description of the stock use of each such water right, including without limitation the number of stock watered.

INTERROGATORY NO. 10: Please identify and describe any water measurement devices and water measurement recording devices used at any place within the delivery system that delivers water to the actual place of use for water rights identified in Interrogatory No. 9 above, including the size, type, manufacturer, model, serial number, installation date, IDWR identification number, location, and date(s) on which each such device was calibrated or checked by a watermaster, IDWR, groundwater district hydrographer, or other person or entity, and the identity of such person(s).

INTERROGATORY NO. 11: Please identify and describe each communication between you or your counsel and the Director or any other Idaho Department of Water Resources employee or agent concerning the Application, water rights no. 67-250 and 67-301 that are the subject of the Application (together, the "Dibble Rights"), and/or the Pond that is the subject of Interrogatory No. 15.

INTERROGATORY NO. 12: Please describe in chronological fashion the historical development of facilities used to divert and deliver water rights identified in Interrogatory No. 9 above, including (but not limited to) all additions, modifications, expansions, and reconfigurations of such facilities.

INTERROGATORY NO. 13: Please identify and describe each communication, and the facts and/or opinions disclosed in such communications, between you or your counsel and the previous owner(s) of the water rights that are the subject of your Application, including but not limited to Debora Dibble, concerning the water rights that are the subject of your Application, Dibble's use of the water rights that are the subject of the Application, and the Application itself.

INTERROGATORY NO. 14: Please identify the owner of the property that is the proposed new place of use for the Dibble Rights under the Application and Marion Ogle's relationship with that owner.

INTERROGATORY NO. 15: Please describe the history of the pond on Marion Ogle's property adjacent to, and west of, Legg Lane, including when and how the pond was constructed, the water right(s) that authorize the pond, from what water source the pond is filled, the conveyance system use to fill the pond, and how the water in the pond is put to use.

INTERROGATORY NO. 16: Please identify and describe any and all work undertaken by Marion Ogle, or any other owner or tenants of the property that is the proposed place of use under the Application, to improve water sources, points of diversion, and conveyance systems associated with water rights appurtenant to the property, the Dibble Rights, and/or the pond that is the subject of Interrogatory No. 15.

INTERROGATORY NO. 17: Please identify any and all financial records or documents in any way related to the Dibble Rights, all water rights appurtenant to the property that is the proposed place of use under the Application (as identified in Interrogatory No. 9), and the pond that is the subject of Interrogatory No. 15, including invoices and receipts for any work undertaken that is in any way related to those water rights and the pond.

INTERROGATORY NO. 18: Please state whether Marion Ogle paid Deborah Dibble or any other person or entity for the Dibble Rights and, if so, the amount paid.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce all documents which pertain to and/or on which you base your answers to the Interrogatories above, including without limitation all documents related to each water right identified in your responses to the Interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce all exhibits or documentary evidence that you intend to produce at the hearing 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 water delivery system for each water right identified in your responses to the Interrogatories above.

REQUEST FOR PRODUCTION NO. 4: 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 present extent and location(s) of the water sources for each water right identified in your responses to the Interrogatories.

REQUEST FOR PRODUCTION NO. 5: Please produce each and every document that tends to support or discredit each basis of your Application.

REQUEST FOR PRODUCTION NO. 6: Please produce each and every document that concerns water flows from the source(s) that supply each water right identified in your responses to the Interrogatories.

REQUEST FOR PRODUCTION NO. 7: Please produce the following materials and information for each expert who has been retained or employed by you in preparation for the administrative hearing in this contested case:

- 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 all documents or records, including but not limited to financial or other accountings, Excel, QuickBooks or other accounting spreadsheets, invoices, and receipts setting forth your expenses associated with the diversion or delivery of water under each water right identified in your responses to the Interrogatories above and the pond that is the subject of Interrogatory No. 15.

REQUEST FOR PRODUCTION NO. 9: Please produce a copy of each communication among you or your attorney and the previous owner(s) of the Dibble Rights (including but not limited to Deborah Dibble) or any other person or entity relating to the Application and/or the Dibble Rights, and correspondence or records and notes from meetings with the Director or any other Idaho Department of Water Resources employee or agent between February 8, 2021 and the date you respond to this Request for Production.

DATED this 3rd day of December, 2021.

GIVENS PURSLEY LLP

By: 
Charlie S. Baser
Attorneys for Salubria Holdings LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 3rd day of December, 2021, I served a true and correct copy of the above and foregoing document via the manner listed below to the following:

DOCUMENT SERVED

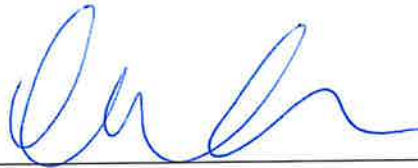
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NOTICE OF SERVICE PROVIDED

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