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OCT 19 2017
WATER RESOURCES
WESTERN REGION

Attorney for Applicant Robert Bruno

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR) AMENDMENT OF PERMIT NO. 63-34042) IN THE NAME OF ROBERT BRUNO)	APPLICANT'S FIRST SUPPLEMENTAL RESPONSES TO PROTESTANT CITY OF MERIDIAN'S FIRST SET OF DISCOVERY TO APPLICANT
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Applicant Robert Bruno, by and through his counsel of record, ANGSTMAN JOHNSON, supplements its responses to *Protestant City of Meridian's First Set of Discovery to Applicant* as follows:

PRELIMINARY STATEMENT

All answers and responses set forth in this document, including any subsequent amendments or supplements, whether by formal or informal means, are made subject to, and without waiving any right to object based upon, the following conditions, caveats and objections.

1. Applicant has not yet completed his document review, investigation of facts pertaining to this action, discovery or preparation for trial in this matter and, therefore, answers based upon his current understanding and belief of the facts and information presently known to

him and reserve the right to supplement or amend any or all of the answers and responses contained in this document as allowed by the Idaho Rules of Civil Procedure.

2. Applicant objects to each discovery request to the extent it seeks information or documents protected against disclosure by the attorney-client privilege, attorney work-product doctrine or any other judicially recognized protection or privilege. To the extent that any document or information is inadvertently produced in response to any discovery request that is subject to attorney-client privilege, attorney work-product doctrine or any other judicially recognized protection or privilege, such response or production is not to be construed as a waiver of such protection.

3. Applicant object to each discovery request on the basis that such discovery request is overbroad and unduly burdensome to the extent such request:

a. requires Applicant to supply information that is not available to him or not within his possession, custody or control;

b. requires Applicant to produce information from individuals or entities other than Applicant;

c. seeks information or items regarding "each," "all", "every" or "any" document(s), person(s) or facts(s) on the basis that such terms are vaguely defined and excessively broad and that they may include information or items that, despite the exercise of reasonable diligence, are not immediately located or identified;

d. seeks information or items to which Protestant has equal access, or is already within the possession, custody or control of Protestant; or

e. seeks information that is within the scope of, or otherwise duplicative, of that requested by other discovery requests propounded by Protestant; or

f. otherwise exceeds the bounds of discovery as provided in the Idaho Rules of Civil Procedure.

4. Applicant objects to each discovery request on the basis that such discovery request is vague and ambiguous to the extent such request seeks information or items that “relate to,” “support,” “evidence,” “describe,” “mention,” “refer to,” “pertain to,” “contradict,” “compromise” or “relate to” facts or contentions for the reason that such terms, or their equivalents, do not describe the information sought with sufficient particularity to allow Applicant to reasonably respond to such requests.

5. Applicant objects to each discovery request that seeks disclosure of information or items that Applicant is bound by law, custom or expectations of third parties, to maintain as confidential, including, but not limited to, confidential commercial information, trade secrets, proprietary information or other sensitive business or other information.

RESPONSES TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the *Preliminary Order* issued on September 30, 2016 by the Idaho Department of Water Resources *In the Matter of the Proposed Creation of a West Ada Area of Drilling Concern* requires a full length annular seal in the well you propose to deepen pursuant to Application to Amend Permit No. 63-34042.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Denied.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: Please set forth the name, address, telephone number, and occupation of each and every individual known to you or your counsel who has knowledge of or who purports to have knowledge of any of the issues, facts or any of the occurrences which relate to the subject of this action, and set forth a full and accurate summary of knowledge possessed by such person.

RESPONSE TO INTERROGATORY NO. 1:

1. Robert Bruno
c/o Angstman Johnson
3649 N. Lakeharbor Lane
Boise, ID 83703
Phone: 208-384-8588
Occupation: General Contractor

Summary: Mr. Bruno has knowledge regarding the original application, and subsequent application to amend his original drilling permit. He can testify regarding the drilling of the well and the water flow he has received as a result. Mr. Bruno can also testify to conversations he had with the City of Meridian in conjunction with the prior agreement pertaining to the City of Meridian's original protest of Mr. Bruno's well. Mr. Bruno can testify that the City's hydrologist, Terry Scanlon, specifically guaranteed Mr. Bruno that he would obtain the water flow he needed at 150 feet of well depth. This representation was material to Mr. Bruno's original agreement with the City to limit his well depth. Mr. Scanlon's statement was either knowingly false, or made with reckless disregard for the truth or falsity of the representation, with the intention of convincing Mr. Bruno to limit his initial application until after the City attempted to have an area of drilling concern imposed by IDWR.

2. Nick Miller, Idaho Department of Water Resources.

Summary: Mr. Miller is familiar with Mr. Bruno's original well drilling permit application, and the protest filed by the City of Meridian. Mr. Miller is familiar with the lack of legal basis for the City of Meridian's original protest, and the fact that the City's protest would, nonetheless, delay processing of Mr. Bruno's well permit for a substantial amount of time.

3. Kyle Radek, Assistant City Engineer, Meridian Public Works.

Summary: On or about July 20, 2015, the City of Meridian, by and through Mr. Radek who was acting at the direction of the City of Meridian, told Mr. Bruno that, unless he agreed to construct his well according to the City's standards, which are more expensive and demanding than those required by the Idaho Department of Water Resources, the City would formally protest Mr. Bruno's application. The City demands included that:

(a) Mr. Bruno construct the well using either mud-rotary or reverse-rotary drilling methods;

(b) Mr. Bruno must construct the well with a full depth seal extending from the ground surface to within 30 feet of the well production zone;

(c) Mr. Bruno's well must be constructed using plastic well casing; and

(d) In the event that Mr. Bruno did not comply with the forgoing conditions, Mr. Bruno would agree to abandon the well upon 30 days' notice from the City.

Mr. Bruno refused to comply with the City's demands because the City had no jurisdiction to dictate the manner of Mr. Bruno's well construction, and because the

City's requirements would unnecessarily cause Mr. Bruno to incur substantially more expense to construct his well. As a result of Mr. Bruno's refusal to comply, the City filed a protest against Mr. Bruno's application for his water right.

The purpose of the City's protest was to create pressure upon Mr. Bruno to coerce him to comply with the City's desires regarding the manner of well construction. The purpose was, further, to delay Mr. Bruno's application while the City separately attempted to have IDWR impose an Area of Drilling Concern designation on the land including Mr. Bruno's proposed well. A water right application that is not protested will be processed by the Department of Water Resources in 2-3 months. An application that is protested may take over a year to process.

Mr. Radek also was a witness to Mr. Squires' representations to Mr. Bruno regarding the well depth where Mr. Bruno would find adequate water for his irrigation needs.

4. Ed Squires c/o City of Meridian

Summary: Mr. Squires was working for the City of Meridian as a Hydrologist and told Mr. Bruno he would get a sufficient amount of water for his well at a depth of 150 feet. Mr. Squire's representations were either false, or made with reckless disregard for their truth or falsity, for purposes of lulling Mr. Bruno into a concession to limit his well depth with the City of Meridian.

5. Terry Scanlon, c/o City of Meridian.

Summary: Mr. Bruno entered an agreement with the City on March 25, 2016 and provided that Mr. Bruno would drill a well of no greater than 260 feet. Mr. Bruno agreed to the terms based on the representations of the City representatives, including

Terry Scanlan, and Ed Squires that there will be sufficient water for Mr. Bruno's well needs at 150 feet, and certainly before he reached a well depth of 260 feet. Mr.

Scanlan acts as the hydrologist for the City and claimed to have this knowledge based upon examination and testing in the area. Mr. Scanlon's representations were either false, or made with reckless disregard for their truth or falsity, for purposes of lulling Mr. Bruno into a concession to limit his well depth with the City of Meridian.

6. Charles Honsinger

Summary: Mr. Honsinger is familiar with the protest filed by the City of Meridian against Mr. Bruno's original well permit application, and the negotiation of the stipulation in order to allow Mr. Bruno's well permit application to proceed.

INTERROGATORY NO. 2: Please set forth the name, address, telephone number, and occupation of each person you may call as a witness at trial, and for each such witness, state the substance of his/her expected testimony.

RESPONSE TO INTERROGATORY NO. 2:

Mr. Bruno may call any person identified in Interrogatory No. 1 or 3, as well as any individual identifies by the City of Meridian as a potential witness. The testimony of each will be substantially in accord with their disclosed knowledge.

INTERROGATORY NO. 3: Please identify each person whom you may call as an expert witness at the trial of this action and state the subject matter on which such expert witness is expected to testify, the substance of the facts to which such expert witness is expected to testify and the substance of the opinions to which such expert witness is expected to testify as

required by the Idaho Rules of Civil Procedure together with all of the underlying facts and data as required by the Idaho Rules of Evidence.

RESPONSE TO INTERROGATORY NO. 3:

Charles E. Brockway, Ph.D., P.E.
Brockway Engineering, PLLC
2016 Washington St. North, Suite 4
Twin Falls, Idaho 83301
Phone: 208-736-8543
Occupation: Professional Engineer

Expected Testimony: Mr. Brockway is expected to testify about the subject matter outlined in his report which is produced in conjunction with these discovery requests. Mr. Brockway's analysis and the basis for his analysis are described in his report. Mr. Brockway's background and prior testimony are listed on the attachments accompanying his report.

Agents and Employees of Dennis Phipps Well Drilling Inc. These individuals have not been specifically retained to provide expert testimony. However, they drilled the well at issue for Mr. Bruno and can testify regarding the observations listed in the Well Driller's Report, well tag No. D0071833, and dated July 1, 2016, which is attached to these discovery responses, as well as information within their expertise and observation pertaining to the drilling of Mr. Bruno's well.

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3: See Applicant's Rebuttal Expert Disclosures filed on October 16, 2017.

INTERROGATORY NO. 4: Please identify each person who supplied answers to these interrogatories and designate the answers or answer or part thereof supplied by such person. (This interrogatory is intended to discover principal sources of information and does not seek to

ascertain the identity of mere draftsmen or persons responsible for the mechanical preparation of these answers.)

RESPONSE TO INTERROGATORY NO. 4:

Objection – this request seeks disclosure of attorney work product.

INTERROGATORY NO. 5: Please identify each exhibit which you may offer into evidence at the trial of this action, the fact or facts intended to be proved by the use of the exhibit or the relevance of which is felt to justify the use of the exhibit and as to each such exhibit which consists of more than 15 pages or more than 3,000 words, quote or otherwise specifically designate each portion of such exhibit which you contend is the relevant portions thereof.

RESPONSE TO INTERROGATORY NO. 5:

Objection - this request is premature in that it requires identification of trial exhibits in advance of the deadline set forth in the scheduling order issued in this matter. Furthermore, the request is overbroad and unduly burdensome to the extent it requires description of the relevance of documents which is self-evident, and Protestant is directed, pursuant to IRCP 33(d) to examine the records itself. Without waiving the foregoing objection, Applicant may use any document produced by Protestant, or any third party in discovery in this matter as an exhibit at trial or hearing. Applicant may also use the following attached documents:

- Permit to Appropriate Water No. 63-34042;
- Stipulation and Withdrawal of Protest filed on March 25, 2016, in the proceeding before the Idaho Department of Water Resources, In the Matter of Applications for Water Right No. 63-34042 in the Name of Robert Bruno.

- IDWR Well Driller's Report, Well Tag No. D0067274 - Stevens & Sons, signed 8/7/14 - Owner City of Meridian - Well location: Lake Hazel Rd, 3000 feet west of Eagle Road, Meridian, ID
- IDWR Well Driller's Report, Well Tag No. D0066198 - Coonse Well Drilling, signed 4/17/14 - Owner Aaron Raap - Well location: 6519 S. Raap Ranch Lane, Meridian, ID
- IDWR Well Driller's Report, Well Tag No. D0048145 - Down Right Drilling & Pump, signed 8/8/07 - Owner Greg Johnson - Spring Hill LLC - Well location: 2385 E. Lake Hazel, Meridian, ID
- IDWR Well Driller's Report, Well Tag No. D0071833 - Dennis Phipps Well Drilling, Inc., signed 7/1/16 - Owner Robert Bruno - Well location: 2005' east of South Locust Grove Road on Cavalli Lane, Meridian, ID
- The report prepared by Charles Brockway and any attachments or exhibits included within that report.
- The attached audio recording of a conversation between Robert Bruno and Kyle Radek, Assistant City Engineer, Meridian Public Works, and Mr. Bruno and Nick Miller, all of which pertain to the City's efforts to compel Mr. Bruno to limit his well depth.

INTERROGATORY NO. 6: If you contend that the City of Meridian or any agent, predecessors in interest or other person who could make an admission binding on the City of Meridian has admitted a fact material to your position with respect to the subject of this action, please identify who made each admission, what the admission is and whether there are any documents which purport to reflect that an admission occurred.

RESPONSE TO INTERROGATORY NO. 6:

Ed Squires guaranteed Mr. Bruno that he would reach an adequate amount of water at a well depth of 150 feet. Kyle Radek witnessed that conversation and confirmed the same fact to Mr. Bruno. Terry Scanlon said that Mr. Bruno would reach his water needs before 260 feet. These statements were made to induce Mr. Bruno to limit his initial well depth in response to a legally protest filed by the City of Meridian. A recording of the conversation between Kyle Radek and Mr. Bruno is included with these discovery responses.

INTERROGATORY NO. 7: If you have denied, in whole or in part, any portion of Request for Admission No. 1, please identify and specify all facts which support your response to that request.

RESPONSE TO INTERROGATORY NO. 7:

The Department of Water Resources may waive specific standards in cases where the ground water resources will be protected against waste and contamination and public health and safety are not compromised. *See* IDAPA 37.03.09.02. In this case, the deepening of Mr. Brunos well will no cause waste, contamination or compromise the public health. This fact is established by the opinions and analysis of Mr. Brockway.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce a copy of each and every exhibit identified in your answer to Interrogatory No. 5.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Please see the attached documents.

REQUEST FOR PRODUCTION NO. 2: Please produce a copy of each and every written communication which in any way relates to the subject of this action or which you may offer in evidence at the trial of this action.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Objection. This request is overbroad and unduly burdensome to the extent it requests production of documents that are in the possession of Protestant and which may yet be disclosed in discovery. Without waiving the foregoing objection, please see those documents attached in response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce copies of each and every document, picture and sound recording which in any way relates to the subject of this action.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Please see Bruno's response to request for production No. 2.

REQUEST FOR PRODUCTION NO. 4: Please produce all documents that you assert support or may support your position with respect to the subject of this action.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Objection. This request is overbroad and unduly burdensome because it is substantively duplicative of Request for Production No. 1.

DATED this 16th day of October, 2017.

ANGSTMAN JOHNSON



WYATT JOHNSON

Attorney for Applicant Robert Bruno

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of October, 2017, I caused to be served a true copy of the foregoing APPLICANT'S FIRST SUPPLEMENTAL RESPONSES TO PROTESTANT CITY OF MERIDIAN'S FIRST SET OF DISCOVERY TO APPLICANT, by the method indicated below, and addressed to those parties marked served below:

<u>Party</u>	<u>Counsel</u>	<u>Means of Service</u>
Protestant City of Meridian	Charles Honsinger Honsinger Law, PLLC PO Box 517 Boise, ID 83701 Fax: 208-908-6085 Email: honsingerlaw@gmail.com	<input checked="" type="checkbox"/> U.S. Mail, Postage Paid <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Fax Transmittal <input type="checkbox"/> Email Notification



Wyatt Johnson

VERIFICATION

STATE OF IDAHO)
 : ss.
County of Ada)

ROBERT BRUNO, being first duly sworn on oath, deposes and says that he is the Applicant in the above-entitled action; that he has read the above and foregoing APPLICANT'S FIRST SUPPLEMENTAL RESPONSES TO PROTESTANT CITY OF MERIDIAN'S FIRST SET OF DISCOVERY TO APPLICANT, knows the contents thereof; and that the facts stated therein are true as he verily believes.

ROBERT BRUNO

SUBSCRIBED AND SWORN To before me this _____ day of October, 2017.

Notary Public for State of Idaho
Commission Expires: _____