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▶ **SIOUX FALLS**  
Victoria M. Duehr  
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*Attorneys also admitted in  
Nebraska, North Dakota,  
Minnesota and Missouri*



**BANGSMcCULLEN**  
— LAW FIRM —

**RECEIVED**  
**MAY 15 2015**  
**WATER RIGHTS  
PROGRAM**

**Reply to Rapid City Office**

Writer's e-mail address: mhickey@bangsmccullen.com

May 12, 2015

Ms. Jeanne Goodman, Chief Engineer  
Department of Environment and National Resources  
Water Rights Program  
Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

**Re: *In the Matter of the Application of the United Order of  
South Dakota, Application No. 2730-2***

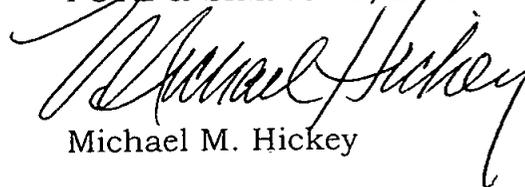
Dear Ms. Goodman:

Please find enclosed a copy of *Interrogatories and Requests for  
Production of Documents to Applicant, United Order of South Dakota*  
in the above-referenced matter. A copy of this document has been  
sent to the United Order of South Dakota, and to all the interested  
parties, which is intended as service by U.S. Mail.

If you have any questions or comments, please advise.  
Thank you.

Sincerely,

BANG, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.



Michael M. Hickey

MMH:ke  
Enclosure

cc: Client; Eric Gronlund; Ann Mines-Bailey; Jeff Connolly; Seth Jeffs;  
William R. Hansen/Jeff Hughes/Peter Fahmy; Cheryl Schrempp  
DuPris; Craig Bobzien; Mr. and Mrs. David Albrecht; Toni Martin;  
Doug Lesher; Rick Fox; Dean & Delia Johnson; Karl R. Von  
Rump/Suzanne K. Von Romp

▶ **RAPID CITY**  
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▶ **SIOUX FALLS**  
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RECEIVED

MAY 15 2015

WATER RIGHTS  
PROGRAM

**STATE OF SOUTH DAKOTA**

**BEFORE THE WATER MANAGEMENT BOARD**

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**IN THE MATTER OF THE  
APPLICATION OF THE UNITED  
ORDER OF SOUTH DAKOTA,  
APPLICATION No. 2730-2**

**Interrogatories and Requests  
for Production of Documents to  
Applicant, United Order  
of South Dakota**

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TO: APPLICANT, UNITED ORDER OF SOUTH DAKOTA, and its  
ATTORNEY, JEFFERY R. CONNOLLY:

YOU AND EACH OF YOU, PLEASE TAKE NOTICE AND BE ADVISED that the Intervener, Linda Kilcoin, in the above matter, pursuant to SDCL § 15-6-33, Rules of Civil Procedure, and any acts amendatory thereof, demands answers, under oath, to the following written Interrogatories within thirty (30) days of service upon you of said Interrogatories.

These Interrogatories shall be deemed to be continuing, and, if information is discovered by or becomes known to Applicant, United Order of South Dakota, its Attorney, or to anyone acting on Applicant's behalf after answering the same and before hearing which would change or add to the answers given, and such additional or supplemental information is not timely furnished to the undersigned, then, and in that event, at the hearing or during the course thereof, the undersigned will move the Hearing Officer for an order suppressing the testimony of undisclosed witnesses and the use of undisclosed evidence should you, or any of you, attempt to use the same. WHEN DOCUMENTS ARE

IDENTIFIED (AS DEFINED BELOW), THERE IS HEREBY AN AUTOMATIC DEMAND FOR PRODUCTION, MADE PURSUANT TO SDCL § 15-6-34, WITH AN OPTION TO YOU TO PRODUCE COPIES IN LIEU OF THE FORMAL INSPECTION.

### **DEFINITIONS AND INSTRUCTIONS**

(a) “You” or “your” means the Applicant, United Order of South Dakota, (hereinafter “Applicant”), Applicant’s attorneys, agents, servants, employees, representatives, private investigators, and all other persons acting or purporting to act on behalf of the Applicant and any other entity which is aligned in interest in the Applicant’s Petition in this proceeding.

(b) As used herein, the term “document” shall mean the original and any copy, regardless of origin or location, of any book, pamphlet, periodical, letter, e-mail, text message, memorandum, telegram, report, record, study, written note, working paper, chart, paper, index, tape, data sheet, data processing card, or any other written, recorded, transcribed, punched, taped, filmed, graphic, electronic or digital material, however produced or reproduced, to which you have or have had access.

(c) The terms “identify” or “identification” when used with reference to an individual person, shall mean to state his or her full name, address, phone number, present employment position or business affiliation, any prior positions or affiliations, and relationship if any to the Applicant. The terms “identify” or “identification” when used with reference to a document, shall mean to state the date and author or signor, as the case may be, the addressee, the type of document, its present or last known location or custodian and all means of identifying it with sufficient particularity to satisfy the requirements for its inclusion in a motion for its production, pursuant to SDCL § 15-6-34 of the South Dakota Rules of Civil Procedure. If any such document was, but is no longer in your possession or subject to your control, state the substance of the document, the disposition which was made of it, the reason for such disposition and the date thereof.

(d) The term “property” means real property, buildings, fixtures and other improvements located at 11571 Farmer Road, Custer County, South Dakota.

If you object to answering any of these interrogatories, or withhold any document from production under a claim of privilege or other exemption from discovery, state in detail the grounds for the nature of the objection and, for responses to requests for production, the title and nature of the document, and furnish a list signed by the attorney of record giving the following information with respect to each document withheld:

- A. The name and title of the author and/or sender and the name and title of the recipient;
- B. The date of the document's origination;
- C. The name of each person or persons (other than stenographic or clerical assistants) participating in the preparation of the document;
- D. The name and position, if any, of each person to whom the contents of the documents have heretofore been communicated by copy, exhibition, reading, or substantial summarization;
- E. A statement of the specific basis on which privilege is claimed and whether or not the subject matter or the contents of the document is limited to legal advice or information provided for the purpose of securing legal advice; and
- F. The identity and position, if any, of the person or persons supplying the attorney signing the list with the information requested in subparagraphs above.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Prior to answering these interrogatories, have you made due and diligent search of your books, records, and papers, and due and diligent inquiry of all agents of the Applicant, with a view to eliciting all information available in this action?

**INTERROGATORY NO. 2:** Please state the identify of all the individuals who participated in or were involved in answering these Interrogatories and Requests for Production of Documents and identify which interrogatory or request for production each individual supplied information for.

**INTERROGATORY NO. 3:** As to the Applicant, please state the following:

- a. The legal nature of the Applicant;
- b. The state under which the Applicant is organized;
- c. The date the Applicant was created;
- d. The identity of the individuals who formed the Applicant;
- e. The identity of the current leader, president, principal, trustee and/or beneficiaries of the Applicant; and
- f. Please produce copies of all documents which show the nature of the Applicant, its creation, organizational chart, and its current internal policies, operations or bylaws.

**INTERROGATORY NO. 4:** As of October 14, 2014, the date the Applicant filed Application No. 2730-2, how many persons were being served by the water supply system operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 5:** As of the date these Interrogatories and Requests for Production of Documents were served, how many persons are served by the water supply system operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 6:** Are there current plans by the Applicant to increase the number of persons who may be served by the water supply system operated by the Application? If so, please state the additional number of persons who may be served within the next five (5) and ten (10) years. Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 7:** As of October 14, 2014, the date the Applicant filed Application No. 2730-2, how many head and what type of livestock were being watered using water supplied by the water supply system operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 8:** As of the date these Interrogatories and Requests for Production of Documents were served, how many head and what type of livestock are being watered using water supplied by the water supply system operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 9:** As of October 14, 2014, the date the Applicant filed Application No. 2730-2, how many acres of noncommercial family gardens, trees, shrubbery, or orchards were being irrigated using water supplied by the water supply system operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 10:** As of the date these Interrogatories and Requests for Production of Documents were served, how many acres of noncommercial family gardens, trees, shrubbery, or orchards are being irrigated using water supplied by the water supply system operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 11:** As of October 14, 2014, the date the Applicant filed Application No. 2730-2, what was the total water storage capacity available for the water supply system operated by the Applicant? As of that date, how much water was being stored by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 12:** As of the date these Interrogatories and Requests for Production of Documents were served, what is the total water storage capacity available for the water supply system operated by the Applicant? As of that date, how much water is being stored by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 13:** As of October 14, 2014, the date the Applicant filed Application No. 2730-2, what was the total volume of wastewater that was generated as a result of the water supply system operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 14:** As of the date these Interrogatories and Requests for Production of Documents were served, what is the total volume of wastewater that is being generated as a result of the water supply system

operated by the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 15:** As of the date these Interrogatories and Requests for Production of Documents were served, how many gallons of groundwater will the Applicant need to withdraw annually from the Madison aquifer under Application 2730-2 to meet all of the present needs of the Applicant? Please produce copies of any documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 16:** How has the Applicant beneficially used the groundwater withdrawn pursuant to Water Permit No. 2610-2 for the purpose of suburban housing development? Please produce copies of any documents which establish the beneficial use of groundwater withdrawn or which was reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 17:** Has the Applicant ever submitted a Subdivision Review Application to the Custer County Planning Department? If so, for which parcels owned by the Applicant and on what date(s)? Please produce a copy of any such applications or any other documents reviewed or utilized by you to answer this interrogatory.

**INTERROGATORY NO. 18:** Please identify and state the occupation, profession and field of specialization of each person whom you expect to call as an expert witness at the hearing, and as to each such person, please state:

- a. The subject matter on which the expert is expected to testify;
- b. A complete statement of the facts and opinions to which the expert is expected to testify;
- c. The basis and reasons for all of the opinions upon which the expert is expected to testify;
- d. The facts, data or other information provided to or considered by the witness in forming the opinions;
- e. Any exhibits that will be used to summarize or support the opinions;
- f. The title, author, copyright date and publisher's name and address of any book, medical or scientific treatise upon which such expert shall rely or which such expert will utilize in the preparation of and the presentation of his testimony;
- g. The qualifications of the witness, including a listing of all publications authored in the previous ten (10) years;
- h. A list of all other cases in which the witness has testified as an expert at trial or by deposition within the preceding four (4) years;

- i. A statement of the compensation to be paid for the study and testimony in this case; and
- j. Please attach a copy of any report prepared by each such expert.

**INTERROGATORY NO. 19:** Has the Applicant submitted any documents to Dr. Arden Davis? If so, describe each document and produce a copy of each document that was provided and the date on which it was submitted to Dr. Arden Davis.

**INTERROGATORY NO. 20:** Has the Applicant or any one acting on its behalf, prepared and/or submitted to the Custer County School District or any other local school board or other governmental entity an Application for Excuse From School Attendance for any child residing on the property for each year between 2007 and the present time? If so, please produce a copy of each such Application and Certificate of Excuse.

### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1:** Any and all documents pertaining to the purposes, formation, composition, and operation of the common law trust known as the United Order of South Dakota.

**REQUEST NO. 2:** Any and all documents associated with the preparation by the United Order of South Dakota of the "2014 Drinking Water Report."

**REQUEST NO. 3:** Any and all documents requested in Interrogatories 1 through 20 above.

**REQUEST NO. 4:** Any and all documents sent to or received from the South Dakota Department of Environment and Natural Resources between the years 2007 and the present time.

**REQUEST NO. 5:** Any and all documents sent to or received from Custer County between the years 2007 and the present time.

Dated this 12<sup>th</sup> day of May, 2015.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:   
MICHAEL M. HICKEY  
333 West Boulevard, Ste. 400  
P.O. Box 2670  
Rapid City, SD 57709-2670  
(605) 343-1040  
[mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)  
*ATTORNEYS FOR LINDA VAN DYKE KILCOIN*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in envelopes addressed to said addressees, to wit:

**Jeanne Goodman, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol  
Pierre, SD 57501**

**Eric Gronlund  
Water Rights Program  
Foss Building  
523 East Capitol  
Pierre, SD 57501**

**Ann F. Mines Bailey  
Assistant Attorney General  
Mickelson Criminal Justice Center  
1302 East Highway 14, Suite 1  
Pierre, SD 57501**

**Jeffrey R. Connolly  
Gunderson Palmer Law Firm  
P.O. Box 8045  
Rapid City, SD 57709  
Attorney for United Order of South Dakota**

**United Order of South Dakota  
P.O. Box 5050  
Custer, SD 57730**

**William R. Hansen  
Jeff Hughes  
Peter A. Fahmy  
National Park Service  
Water Resources Division  
1201 Oak Ridge Drive, Suite 250  
Fort Collins, CO 80525-5596**

**Cheryl Schrempp DuPris  
Assistant U.S. Attorney  
US Department of Justice  
225 South Pierre St., Suite 337  
Pierre, SD 57501**

**Craig Bobzien  
Forest Supervisor  
Black Hills National Forest  
1019 North 5<sup>th</sup> Street  
Custer, SD 57730**

**Mr. & Mrs. David Albrecht  
High Lonesome Ranch  
26541 Stagecoach Springs Road  
Custer, SD 57730-9109**

**Toni Martin  
4141 Villa Ridge Ct #122  
Rapid City, SD 57701**

**Doug Lesher  
Stone Meadow Ranch  
26699 Remington Road  
Custer, SD 57730**

**Rick Fox  
P.O. Box 35  
Hermosa, SD 57744**

**Dean & Delia Johnson  
14585 East French Creek Road  
Fairburn, SD 57738**

**Karl R. Von Rump  
Suzanne K. Von Rump  
11560 Farmer Road  
Custer, SD 57730**

which are the last addresses of the addressees known to the subscriber.

Dated this 12<sup>th</sup> day of May, 2015.

  
MICHAEL M. HICKEY