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JUN 29 2015

WATER RIGHTS
PROGRAM



BANGS McCULLEN
— LAW FIRM —

Reply to Rapid City Office

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

June 24, 2015

Jeffrey R. Connolly
Gunderson Palmer Law Firm
P.O. Box 8045
Rapid City, SD 57709-8045

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

Dear Jeff:

I enclose an unsigned copy of *Linda Van Dyke Kilcoin's Answers and Responses to Interrogatories and Requests for Production of Documents*. The original signature page has been sent to the client. Upon receipt of the fully executed signature page, it will be forwarded to you. Please consider this as service by mail upon you.

If you have any questions or concerns, please give me a call.

Sincerely,

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, LLP



Michael M. Hickey

MMH:ke

Enc.

Cc: Jeanne Goodman
Matt Naasz
Rodney Freeman
William R. Hansen
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Doug Lesher
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STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

RECEIVED
JUN 29 2015
WATER RIGHTS PROGRAM

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

**Linda Van Dyke Kilcoin's
Answers and Responses to
Interrogatories and Requests for
Production of Documents**

Intervener, Linda Van Dyke Kilcoin, hereby answers and responds to the *Interrogatories and Requests for Production of Documents to Intervener, Linda Van Dyke Kilcoin* as follows:

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?

ANSWER: Yes.

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.

ANSWER: Linda Van Dyke Kilcoin.

INTERROGATORY NO. 3. State the names and addresses of any persons who you believe have or may purport to have any knowledge or information pertaining to this matter, your intervention or the Applicant's application, and state, insofar as you know, the nature of such knowledge or information.

ANSWER: I believe the other parties to this proceeding have knowledge, the exact nature of which is unknown to me.

INTERROGATORY NO. 4. State and explain every reason you oppose Applicant's application 2730-2.

ANSWER: The request for additional water usage by the applicant will be determined at the hearing. It is my belief that the granting of this water right is not in the public interest.

INTERROGATORY NO. 5. Identify and water right you claim or ownership in any water right you claim anywhere in South Dakota.

ANSWER: Unknown to me at the present time.

INTERROGATORY NO. 6. Do you allege that there is not reasonable probability that there is unappropriated water available in the Madison Aquifer for the applicant's proposed use? If so, explain why.

ANSWER: Objection. This question is objected to as it calls for a legal conclusion. Notwithstanding this objection, as a lay person, I am not qualified to answer this question.

INTERROGATORY NO. 7. Do you allege that the proposed diversion requested in the Applicant's application can not be developed without unlawful impairment of existing rights? If so, explain how so and specifically identify what water rights would be impaired and how they would be impaired.

ANSWER: Objection. This question is objected to as it calls for a legal conclusion. Notwithstanding this objection, as a lay person, I am not qualified to answer this question.

INTERROGATORY NO. 8. Do you allege that the proposed use of water requested in the Applicant's application is not in the public interest? If so, explain why not.

ANSWER: Objection. This question is objected to as it calls for a legal conclusion. It is my belief, however, that the issuance of this permit is not in the public interest as a common law trust is not a legal entity recognized under South Dakota law capable of holding a water right and the past history of the applicant establishes a disregard for the rules and regulations of the State.

INTERROGATORY NO. 9. Do you allege that the proposed use of water sought by the Applicant is not a beneficial use as defined by SDCL § 46-1-6(3)? If so, explain why not.

ANSWER: Objection. This question is objected to as it calls for a legal conclusion. Notwithstanding this objection, if all of the information concerning applicant's density is true and accurate, then it may constitute a beneficial use.

INTERROGATORY NO. 10. List the names, addresses, official titles, if any, of all witnesses, who, it is contemplated, will be called upon to testify in support of your claim in this matter, indicate the nature and substance of the testimony which it is expected will be given by each witness, and if any such prospective witnesses are related to you, state the relationship.

ANSWER: **Objection. This question is objected to as it seeks information protected by attorney work product. The identity of all witnesses and the nature of their testimony will be disclosed in accordance with the directives of the hearing officer.**

INTERROGATORY NO. 11. List, identify, and describe the contents of each document which it is contemplated will be offered in support of your claim in this action.

ANSWER: **Objection. This question is objected to as it seeks information protected by attorney work product. All exhibits will be disclosed in accordance with the directives of the hearing officer.**

INTERROGATORY NO. 12. If it will be claimed that, after the incident in question, the defendant, its agents, or employees spoke or were heard to speak about the cause or result of the incident, state the substance of what the defendant, its agents, or employees said, to whom he, she, or they spoke, and when and where.

ANSWER: **It appears that this request for production relates to an incident that has no application in the present case.**

INTERROGATORY NO. 13: 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; and
- 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.

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:

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

Dated this 24th day of June, 2015.


MICHAEL M. MICKEY