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Attorneys for Eagle Springs Ranch LLC

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SEP 22 2008
DEPARTMENT OF WATER RESOURCES

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WATER RESOURCES WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 65-23239 AND 65-23105 AND APPLICATION FOR TRANSFER NO. 73787 IN THE NAME OF EAGLE SPRINGS RANCH LLC	**APPLICANT EAGLE SPRINGS RANCH LLC'S FIRST SET OF DISCOVERY REQUESTS TO PROTESTANT JAYNE REED**

TO: Jayne Reed

PLEASE TAKE NOTICE that Eagle Springs Ranch LLC, by and through its counsel, hereby requires you to respond to the following Discovery Requests.

INSTRUCTIONS

These Discovery Requests are issued to you pursuant to the Order Authorizing Discovery dated September 15, 2008, IDWR's Rules of Procedure (IDAPA §§ 37.01.01.001.02 and 37.01.01.520 through 37.01.01.532), and Rules 33, 34, and 36 of the Idaho Rules of Civil Procedure, which are incorporated by reference in the Department's Rules (IDAPA § 37.01.01.520.02). Pursuant to the Order Authorizing Discovery and the Idaho Rules of Civil

Procedure Rule 33(a)(2), 34 (b)(2), and 76(a) your responses are due 30 days after service of these Discovery Requests, no later than October 22, 2008.

Your responses to these Discovery Requests must be made under oath.

In responding to these Discovery Requests, please base your responses on all information available to you, including information in the possession of your attorneys, experts, and consultants, not merely information based on the personal knowledge of the person completing the responses.

If you cannot respond to these Discovery Requests in full after exercising due diligence to secure the information to do so, so state and respond to the extent possible, specifying your inability to respond to the remainder, and providing whatever information, documents, and knowledge you have concerning the unanswered portion.

All of these Discovery Requests are deemed continuing and require supplementation to the extent that Rule 26(e) of the Idaho Rules of Civil Procedure requires such.

DEFINITIONS

As used herein, the following terms have the following meanings:

1. "Applicant" means Eagle Springs Ranch LLC

2. "Discovery Requests" means these Requests for Admission, Interrogatories and Requests for Production.

3. "IDWR" and the "Department" both mean the Idaho Department of Water Resources.

4. "Order Authorizing Discovery" means the *Notice of Hearing and Order Authorizing Discovery* dated September 15, 2008 as amended by any subsequent order, if any.

5. "Pending Applications for Permits" means the Applicant's *Amended Application for Permit* assigned Water Right. No. 65-23239 and Applicant's *Amended Application for Permit* assigned Water Right. No. 65-23105, collectively.

6. "Pending Application for Transfer" means the Applicant's *Amended Application for Transfer of Water Right* assigned Transfer No. 73787.

7. "Stipulation" means the Stipulation and Withdrawal of Protest dated August 25, 2008 and mailed to you by Applicant's counsel.

8. "Transfer Protest" means the protest of the Pending Application for Transfer filed by Jayne Reed dated June 23, 2008.

9. "Water Right Protest" means the protest of the Pending Applications for Permits filed by Jayne Reed dated June 23, 2008.

10. "You" or "your" refers to Jayne Reed.

REQUESTS FOR ADMISSIONS, INTERROGATORIES, AND REQUESTS FOR PRODUCTION

Please note: The sub-headings set out below are provided solely for the convenience of the reader. They are not intended in any way to modify or limit the discovery requests, nor are they intended to serve as a guide for the interpretation of the discovery requests.

Water Right Protest

REQUEST FOR ADMISSION NO. 1. Please admit that no water rights (including water right permits and domestic exempt water rights) will be injured or otherwise adversely affected if IDWR approves the Pending Applications for Permits.

INTERROGATORY NO. 1. If your answer to Request for Admission No. 1 is anything other than an unqualified admission, please identify each water right (including water right

permits and domestic exempt water rights) which you contend may be injured or otherwise adversely affected the Pending Applications for Permits, and state the owner of each such water right, the legal basis of each such water right (e.g. license, permit, decree, or domestic exemption), and the IDWR water right number for each such water right (if any).

INTERROGATORY NO. 2. For each water right identified in Interrogatory No. 1, if any, please set forth each and every fact that you are aware of that supports your assertion that such water right will be injured or otherwise adversely affected by the use of water proposed in the Pending Applications for Permits.

REQUEST FOR ADMISSION NO. 2. Please admit that the use of water proposed in the Pending Applications for Permits will not reduce the quantity of water under existing water rights. (*See* Idaho Code § 42-203A(5)(a).)

INTERROGATORY NO. 3. If the answer to Request for Admission No. 2 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports the assertion that the use of water proposed in the Pending Applications for Permits will reduce the quantity of water under existing water rights.

REQUEST FOR ADMISSION NO. 3. Please admit that the water supply is sufficient for the purposes for which it is sought to be appropriated by the Pending Applications for Permits. (*See* Idaho Code § 42-203A(5)(b).)

INTERROGATORY NO. 4. If your answer to Request for Admission No. 3 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports the assertion that the water supply is insufficient for the purposes for which it is sought to be appropriated by the Pending Applications for Permits.

REQUEST FOR ADMISSION NO. 4. Please admit that the Pending Applications for Permits were made in good faith and not made for delay or speculative purposes. (*See* Idaho Code § 42-203A(5)(c).)

INTERROGATORY NO. 5. If your answer to Request for Admission No. 4 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports the assertion that the Pending Applications for Permits were not made in good faith, or were made for delay or speculative purposes.

REQUEST FOR ADMISSION NO. 5. Please admit that the Applicant has sufficient financial resources with which to complete the work involved in the Pending Applications for Permits. (*See* Idaho Code § 42-203A(5)(d).)

INTERROGATORY NO. 6. If your answer to Request for Admission No. 5 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports the assertion that the Applicant does not have sufficient financial resources with which to complete the work involved in the Pending Applications for Permits.

REQUEST FOR ADMISSION NO. 6. Please admit that the use of water proposed in the Pending Applications for Permits does not conflict with the local public interest, which is defined at Idaho Code § 42-202B as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." (*See* Idaho Code § 42-203A(5)(e).)

INTERROGATORY NO. 7. If your answer to Request for Admission No. 6 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports the assertion that the use of water proposed in the Pending Applications for Permits conflicts with the local public interest, as defined above.

REQUEST FOR ADMISSION NO. 7. Please admit that the use of water proposed in the Pending Applications for Permits is not contrary to conservation of water resources within the state of Idaho. (*See* Idaho Code § 42-203A(5)(f).)

INTERROGATORY NO. 8. If your answer to Request for Admission No. 7 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports the assertion that the use of water proposed in the Pending Applications for Permits is contrary to conservation of water resources within the state of Idaho.

Transfer Protest

REQUEST FOR ADMISSION NO. 8. Please admit that no water rights (including water right permits and domestic exempt water rights) will be injured or otherwise adversely affected by the use of water proposed in the Pending Application for Transfer.

INTERROGATORY NO. 9. If your answer to Request for Admission No. 8 is anything other than an unqualified admission, please identify each water right (including water right permits and domestic exempt water rights) which you contend may be injured or otherwise adversely affected by the use of water proposed in the Pending Application for Transfer, and state the owner of each such water right, the legal basis of each such water right (e.g. license, permit, decree, or domestic exemption), and the IDWR water right number for each such water right (if any).

INTERROGATORY NO. 10. For each water right identified in Interrogatory No. 9, if any, please set forth each and every fact that you are aware of that supports your assertion that such water right will be injured or otherwise adversely affected by the use of water proposed in the Pending Application for Transfer.

REQUEST FOR ADMISSION NO. 9. Please admit that the Pending Application for Transfer will not change the nature of use of the subject water permits from agricultural use in a way that would significantly affect the agricultural base of the local area. (*See* Idaho Code § 42-222.)

INTERROGATORY NO. 11. If your answer to Request for Admission No. 9 is anything other than an unqualified admission, please set forth each and every fact you are aware of that supports the assertion that the changes in water rights described in the Pending Application for Transfer will change the nature of use from agricultural use in a way that would significantly affect the agricultural base of the local area.

Potential Resolutions

REQUEST FOR ADMISSION NO. 10. Please admit that the Stipulation (as defined in the "Definitions" section above) is sufficient to resolve your Water Right Protest.

INTERROGATORY NO. 12. If your answer to Request for Admission No. 10 is anything other than an unqualified admission, please explain specifically and in detail why the Stipulation is insufficient to resolve your Water Right Protest.

INTERROGATORY NO. 13. If your answer to Request for Admission No. 10 is anything other than an unqualified admission, please explain specifically and in detail what would resolve your Water Right Protest, other than IDWR denying the Pending Applications for Permits.

INTERROGATORY NO. 14. Please state specifically and in detail any other condition(s), amendment(s) to the permit(s), or other limitations you believe must be imposed by IDWR in order to lawfully approve the Pending Applications for Permits and provide each and every fact you are aware of that would support your assertion(s).

REQUEST FOR ADMISSION NO. 11. Please admit that the Stipulation is sufficient to resolve your Transfer Protest.

INTERROGATORY NO. 15. If your answer to Request for Admission No. 11 is anything other than an unqualified admission, please explain specifically and in detail why the Stipulation is insufficient to resolve your Transfer Protest.

INTERROGATORY NO. 16. If your answer to Request for Admission No. 11 is anything other than an unqualified admission, please explain specifically and in detail what would resolve your Transfer Protest, other than IDWR denying the Pending Application for Transfer.

INTERROGATORY NO. 17. Please state specifically and in detail any other condition(s), amendment(s) to the permit(s), or other limitations you believe must be imposed by IDWR in order to lawfully approve the Pending Application for Transfer and provide each and every fact you are aware of that would support your assertion(s).

INTERROGATORY NO. 18. To the extent not fully disclosed by your earlier responses, please identify and explain in detail any other basis or bases for your contention that the Pending Applications for Permits should not be approved and identify each and every fact you are aware of that supports your contention.

INTERROGATORY NO. 19. To the extent not fully disclosed by your earlier responses, please identify and explain in detail any other basis or bases for your contention that the Pending Application for Transfer should not be approved and identify each and every fact you are aware of that supports your contention.

Witnesses

REQUEST FOR ADMISSION NO. 12. Please admit that you have no knowledge, skill,

experience, training, or education in the fields of hydrology, hydrogeology, fisheries, wildlife biology, or geology.

INTERROGATORY NO. 20. If the answer to Request for Admission No. 12 is anything other than an unqualified admission, please explain specifically and in detail your knowledge, skill, experience, training, or education in the fields of hydrology, hydrogeology, fisheries, wildlife biology, or geology.

REQUEST FOR ADMISSION NO. 13. Please admit that you have not consulted any person with knowledge, skill, experience, training, or education in the fields of hydrology, hydrogeology, fisheries, wildlife biology, or geology in relation to your Transfer Protest, your Water Right Protest, the Pending Applications for Permits, or the Pending Application for Transfer.

INTERROGATORY NO. 21. If the answer to Request for Admission No. 13 is anything other than an unqualified admission, please state the name and address of each person you have consulted and describe in detail the substance of the consultation.

INTERROGATORY NO. 22. Please state the name and address of each person you have identified or will identify as an expert witness you intend to have testify at the formal hearing of this matter, and include for each such witness, as provided in Idaho Rule of Civil Procedure 26(b)(4)(A)(i), a complete statement of all opinions to be expressed and the basis and reasons therefore, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions, any qualifications of the witness including a list of all publications authored by the witness within the preceding ten years, the compensation to be paid for the testimony, and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

INTERROGATORY NO. 23. Please state the name and address of each person you intend to call as a lay witness at the formal hearing of this matter, and for each such person state the substance of the facts and opinions to which he or she is expected to testify and set forth specifically and in detail the underlying facts and data upon which the opinion and testimony is based.

General Matters

REQUEST FOR ADMISSION NO. 14. Please admit that you oppose the development of the Southfork Landing project.

REQUEST FOR ADMISSION NO. 15. Please admit that you testified in opposition to the development of the Southfork Landing project at public hearings.

INTERROGATORY NO. 24. Please state the date, time, and location of each and every public hearing at which you testified in opposition to the development of the Southfork Landing project.

REQUEST FOR ADMISSION NO. 16. Please admit that you filed your Water Right Protest as part of a strategy to stop the development of the Southfork Landing project.

REQUEST FOR ADMISSION NO. 17. Please admit that you filed your Transfer Protest as part of a strategy to stop the development of the Southfork Landing project.

Requests for Production

REQUEST FOR PRODUCTION NO. 1. Please produce all documents, exhibits, and/or other items of tangible evidence which you expect to introduce or use, or may use, at the hearing in this matter.

REQUEST FOR PRODUCTION NO. 2. Please provide copies of any documents (excluding documents available from the websites of IDWR) that you relied on to respond to these Discovery Requests.

DATED this 19th day of September, 2008.

Respectfully submitted,

GIVENS PURSLEY LLP

By _____
Jeffrey C. Fereday
Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of September, 2008, the foregoing was filed, served, or copied as follows:

NOTICE OF SERVICE FILED

John Westra Western Regional Office Idaho Department of Water Resources 2735 Airport Way Boise, ID 83705-5082	_____ U. S. Mail __X__ Hand Delivered _____ Overnight Mail _____ Facsimile __X__ E-mail

SERVICE

Director Idaho Department of Water Resources P.O. Box 83720 Boise, ID 83720	__X__ U. S. Mail _____ Hand Delivered _____ Overnight Mail _____ Facsimile _____ E-mail
Barnes Ventures Inc. Represented by: Scott L. Campbell Moffatt Thomas Barrett Rock & Fields, Chtd. 101 S. Capitol Blvd., 10th Floor P.O. Box 829 Boise, ID 83701-0829	__X__ U. S. Mail _____ Hand Delivered _____ Overnight Mail _____ Facsimile _____ E-mail
Jayne Reed 450 South Fork Rd Garden Valley, ID 83622	__X__ U. S. Mail _____ Hand Delivered _____ Overnight Mail _____ Facsimile _____ E-mail
SPF Water Engineering, LLC Attn: Scott King 600 E. River Park Lane, Ste. 105 Boise, ID 83706	__X__ U. S. Mail _____ Hand Delivered _____ Overnight Mail _____ Facsimile _____ E-mail

Jeffrey C. Fereday