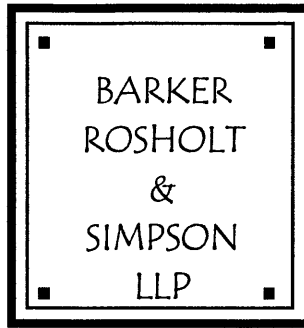


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December 8, 2014

Carol Tippi Jarman
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RE: *Demand for Complete Discovery Responses Pursuant to I.R.C.P. 37(a)(2)*
(ASCC v. IDWR – Power Cty Case No. CV-2014-165)

Dear Ms. Jarman & Mr. Budge:

This letter is submitted to you pursuant to Civil Rule 37(a)(2), which requires that the Coalition make a good faith effort to confer and obtain appropriate responses to its discovery requests before seeking an order from the Court compelling adequate answers.

On November 6, 2014 you submitted the *Plaintiff's Responses to Defendant-Intervenors' First Discovery Requests to Aberdeen-Springfield Canal Company* and *Plaintiffs' Responses to Defendant-Intervenors' First Discovery Requests to Jeffery and Chana Duffin* (collectively the "Responses"). The Responses do not comply with the requirements under the Civil Rules. Please provide adequate responses that comply with the Civil Rules no later than Wednesday, December 17, 2014.

First, your answers do not comply with the Civil Rules. Rule 33(a)(2) provides that, although the attorney may sign "objections," the "answers are to be signed by the party to whom they are directed." Neither of the Responses were signed by the "party to whom they" were directed – i.e. ASCC or Mr. and Mrs. Duffin. As such, they do not comply with the Civil Rules.

More troubling, however, is the fact that the Responses are evasive and incomplete. Rather than answer the Interrogatories presented, the Responses list the same objections and either do not answer the question or generally point the Coalition to over 1600 pages of documents as representing the so-called "answer."

For example, Interrogatory 1, in both requests, asks for an identification of “each and every individual known to you who has” knowledge of the fact underlying the case. In your answer, you identify Mr. and Mrs. Duffin, Steve Howser and “existing ASCC Board Members and prior Board Members.” However, the Responses failed to identify those “existing ASCC Board Members and prior Board Members” as requested. We do not know who the existing and prior board members are, so please comply with the request and answer the question.

Interrogatory No. 11 (ASCC) and 15 (Duffin) asks for an identification of “all consultants and experts who you have consulted relating to the excavation, opening, drilling and construction of the ‘recovery wells.’” Your answer claims that you have not “made a determination as to any such consultants or experts” for purposes of this litigation. However, you fail to address whether any consultants or experts were “consulted” on the excavation, opening, drilling or construction of the wells.

Interrogatory No. 5 (ASCC) requests a description of any “formal policies approved by” the ASCC Board regarding recovery wells. However, rather than identify such policies, you point to over 300 pages of board minutes and object that the request is “vague, overboard, unduly burdensome.” Contrary to your claim, there is nothing “vague” about the request, it simply asks for “formal policies” of the ASCC Board. The Board should have such policies available – if they exist at all.

Interrogatory No. 8 (ASCC) asks for the identification of all “lands that are actually irrigated from water delivered from the ‘recovery wells.’” Again, rather than answer the interrogatory, you point to over 1600 pages of documents – forcing the Coalition on a fishing expedition to attempt to discovery information that should be readily available to ASCC.

Interrogatory Nos. 7-8 (Duffin) seek information relating to water measurements at the “recovery well.” You refuse to answer those requests, instead objecting that the requests are “vague, over broad, unduly burdensome and seek irrelevant information.” This entire lawsuit is based on an alleged claim by ASCC and Duffin regarding the use of “recovery wells” to divert ASCC surface water shares. An identification of the amount of water actually diverted from the well is very relevant to the matter.

Interrogatory Nos. 9-11 (Duffin) seeks clarification from Duffin regarding certain testimony contained in the *Affidavit of Jeffrey Duffin*. Again, you refuse to answer these requests, claiming that they are “vague, over broad, unduly burdensome.” Mr. Duffin is making this testimony – he should be able to clarify the testimony as requested.

Civil Rule 37(a)(3) provides that an evasive or incomplete answer is to be treated by the court as a failure to answer. If your clients do not provide complete answers, Civil Rule 37(a)(2) provides that our clients can move the court for an order compelling complete answers. Civil Rule 37(a)(4) provides that if the motion is granted, the court shall require the party whose conduct necessitated the motion or the party or attorney advising such conduct or both to pay to

Ms. Jarman & Mr. Budge

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the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust. In this matter, the Coalition cannot see any reason or justification why your clients, as Plaintiffs with the burden of proof, can justify not completely answering the discovery – all of which address allegations made by your clients.

Accordingly, the following ASCC Responses are inadequate and should be answered concisely and correctly:

- Interrogatory Nos. 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 14.

The following Duffin Responses are inadequate and should be answered concisely and correctly:

- Interrogatory Nos. 1, 3, 4, 7, 8, 13 and 15.

Please provide answers to these requests no later than December 17, 2014. Pursuant to Civil Rule 33(a)(2) and 37, any objection to these response should be explained rather than merely listed. Your continued failure to adequately response to the Coalition's discovery may result in a motion to compel before the District Court.

Yours Truly,


Paul L. Arrington

PLA/jn

Encs.

cc: Client (via email)