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Department of Water Resources

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Attorney for Mary Batruel, Paul Batruel, and Batruel Dairy

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

) Subcase Nos. 61-02248B and 61-07189
)
) OBJECTION TO LANGUAGE PROPOSED
) BY MAGIC WEST
)
)
)
)

OBJECTION

As requested at the May 11, 2000, hearing, Mary Batruel, Paul Batruel, and Batruel Dairy, (the Batruels) by and through their undersigned counsel, make the following objections to the language proposed by Magic West in its "Proposed Changes to Remarks In Recommended Partial Decrees" dated May 18, 2000:

Objection No. 1: While the language proposed by Magic West includes most of the language from Idaho Code § 42-1421(3), it fails to state that the right is "conditioned upon"

completion of the appropriation, as required by Idaho Code § 42-1421(3) and fails to clarify that the diversion volume is subject to reduction or elimination. That language is properly included in the language proposed by the Batruels in their earlier comments provided to the Court

Objection No. 2: The language proposed by Magic West also fails to address the due process concerns raised by the inclusion of the diversion volume from an "unclaimed" permit into an SRBA decree. Therefore, as set forth in the Batruels' earlier comments, the Batruels respectfully request that the language proposed in either Option 1 or Option 2 of their earlier comments be adopted by the Court.

RESPECTUFLLY SUBMITTED this 25 day of May, 2000.


MATT J. HOWARD

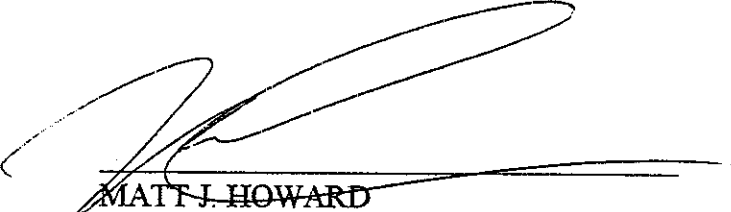
CERTIFICATE OF SERVICE

The undersigned certifies that on the 25 day of May, 2000, a true and correct copy of the within OBJECTION TO LANGUAGE PROPOSED BY MAGIC WEST was sent to the following person(s) by the method indicated below:

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