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Department of Water Resources

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Attorneys for Claimant-Objector

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)
Case No. 39576,) Consolidated Subcase No. 35-02315
and each subcase listed in Exhibit "A"

MOTION TO STAY PROCEEDINGS

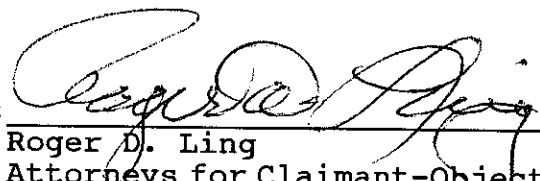
COMES NOW the claimant-objector Aberdeen-Springfield Canal Company, by and through its attorneys of record, and moves the Court for an Order staying all proceedings in these consolidated subcases until such time as the Idaho Department of Water Resources has filed with the SRBA District Court its Recommendations for the surface water rights in Basin 01 and a resolution of the claims of Aberdeen-Springfield Canal Company for surface water rights in Basin 01 or until further order of the Court, as contemplated by the agreement attached hereto and submitted in support hereof as Exhibit "B", entered into between Aberdeen-Springfield Canal Company, the State of Idaho, and the Idaho Department of Water Resources.

MOTION TO STAY PROCEEDINGS

ORAL ARGUMENT IS REQUESTED.

DATED this 13th day of December, 2002.

LING & ROBINSON

By: 
Roger D. Ling
Attorneys for Claimant-Objector
Aberdeen-Springfield Canal Company

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of December, 2002,
I served copies of the foregoing Motion to Stay Proceedings upon:

Director of IDWR
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environm. & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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Pingree, ID 83262

Bingham Ground Water District
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Pingree, ID 83262-0042

Claude L. Christensen
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Aberdeen, ID 83210

Harold/Ethel Claunch
2509 W 1000 S
Sterling, ID 83210

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Pingree, ID 83262

MOTION TO STAY PROCEEDINGS

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6 Alan DeGiulio
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Sherman L. Ruff
3005 W 2100 S
Aberdeen, ID 83210

8 Byron Duffin
2756 W 1500 S
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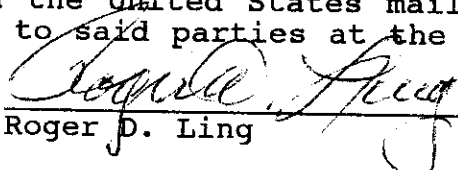
Val F. Wahlan
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22 Charles Klassen
1948 S. 2900 W.
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Lorin S. Warner
2531 W 1300 S
Aberdeen, ID 83210

23 Robert Lehman
2853 W 2000 S
Aberdeen, ID 83210

24 by depositing copies thereof in the United States mail, postage
25 prepaid, in envelopes addressed to said parties at the foregoing
26 addresses.

27 
Roger D. Ling

28 MOTION TO STAY PROCEEDINGS

EXHIBIT A

Subcase Nos:

35-00038F	35-07012B	35-08054
35-02049	35-07022	35-08602
35-02066A	35-07061	35-10318
35-02066B	35-07102	35-10653
35-02072	35-07145	35-10843
35-02073	35-07146	35-10859
35-02100	35-07164A	35-10860
35-02116	35-07191	35-12088
35-02127	35-07231	35-12248
35-02154	35-07267A	35-12805
35-02167B	35-07267B	35-13018
35-02167D	35-07286	35-13073
35-02167E	35-07353	35-13264
35-02167F	35-07393	
35-02172	35-07422	
35-02226	35-07450	
35-02236	35-07453A	
35-02271	35-07453B	
35-02298	35-07494	
35-02308A	35-07507	
	35-07519	
35-02339	35-07530	
35-02347	35-07592	
35-02370	35-07599	
35-02387A	35-07618	
35-02406	35-07621	
35-02470	35-07627	
35-02498	35-07643A	
35-02504A	35-07647	
35-02525	35-07680	
35-02543	35-07696	
35-02647A	35-07721	
35-02670B	35-07722	
35-02670C	35-07728	
35-02670D	35-07729	
35-02712	35-07732	
35-02824	35-07737	
35-02917A	35-07756	
35-02917B	35-07760	
35-04032	35-07762	
35-04034A	35-07790	
35-04034B	35-07820	
35-04039	35-07865	
35-04093	35-07890	
35-04095	35-07894	
35-04113	35-07903A	
35-04164	35-07903B	
35-04183	35-07945	
35-04221	35-07948	
35-04246	35-07957	

(Subcase list: LING081701)
11/28/01

**SETTLEMENT AGREEMENT REGARDING
ABERDEEN-SPRINGFIELD CANAL COMPANY'S BASIN 01 SURFACE
WATER RIGHTS and CONSOLIDATED SRBA SUBCASE NO. 35-2315**

DESCRIPTIVE SUMMARY

This Settlement Agreement ("Agreement") is made by the State of Idaho, the Aberdeen-Springfield Canal Company, and the Idaho Department of Water Resources and is made in reference to the following facts.

RECITALS OF FACT

- A. The Aberdeen-Springfield Canal Company objected to over one hundred recommendations for ground water rights in Basin 35 submitted to the Snake River Basin Adjudication ("SRBA") District Court by the Idaho Department of Water Resources (Consolidated Subcase No. 35-2315). The consolidated subcase is currently pending before the SRBA District Court and a trial is scheduled for April 22, 2002.
- B. This Agreement addresses the future recommendations of the Idaho Department of Water Resources to the SRBA District Court regarding the surface water rights of the Aberdeen-Springfield Canal Company in Basin 01 and the issues in Consolidated Subcase No. 35-2315.
- C. The issues in Consolidated Subcase No. 35-2315 relate to Aberdeen-Springfield Canal Company's surface water rights in Basin 01. In order to fully implement this Agreement and to resolve the issues in Consolidated Subcase No. 35-2315, the Idaho Department of Water Resources must file with the SRBA District Court its recommendations for the surface water rights in Basin 01. Since the Idaho Department of Water Resources is not scheduled to report its

EXHIBIT "B"

recommendations for the water rights in Basin 01 until late 2002, a stay of proceedings under Consolidated Subcase No. 35-02315 is needed.

In consideration of the promises stated in this Agreement, the parties agree as follows:

1. Definitions

A. The term "Canal Company" means Aberdeen-Springfield Canal Company, P.O. Box Y, Aberdeen, Idaho, 83210.

B. The term "IDWR" means the Idaho Department of Water Resources, 1301 N. Orchard St, Boise, Idaho, 83706.

2. Recommendations of the Director

A. In the Director's Report for Basin 01, IDWR will recommend the place of use for the Canal Company's surface water rights from the Snake River to include both lands that were irrigated with the Canal Company's surface water rights, as of 1987, as well as lands that were originally irrigated with the Canal Company's surface water rights but as of 1987 were irrigated solely by ground water, so long as the Canal Company's water rights remained appurtenant to lands irrigated by ground water and such lands continued to pay assessments to the Canal Company. IDWR will recommend all of the acreage for lands to which the Canal Company's surface water rights are appurtenant and irrigated by shareholders using either surface water or ground water, as of 1987, as being authorized to divert and use surface water under the Canal Company's water rights.

B. In the Director's Report for Basin 01, IDWR will recommend "irrigation" and "recharge for irrigation" as the purposes of use for the Canal Company's Basin 01 surface water rights. IDWR will recommend "recharge for irrigation" as a change in purpose of use under the accomplished transfer provision of Idaho Code § 42-1425. IDWR will consider use of stored water for "recharge for irrigation" as being a valid irrigation use under the existing licenses and subsequent decreed right of the U. S. Bureau of Reclamation.

C. In the Director's Report for Basin 01, IDWR will recommend that the place of use pursuant to (A) be subdivided into two parts as follows. (1) the acreage irrigated directly by surface water (including acreage with supplemental ground water irrigation) as of 1987; and (2) the acreage originally irrigated by surface water for which authorization to divert surface water for direct irrigation continues but for which the additional purpose of use "recharge for irrigation" has been added as an accomplished transfer. IDWR will recommend the acreage from (1) as the minimum place of use authorized for direct irrigation using surface water and the sum of (1) and (2) as the maximum place of use authorized for direct irrigation using surface water. The acreage from (2) will be recommended as the place of use eligible for the mitigation credits described in paragraph E below. IDWR will recommend the place of use for the accomplished change to "recharge for irrigation" as consisting of the entire service area of the Canal Company.

D. In the Director's Report for Basin 01, IDWR will recommend the maximum quantity of water (diversion rate) historically diverted and beneficially used for the combined use of "irrigation" and "recharge for irrigation," as of 1987. IDWR will recommend the diversion rate in three components: (1) the minimum diversion rate for direct surface water irrigation will be the diversion rate associated with acreage directly irrigated with surface water as of 1987

(including acreage with supplemental ground water rights) and will be determined as the total recommended diversion rate multiplied by the acreage directly irrigated with surface water as of 1987 divided by the total acreage originally irrigated with surface water; (2) the maximum diversion rate for direct surface water irrigation will be equal to the total recommended diversion rate; and (3) the maximum diversion rate for "recharge for irrigation" will be equal to the diversion rate from (1) subtracted from the total recommended diversion rate. The intent of this calculation together with (C) is to maximize the acreage authorized for direct surface water irrigation while fixing the maximum quantity of surface water that can be used for "recharge for irrigation" as an accomplished transfer.

E. Existing ground water rights used for irrigation within the service area of the Canal Company on lands paying assessments to the Canal Company and to which the Canal Company's surface water rights have remained appurtenant will be given mitigation credit for the amount of water recharged against ground water depletions arising from the authorized diversion and use of ground water. The volume of water credited for mitigation in each year must be determined from measurements and accounting. Depletions resulting from ground water diversions eligible for mitigation credits, as described above, will be considered to have been mitigated in any year to the extent to which the recharge documented through measurements and accounting equals or exceeds ground water depletions in the same year. Mitigation credits will accrue only to the extent that surface water is diverted for recharge in a given year and will not carry over to future years. The amount credited for mitigation will be calculated as: (1) the amount of surface water diverted; (2) less the measured returns to the Snake River through wasteways or drains; (3) less 0.02 cfs multiplied by the number of acres irrigated with surface water (including those acres using supplemental ground water), multiplied by 1.98 acre

feet/cfs/day, multiplied by 214 days (the irrigation season), and multiplied by an appropriate factor (less than 1) to account for the Canal Company not constantly diverting the maximum amount needed for surface water irrigation throughout the entire irrigation season.

3. Duties of the Canal Companies

A. Upon execution of this Agreement, the Canal Company shall request a stay from the SRBA District Court in Consolidated Subcase No. 35-2315. The State of Idaho and IDWR will support this request and provide the SRBA District Court with the appropriate level of explanation, as needed.

B. Once IDWR has filed its recommendations for the Canal Company's Basin 01 water rights as set forth in section 2 above and the SRBA District Court has issued partial decrees consistent with this Agreement, the Canal Company will withdraw all objections associated with the Consolidated Subcase No. 35-2315.

4. Action by the District Court

The parties acknowledge that the execution of this Agreement will not automatically result in approval by the SRBA District Court of IDWR's recommendation for the Canal Company's Basin 01 water rights and that a further hearing may be necessary.

5. Governing Law

Both parties agree that this Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

6. Entire Agreement

A. This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties, and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written, between them other than are herein set forth.

B. This Agreement has been reached in the process of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding.

7. Successors

This Agreement shall bind and inure to the benefit of the respective successors of the parties.

8. Effect of Section Headings

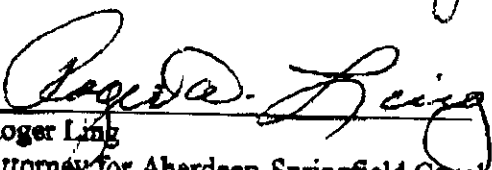
The section headings appearing in this Agreement are not to be construed as interpretations of the text but are inserted for convenience and reference only.

9. Duplicate Originals

This Agreement is executed in duplicate. Each of the two Agreements with an original signature of each party shall be an original.

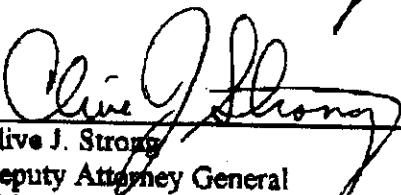
IN WITNESS WHEREOF the parties executed this Agreement on the date following
their respective signatures.

Entered into this 31st day of May, 2002.



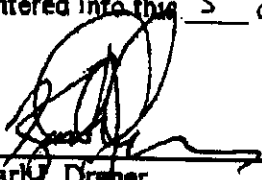
Roger Ling
Attorney for Aberdeen-Springfield Canal Company

Entered into this 7th day of June, 2002.



Clive J. Strong
Deputy Attorney General
Chief, Natural Resource Division
Attorney for the State of Idaho

Entered into this 5th day of June, 2002.



Karl W. Dreher
Director, Idaho Department of Water Resources