

Lindsay (Taft) Watkins, *Pro Hac Vice*
lindsay.watkins@acslawyers.com
Kristina Southwell, *Pro Hac Vice*
kristina.southwell@acslawyers.com
AHLERS CRESSMAN & SLEIGHT PLLC
1325 4th Ave., Suite 1850
Seattle, WA 98101
Phone: (206) 287-9900

John H. Guin, ISB# 5753
john@guinlaw.com
LAW OFFICE OF JOHN H. GUIN, PLLC
P.O. Box 31210
Spokane, WA 99223
Phone: (509) 443-0709

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STRIDER CONSTRUCTION CO., INC.,

Plaintiff,

vs.

IDAHO WATER RESOURCE BOARD,

Defendant.

Case No. CV01-22-10932

PLAINTIFF'S FIRST
INTERROGATORIES AND REQUESTS
FOR PRODUCTION

TO: DEFENDANT IDAHO WATER RESOURCE BOARD

AND TO: COUNSEL FOR DEFENDANT

I. PROCEDURES

A. Procedures. You have been served with the original of Interrogatories and Requests for Production under I.R.C.P. Rules 26, 33, and 34. Please complete the answers within the space provided, and, if needed, add additional pages. Within the time the rules permit, return the original to this office and retain a copy for your file.

PLAINTIFF'S FIRST INTERROGATORIES
AND REQUESTS FOR PRODUCTION – 1
308438

B. Scope of Answers. By the use of the pronoun “you” it is intended that the answers are to include all information known or reasonably ascertainable by the Idaho Water Resource Board (the “Board”), and its employees, agents, attorneys, investigators, and other representatives in their capacities as such. If you do not know or cannot ascertain the answer to any interrogatory, state that affirmatively in lieu of your answer.

C. Time. Unless otherwise stated, these Interrogatories and Requests for Production cover the period from June 2020 to present. These Interrogatories and Requests for Production shall be deemed continuing, and in the event you discover further information that is responsive after submitting your initial answers and responses, you are to supplement said answers and responses by supplementation to the extent required by Court Rules.

D. Objections. If you object to answering any interrogatory in whole or in part, state your objection and the factual and legal reasons supporting it with particularity in lieu of your answer; and if you object on the ground of privilege, also state with particularity the nature and extent of all allegedly privileged matters. If you object to answering only part of the interrogatory, specify the part to which you object and answer the remainder. ANY OBJECTION WHICH IS NOT SO ASSERTED MAY BE DEEMED WAIVED.

E. Privilege Log. If you contend that any document encompassed by any request is privileged, in whole or in part, then you shall produce so much of each such document as does not contain any allegedly privileged information and furnish a written statement setting forth as to each such document (or portion thereof):

- (1) The name(s) and address(es) of the author(s) of the document;
- (2) The name(s) and address(es) of the addressee(s) of the document and all persons to whom the document, or a copy thereof, has at any time been provided or shown;
- (3) A brief description of the form and subject matter of the document or excised portion thereof; and
- (4) The nature of the privilege asserted.

II. DEFINITIONS

A. “Document.”

1. “Document” or “documents” as used herein is defined to include: all written, printed, typed, punched, taped, filmed, electronically stored, computer stored, or graphic matter, however produced or reproduced, of every kind and description, in the actual or constructive possession, custody, trust, care, or control of you or your agents or attorneys, including, but not limited to, any correspondence (including letters, emails, faxes, cables, telegrams, and telexes), books, pamphlets, periodicals, letters, memoranda, telegrams, reports, records, studies, handwritten notes, maps, drawings, working papers, charts, papers, graphs, indices, tapes, data sheets or data processing cards, contracts, agreements, invoices, receipts, cancelled checks, check ledgers, drawings, sketches, photographs, or other materials which contain any verbal, graphic, or pictorial information. The term “document” also includes all other tangible things such as files, folder tabs and/or containers and labels appended to, or associated with, any physical storage associated with each original and/or copy. Whether or not indicated specifically in the Interrogatories and Requests for Production, you are to identify and produce all drafts, marked-up versions, preliminary versions, or other non-identical copies of documents requested.

2. Electronically Stored Information. The term document or documents also specifically includes any and all items stored on computer memories, hard discs, servers, floppy discs, CD-ROMs, removable media on or in any other vehicle for digital data storage and/or transmittal, including computer programs (whether private, commercial, or work-in-progress), programming notes or instructions, activity listings of electronic mail receipts and/or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines, electronic mail, operating systems, source code of all types, peripheral drivers, PIF files, batch files, and any and all miscellaneous files and/or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists of an active file, deleted file or file fragment, and any other written,

recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, to which you have or have had access. The term document or documents shall specifically include all metadata for electronically stored information.

3. Where the answer to an Interrogatory may be ascertained from your business records, you may be entitled to supply the optional form of answer provided by Rule 34. Moreover, any Interrogatory requesting you to “identify,” “identify with particularity,” “state,” “summarize,” “describe,” or “locate” any document may be answered by attaching a complete and correct copy of the document as part of your answer to that Interrogatory or by presenting the document for inspection and copying at the offices of the undersigned attorneys, AHLERS CRESSMAN & SLEIGHT PLLC, 1325 Fourth Avenue, Suite 1850, Seattle, WA 98101-2573.

B. “Identify,” “Identity,” “Identifying,” or “Identification.”

1. Person or Business Entity. As used herein, “identify” or “identity” used in reference to an individual person or business entity means to state his, her or its full name and present residence and business address, present or last-known position or business affiliation, and position and business affiliation at the time in question.

2. Document. “Identify” or “identity” when used in reference to a document means to state the date and author, type of document, *e.g.*, letter, memorandum, telegram, chart, etc. (or some other means of identifying it) and its present location or custodian. If any such document was, but is no longer, in your possession or subject to your control, state what disposition was made of it. “Summarize” used in reference to a document means to state the information contained in the document, including all recommendations and conclusions, in summary form.

3. Meeting or Conversation. “Identify” used in reference to a meeting or conversation means to state the identity of the persons who were present and/or participated in the meeting or conversation, the date on which the meeting or conversation occurred, the place at which the meeting or conversation occurred, and if any record, memorandum, or other writing of the meeting or conversation was made, to identify said record, memorandum, or other writing.

C. Produce.

“Produce” means to make available to the undersigned for inspection and reproduction the documents described in each request made below at the offices of AHLERS CRESSMAN & SLEIGHT PLLC, 1325 Fourth Avenue, Suite 1850, Seattle, WA 98101-2573, within the time provided by the rules. These requests for production are directed to you and your agents, attorneys, accountants, consultants, representatives, private investigators, and any and all persons acting on your or their behalf. They encompass the original and all non-duplicate copies (those that differ from the original in some respect, for example, by reason of notations made on the copy) of all documents of any nature which are now or have at any time been within your care, custody, or control.

If any of the persons enumerated in the immediately preceding paragraph has or at any time had knowledge of or possession, custody or control of, or the power to obtain any document described and requested in any of the requests made below, and such document has now been lost, misplaced, misfiled, obliterated, purged, mutilated, erased, or destroyed, or is not presently in the possession, custody or control of the aforesaid persons, that person shall summarize each such document and explain the date and circumstances, if known, surrounding its loss, obliteration, destruction, purge, mutilation or erasure, and a statement of which request(s) the document in question would have been produced in response to if it were available.

D. “Relating to” or “Pertaining to.”

“Relating to” or “pertaining to” as used herein shall mean any document which is relevant in any way to the subject matter, including without limitation to the foregoing, all documents which contain, record, reflect, summarize, evaluate, reference, comment upon, transmit, or discuss the subject matter of any request, as well as drafts, work papers, or other preparation materials, exhibits shown or circulated at any meeting, the text or notes of any oral or written presentation or conversation.

E. The singular number includes the plural, and the plural includes the singular.

- F. Words in the masculine gender include the feminine and the neuter.
- G. “And” and “Or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.
- H. “IWRB” or “the Board” or “You” or “Yours” refers to the Idaho Water Resource Board, its agents, representatives, employees, divisions, heirs, assigns, and other persons or entities working on its behalf or under its direction.
- I. “The Project” refers to improvements to the Priest Lake Water Management Project Outlet Dam located in Priest Lake, Idaho.
- J. “Strider” or “Plaintiff” refers to Strider Construction Co., Inc, its agents, representatives, employees, heirs, assigns, and other persons or entities working on its behalf or under its direction including subcontractors and suppliers.
- K. “The Contract” refers to the construction contract executed between Strider and the Board for the Project on August 20, 2020.

III. INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons with knowledge relative to this lawsuit (including occurrence witnesses, fact witnesses, or people otherwise having knowledge of facts pertinent to this action) and for each person identified provide a summary of the topics or issues relative to this lawsuit on which the person is knowledgeable.

ANSWER:

INTERROGATORY NO. 2.: Identify all persons participating in the preparation of answers to these interrogatories and requests for production and specify which answers or responses each person contributed to.

ANSWER:

INTERROGATORY NO. 3: Please provide all disclosures required by Rule 26(b)(4)(A) regarding retained experts or other witnesses expected to provide testimony under Evidence Rule 702, 703, or 705.

ANSWER:

INTERROGATORY NO. 4: Please describe the process used and steps taken for review of Strider Pay Applications, including approval (or rejection) of items and issuance of payment to Strider.

ANSWER:

INTERROGATORY NO. 5: Please describe in detail the factual basis, including but not limited to the specific Contract requirement or provisions, for the Board's allegation that Strider's work related to the Tainter gates is non-conforming and/or defective.

ANSWER:

INTERROGATORY NO. 6: Please describe in detail the factual basis, including but not limited to the specific Contract requirement or provisions, for the Board's allegation that Strider's work related to the cofferdam and dewatering systems is non-conforming and/or defective.

ANSWER:

INTERROGATORY NO. 7: Please describe in detail the factual basis for the Board's allegation that Strider has caused water to flow under the Dam, eroding soils beneath the dam, and creating a risk to the Dam and the project.

ANSWER:

INTERROGATORY NO. 8: Please describe in detail the investigations or analysis the Board has performed or directed relating to how, where, or why water is filling the cofferdam system.

ANSWER:

INTERROGATORY NO. 9: Please identify with specificity, including the location, nature of defect, and Contract requirement, each item of Strider's work that the Board alleges is defective or non-conforming.

ANSWER:

INTERROGATORY NO. 10: Please identify with specificity what work onsite the Board asserts may proceed as of the date of these Interrogatories.

ANSWER:

INTERROGATORY NO. 11: Please identify what, if any, schedule analysis the Board has performed with respect to the Project.

ANSWER:

INTERROGATORY NO. 12: Please identify in detail the monetary damages the Board asserts are due from Strider.

ANSWER:

INTERROGATORY NO. 13: Please confirm the Stop Work Order remains in effect.

ANSWER:

IV. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: All documents or correspondence which relate to, pertain to, or reference in any way to the Board's contemplation of, issuance of, and/or continuation of a stop work order on the Project.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: All Board meeting notes related to the Project, including personal notes of Board members and public meeting minutes.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: All documents and communications regarding review of the grout plan submitted by Strider.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: All document and communications regarding review and consideration of Strider's claimed change of conditions.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: All inspector reports, communications, and notices of deficiencies.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: All contracts and agreements between the Board and any other contractors, designers, or consultants arising out of or relating to the Project.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: All documents and communications, including between the Board and any other contractors, designers, or consultants, relating to the (in)sufficiency of the cofferdam and dewatering system design.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: All documents and communications regarding Pay Applications submitted on the Project.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: All documents and communications related to lateral flow of water under the dam and/or apron.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: All documents supporting your assertion that the tainter gates are defective and do not meet specifications.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: All documents supporting your claim for breach of contract, including documents showing the Board's rejection of allegedly defective or nonconforming work.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: All documents supporting your claim for damages.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: All photographs related to Strider’s work on the Project.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: All communications between the Board (including its agents and representative) and Mott Macdonald related to Strider’s work on the Project.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: All internal IDWR (including all entities or divisions of IDWR) communications related to Strider’s work on the Project.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: All Documents related or pertaining to the alleged cost to complete the Project.

RESPONSE:

