

COPY

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

|                |   |                                                          |
|----------------|---|----------------------------------------------------------|
| In Re SRBA     | ) | Subcase Nos.: See List for Basins 35 and 47 contained in |
|                | ) | the Report                                               |
|                | ) |                                                          |
|                | ) |                                                          |
| Case No. 39576 | ) | REPORT ON STATUS OF STATE OF IDAHO'S                     |
|                | ) | OBJECTIONS FOR SELECTED SUBCASES IN                      |
|                | ) | BASINS 35 AND 47                                         |
|                | ) |                                                          |

The State of Idaho, by and through the undersigned deputy attorney general, responds as follows to the Court's request that the State of Idaho identify those subcases that it intends to proceed to hearing. The State of Idaho's review of the list of 156 subcases in Basins 35 and 47 that were in Exhibit A to the ORDER SETTING STATUS CONFERENCE entered on January 8, 2004, indicates that the State of Idaho is withdrawing its objections to one hundred and forty-two subcases. The State of Idaho is continuing its objection with respect to fourteen

subcases. Ten of these subcases involve land where applications for entry under the various public land laws were pending before the General Land Office on April 17, 1926. Two of the subcases involve land that was reacquired by the United States, and that land does not; therefore, qualify for a federal reserved water right. The remaining two subcases involve a federal reserved water right claimed under Public Water Reserve 28 as an instream flow with beginning and ending points. The watercourses in question between the beginning and ending points traverse land outside the legal description of Public Water Reserve 28; therefore, the subcases claim an instream flow outside the scope of Public Water Reserve 28.

In those cases where the State of Idaho's objection continues because of the pendency of an application for entry, the table below lists the serial register number for the entry of record with the General Land Office on April 17, 1926. Our more specific comments are as follows:

| WATER RIGHT NO. | COMMENT                        |
|-----------------|--------------------------------|
| 35-12939        | Objection withdrawn.           |
| 35-12956        | Objection withdrawn.           |
| 47-15285        | Objection withdrawn.           |
| 47-15287        | Objection withdrawn.           |
| 47-15297        | Objection withdrawn.           |
| 47-15299        | Objection withdrawn.           |
| 47-15310        | Objection withdrawn.           |
| 47-15319        | Objection withdrawn.           |
| 47-15334        | Objection withdrawn.           |
| 47-15337        | Objection withdrawn.           |
| 47-15340        | Objection withdrawn.           |
| 47-15343        | Objection withdrawn.           |
| 47-15346        | Objection withdrawn.           |
| 47-15349        | Objection withdrawn.           |
| 47-15352        | Objection withdrawn.           |
| 47-15399        | Objection withdrawn.           |
| 47-15402        | Objection withdrawn.           |
| 47-15405        | Objection withdrawn.           |
| 47-15408        | Objection continues BL #38731. |
| 47-15411        | Objection withdrawn.           |

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| 47-15414 | Objection withdrawn.                                                                                                                   |
| 47-15417 | Objection withdrawn.                                                                                                                   |
| 47-15427 | Objection withdrawn.                                                                                                                   |
| 47-15430 | Objection withdrawn.                                                                                                                   |
| 47-15446 | Objection withdrawn.                                                                                                                   |
| 47-15450 | Objection withdrawn.                                                                                                                   |
| 47-15451 | Objection withdrawn.                                                                                                                   |
| 47-15454 | Objection continues BL #38007.                                                                                                         |
| 47-15457 | Objection continues BL #38241.                                                                                                         |
| 47-15461 | Objection withdrawn.                                                                                                                   |
| 47-15465 | Objection withdrawn.                                                                                                                   |
| 47-15468 | Objection withdrawn.                                                                                                                   |
| 47-15471 | Objection withdrawn.                                                                                                                   |
| 47-15472 | Objection withdrawn.                                                                                                                   |
| 47-15473 | Objection withdrawn.                                                                                                                   |
| 47-15478 | The designation of ending point and beginning point should be reversed. House Creek flows from the South to the North.                 |
| 47-15480 | Objection withdrawn.                                                                                                                   |
| 47-15482 | Objection withdrawn.                                                                                                                   |
| 47-15487 | Objection withdrawn.                                                                                                                   |
| 47-15492 | Objection withdrawn.                                                                                                                   |
| 47-15495 | Objection withdrawn.                                                                                                                   |
| 47-15498 | Objection withdrawn.                                                                                                                   |
| 47-15501 | Objection withdrawn.                                                                                                                   |
| 47-15507 | Objection continues BL #38899.                                                                                                         |
| 47-15510 | Objection continues BL #38899.                                                                                                         |
| 47-15515 | Objection continues BL #38175.                                                                                                         |
| 47-15529 | Objection withdrawn.                                                                                                                   |
| 47-15532 | Objection withdrawn.                                                                                                                   |
| 47-15535 | Objection withdrawn.                                                                                                                   |
| 47-15538 | Objection continues to instream flow under PWR 28. The legal description contains land not within the legal description within PWR 28. |
| 47-15540 | Objection withdrawn.                                                                                                                   |
| 47-15543 | Objection withdrawn.                                                                                                                   |
| 47-15546 | Objection withdrawn.                                                                                                                   |
| 47-15549 | Objection continues to instream flow under PWR 28. The legal description contains land not within the legal description within PWR 28. |
| 47-15551 | Objection withdrawn.                                                                                                                   |
| 47-15554 | Objection withdrawn.                                                                                                                   |
| 47-15557 | Objection withdrawn.                                                                                                                   |
| 47-15560 | Objection withdrawn.                                                                                                                   |
| 47-15563 | Objection withdrawn.                                                                                                                   |
| 47-15566 | Objection withdrawn.                                                                                                                   |

|          |                                                                                                                                                                      |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 47-15573 | Objection withdrawn.                                                                                                                                                 |
| 47-15576 | Objection withdrawn.                                                                                                                                                 |
| 47-15581 | Objection withdrawn.                                                                                                                                                 |
| 47-15584 | Objection withdrawn.                                                                                                                                                 |
| 47-15607 | Objection withdrawn.                                                                                                                                                 |
| 47-15610 | Objection withdrawn.                                                                                                                                                 |
| 47-15638 | Objection withdrawn.                                                                                                                                                 |
| 47-15641 | Objection withdrawn.                                                                                                                                                 |
| 47-15644 | Objection withdrawn.                                                                                                                                                 |
| 47-15656 | Objection continues BL #39790.                                                                                                                                       |
| 47-15665 | Objection withdrawn.                                                                                                                                                 |
| 47-15677 | Objection withdrawn.                                                                                                                                                 |
| 47-15680 | Objection withdrawn.                                                                                                                                                 |
| 47-15722 | Objection withdrawn.                                                                                                                                                 |
| 47-15726 | Objection withdrawn.                                                                                                                                                 |
| 47-15734 | Objection withdrawn.                                                                                                                                                 |
| 47-15738 | Objection withdrawn.                                                                                                                                                 |
| 47-15742 | Objection withdrawn.                                                                                                                                                 |
| 47-15785 | Objection withdrawn.                                                                                                                                                 |
| 47-15791 | Objection withdrawn.                                                                                                                                                 |
| 47-15799 | Objection withdrawn.                                                                                                                                                 |
| 47-15810 | Objection withdrawn.                                                                                                                                                 |
| 47-15812 | Objection withdrawn.                                                                                                                                                 |
| 47-15833 | Objection withdrawn.                                                                                                                                                 |
| 47-15875 | Objection withdrawn.                                                                                                                                                 |
| 47-15895 | Objection withdrawn.                                                                                                                                                 |
| 47-16044 | Objection withdrawn.                                                                                                                                                 |
| 47-16056 | Objection withdrawn.                                                                                                                                                 |
| 47-16062 | This water right needs to be decreed as a state water right with a priority date of 6/28/1934. The United States reacquired this land on or about February 15, 1957. |
| 47-16078 | Objection withdrawn.                                                                                                                                                 |
| 47-16082 | This water right needs to be decreed as a state water right with a priority date of 6/28/1934. The United States reacquired this land on or about November 24, 1989. |
| 47-16084 | Objection withdrawn.                                                                                                                                                 |
| 47-16086 | Objection withdrawn.                                                                                                                                                 |
| 47-16114 | Objection continues BL #39035.                                                                                                                                       |
| 47-16116 | Objection continues BL #39035.                                                                                                                                       |
| 47-16118 | Objection withdrawn.                                                                                                                                                 |
| 47-16148 | Objection withdrawn.                                                                                                                                                 |
| 47-16150 | Objection withdrawn.                                                                                                                                                 |
| 47-16245 | Objection withdrawn.                                                                                                                                                 |
| 47-16247 | Objection withdrawn.                                                                                                                                                 |
| 47-16259 | Objection withdrawn.                                                                                                                                                 |

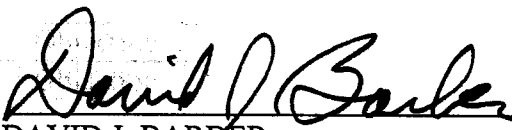
|          |                                |
|----------|--------------------------------|
| 47-16261 | Objection withdrawn.           |
| 47-16263 | Objection withdrawn.           |
| 47-16267 | Objection withdrawn.           |
| 47-16273 | Objection withdrawn.           |
| 47-16277 | Objection withdrawn.           |
| 47-16279 | Objection withdrawn.           |
| 47-16281 | Objection withdrawn.           |
| 47-16287 | Objection withdrawn.           |
| 47-16313 | Objection withdrawn.           |
| 47-16477 | Objection withdrawn.           |
| 47-16478 | Objection withdrawn.           |
| 47-16481 | Objection withdrawn.           |
| 47-16494 | Objection withdrawn.           |
| 47-16496 | Objection withdrawn.           |
| 47-16509 | Objection withdrawn.           |
| 47-16510 | Objection withdrawn.           |
| 47-16517 | Objection withdrawn.           |
| 47-16518 | Objection withdrawn.           |
| 47-16519 | Objection withdrawn.           |
| 47-16520 | Objection withdrawn.           |
| 47-16521 | Objection withdrawn.           |
| 47-16522 | Objection withdrawn.           |
| 47-16524 | Objection withdrawn.           |
| 47-16531 | Objection withdrawn.           |
| 47-16534 | Objection withdrawn.           |
| 47-16535 | Objection withdrawn.           |
| 47-16536 | Objection withdrawn.           |
| 47-16543 | Objection withdrawn.           |
| 47-16545 | Objection withdrawn.           |
| 47-16546 | Objection withdrawn.           |
| 47-16554 | Objection continues BL #38429. |
| 47-16555 | Objection withdrawn.           |
| 47-16556 | Objection withdrawn.           |
| 47-16558 | Objection withdrawn.           |
| 47-16560 | Objection withdrawn.           |
| 47-16561 | Objection withdrawn.           |
| 47-16562 | Objection withdrawn.           |
| 47-16563 | Objection withdrawn.           |
| 47-16564 | Objection withdrawn.           |
| 47-16565 | Objection withdrawn.           |
| 47-16577 | Objection withdrawn.           |
| 47-16578 | Objection withdrawn.           |
| 47-16584 | Objection withdrawn.           |
| 47-16590 | Objection withdrawn.           |
| 47-16591 | Objection withdrawn.           |

|          |                      |
|----------|----------------------|
| 47-16592 | Objection withdrawn. |
| 47-16614 | Objection withdrawn. |
| 47-16615 | Objection withdrawn. |
| 47-16633 | Objection withdrawn. |
| 47-16634 | Objection withdrawn. |
| 47-16635 | Objection withdrawn. |
| 47-16636 | Objection withdrawn. |
| 47-16637 | Objection withdrawn. |
| 47-16638 | Objection withdrawn. |
| 47-16639 | Objection withdrawn. |

DATED this 24<sup>th</sup> day of February 2004.

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

CLIVE J. STRONG  
DEPUTY ATTORNEY GENERAL  
STATE OF IDAHO

  
\_\_\_\_\_  
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### CERTIFICATE OF SERVICE

I certify that on the 24<sup>th</sup> day of February 2004, I caused the original and the copies of the REPORT ON STATUS OF THE STATE OF IDAHO'S OBJECTIONS IN BASIN 47 to be served on each of the following persons and parties by the method indicated below:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

- ☐ U.S. Mail, postage prepaid  
☐ Hand Delivery  
☐ Federal Express  
☒ Facsimile: (208) 736-2121  
☐ Statehouse Mail

2. One copy to the owner of the water right at the following address:

R. Lee Leininger  
US Department of Justice  
Environment & Natural Resource  
Division  
550 West Fort Street, MSC 033  
Boise, ID 83724

- ☒ U.S. Mail, postage prepaid  
☐ Hand Delivery  
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3. Copies to:

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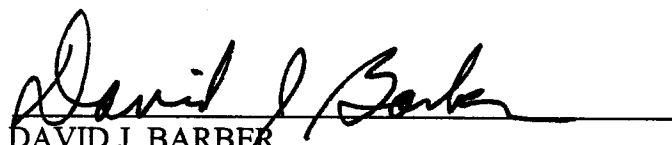
STATEHOUSE MAIL

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(not applicable)

  
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