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Attorney for M.J. Davis Memorial Limited Partnership

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

**IN THE MATTER OF APPLICATIONS) MOTION TO COMPEL DISCOVERY
FOR PERMIT NOS. 15-7273, 15-7274)
and 15-7275 IN THE NAME OF)
M.J. DAVIS MEMORIAL LIMITED)
PARTNERSHIP)**

COMES NOW Applicant, M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP

("Applicant"), through counsel, and moves the presiding Hearing Officer pursuant to Rules 521 and 522 of the Rules of Practice and Procedure of IDWR, IDAPA 37.01.01 for the entry of an Order authorizing and compelling discovery in accordance with the procedure and time tables of the Idaho Rules of Civil Procedure. Specifically, Applicant requests authorization to file and compel Protestants herein to answer the attached First Interrogatories, Requests for Production of Documents and take the deposition of witness John Roderick of Samaria, Idaho, pursuant to the attached Notice of Taking Deposition. This Motion is made upon the grounds and for the reasons as follows:

1. Applicant has a pending Applications for Permit Nos. 15-7273, 15-7274 and 15-7275 which have been protested by Samaria Water and Irrigation Company represented by Kent

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Foster, Dee's Incorporation, Samaria Recreation District, Samaria Cemetery District and Samaria Residents.

2. The Applications and Protests are scheduled for hearing before a Department Hearing Officer on May 24 at 9:00 a.m. at the Pocatello Airport.

3. Protestants have made general allegations of injury to water rights, that the Applications will reduce the quantity of water under existing water rights, that the water supply is insufficient for the purpose, and that it will conflict with the local public interests. However, the exact nature and extent of these protests and any injury has not been set forth in the protests and is unknown.

4. The requested Interrogatories and Requests for Production of Documents are reasonable and necessary to determine and evaluate the basis upon which Protestants object to this transfer and to enable Applicant to adequately prepare for hearing.

5. The deposition of witness John Roderick is necessary because he is 98 years of age and is unable to leave his home in Samaria to attend the hearing due to his advanced age and deteriorated health. As the former president of Samaria Irrigation Company for some 29 years, it is believed that Mr. Roderick has extensive knowledge regarding the historic use of water which is the subject matter of the Applications and Protests.

WHEREFORE, Applicant respectfully requests that the Presiding Hearing Officer immediately act upon this motion without delay and enter an Order authorizing the attached discovery and compelling the Protestants timely respond to the same in compliance with the Idaho Rules of Civil Procedure.

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DATED this 17th day of April, 2006.

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By Randall C. Budge
RANDALL C. BUDGE
Attorney for Applicant

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