



**BEFORE THE OKLAHOMA WATER RESOURCES BOARD  
STATE OF OKLAHOMA**

In the Matter of the Application of	)	
the City of Oklahoma City for a	)	Permit Application No. 2007-0017
Regular Permit to Divert Stream Water	)	
In Pushmataha County, Oklahoma	)	Hearing Examiner
	)	Lyn Martin-Diehl
On Behalf of Loyd Boren, Patricia Boren,	)	
Amber Brasfield, Austin Conley, Norma	)	
Conley, Robert D. Conley, Frank Hilton,	)	
Denise Hilton, Justin Jackson, Debbie L.	)	
Leo dba Miller Lake Retreat, LLC, Larinda	)	
McClellan, Kevin Joseph Payne, Roger Dale	)	
Payne, Walter Myrl Redman, Kenneth	)	
Roberts, Ph.D., and Diane Smith	)	

**PROTESTANTS REPLY TO INTERROGATORIES AND REQUEST FOR PRODUCTION**

Kevin R. Kemper, Ph.D., LL.M., Attorney at Law (Counsel), hereby provides answers and information for Applicant’s First Request for Discovery, dated July 3, 2017. Those answers provided “upon information or belief” are based upon what has been provided Counsel by Protestants as clients or in their Protests on file, and not upon actual observation of land descriptions.

Counsel also hereby objects to the use of the following information for determining party status under O.A.C. § 785:4-5-4. The regulations say:

- (b) Requirements for protests; standing. Protests must be filed with the Board in writing and must contain the following information:
  - (1) Name, telephone number, e-mail (if available) and postal address of the interested person;
  - (2) The application to which the protest relates;
  - (3) Specific information to show how approval of the application, petition or action proposed may directly and adversely affect legally protected interests of the person filing the protest; and
  - (4) A statement of the relief sought by the interested person.
- (c) Protest required for party status. To become a party and to

facilitate reasonable notice to the applicant or petitioner, all protests must contain the information as set forth in paragraphs (1) through (4) of subsection (b) and be filed with the Board, and a copy must be provided to the applicant or petitioner, within the time period stated in the notice. In enforcement actions initiated by Board staff, all respondents named in the notice of hearing shall be deemed parties for purposes of participation in the proceedings. A person who fails to provide a copy of the protest with the applicant or petitioner within the time period stated may not be considered a party unless otherwise determined by the Hearing Examiner.

None of those requirements directly speak to property information or riparian rights. Each Protestant described has met the requirements of O.A.C. § 785:4-5-4 for status as a party. Counsel respectfully asks the Applicant's Counsel to provide argument and authority for such a reading.

**GENERAL BACKGROUND INFORMATION**

**QUESTION:** State your name, address, telephone number, and, if applicable, e-mail address.

**RESPONSE:** Protestants OBJECT to this interrogatory as repetitive, as the filed Protests already contain sufficient information. Without waiving objection, Protestants ANSWER that the following information is what is available today to Counsel.

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## **INTERROGATORIES AND RESPONSES**

**INTERROGATORY NO. 1:** Do you own property in the Kiamichi River basin? Please answer "Yes" or "No."

**RESPONSE TO INTERROGATORY NO. 1:** Protestants OBJECT to this interrogatory as vague and repetitive. Without waiving objections, Plaintiff's ANSWERS that, upon information and belief, each of the Protestants listed above owns property in the Kiamichi River basin. Counsel also references the Protests already filed with the Oklahoma Water Resources Board.

**INTERROGATORY NO. 2:** If your answer to Interrogatory No. 1 is "Yes," do you own property located adjacent to the Kiamichi River or its tributaries? Please answer "Yes," "No," or "Not Applicable."

**RESPONSE TO INTERROGATORY NO. 2:** Protestants OBJECT to this interrogatory as vague, irrelevant, and repetitive, especially as it does not specify "adjacent," as well as for calling for a conclusion of law. For instance, some property connects with the Kiamichi River when it floods. Without waiving objections, Protestants ANSWER that Counsel has received information from McClellan, Jackson, Leo and Roberts to answer YES if "adjacent" means connected directly to the usual bank of the Kiamichi River, but has not received other information from other Protestants listed above that would require a YES.

**INTERROGATORY NO. 3:** If your answer to Interrogatory No. 2 is "Yes," please provide the legal description of your property. If you do not currently have the legal description, please provide us with the address of your property.

**RESPONSE TO INTERROGATORY NO. 3:** Protestants OBJECT to this interrogatory as vague, irrelevant, and repetitive. Without waiving objections, Protestants ANSWER that the following Protestants have provided legal descriptions to counsel, though addresses should be found in the original Protests and the answers to Interrogatory No. 1.

1. Upon information and belief, Justin Jackson and his family have relevant property interests in, more or less:

- 108 acres MOL in NW  $\frac{1}{4}$  and SW  $\frac{1}{4}$  of Sec. 3; E  $\frac{1}{2}$  of SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , MOL 16 acres in E  $\frac{1}{2}$  of SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , and SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Sec. 4, NW  $\frac{1}{4}$ , SW  $\frac{1}{4}$ , and SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Sec. 7, and MOL 50 acres NW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  and NW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Sec. 8, and E  $\frac{1}{2}$  of NW  $\frac{1}{4}$  of Sec. 10 of Township 1 South and Range 17 East of Pushmataha County, Oklahoma;
- NW  $\frac{1}{4}$  and SE  $\frac{1}{4}$ , and 161 acres MOL of SE  $\frac{1}{4}$  of Sec. 11, 120 acres MOL of SW  $\frac{1}{4}$ , and 103 acres MOL of SE  $\frac{1}{4}$ , and SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Sec. 12, and NE $\frac{1}{4}$  and MOL 88 acres in N $\frac{1}{2}$  of SE $\frac{1}{4}$  of Sec. 14 of Township 1 North Range 18 East of Pushmataha County, Oklahoma;
- S $\frac{1}{2}$  and W $\frac{1}{4}$  of Sec. 7, NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Sec. 18, of Township 1 North and Range 19 East of Pushmataha County, Oklahoma.

2. Upon information and belief, Debbie Leo, F. Jerrold Gutierrez, dba Miller Lake Retreat, LLC, and have relevant property interests in, more or less:

- The S $\frac{1}{2}$  of the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  and all that part of the S $\frac{1}{2}$  of the NE $\frac{1}{4}$  and the N $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  and the S $\frac{1}{2}$  of the S $\frac{1}{2}$  of the

NW/4 lying North of the Kiamichi River, Section 34, Township 2 South, Range 16 East, I.B.M., Pushmataha County, Oklahoma, containing 130 acres more or less, LESS and EXCEPT all the oil, gas and other minerals reserved by prior grantors

3. Upon information and belief, Larinda McClellan and family have relevant property interests in, more or less:

- The SW1/4 of T2S, R17E, S25 of Pushmataha County, Oklahoma.

4. Upon information and belief, Walter Myrl Redman and family have relevant property interests in, more or less:

- E 1/2 of NE 1/4 of SE 1/4 of NE 1/4 of Sec. 33, Township 3 South, Range 16 East in Pushmataha County, Oklahoma.

5. Upon information and belief, Kenneth Roberts has relevant property interests in, more or less:

- All of that part of S2NENW and N2SENW lying North and East of Kiamichi River 36-15-16E, in Pushmataha County, Oklahoma.
- Upon information and belief, Larinda McClellan and family have relevant property interests in, more or less:

SUBMITTED this 11<sup>th</sup> day of July, 2017:

*Kevin R. Kemper*

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**VERIFICATION**

I, Kevin R. Kemper, do hereby certify under penalty of perjury under the laws of the State of Oklahoma that the Answers and Responses are true and correct to the best of his knowledge.

DATED this 11<sup>th</sup> day of July, 2017

*Kevin R. Kemper*  
\_\_\_\_\_  
KEVIN R. KEMPER

**CERTIFICATE OF MAILING**

I, Kevin R. Kemper, hereby certify that on or about the 11<sup>th</sup> day of July, 2017, a true and correct copy of the foregoing document either was deposited in the First Class U.S. Mail to all addresses and sent to all e-mail addresses listed below.

DATED this 11<sup>th</sup> day of July, 2017

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