

SRBA



Movant: State of Idaho

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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)
Case No. 39576)
_____)

Subcase Nos. 61-02248B and 61-07189

STATE OF IDAHO'S RESPONSE TO
PROPOSED CHANGES TO REMARKS

COMES NOW the State of Idaho and responds to Magic West, Inc.'s *Proposed Changes to Remarks in Recommended Partial Decrees*, Subcase Nos. 61-02248B and 61-07189 (May 18, 2000) and Mary Batruel, Paul Batruel and Batruel Dairy's *Comments Re Motion to Alter or Amend*, Subcase Nos. 61-02248B and 61-07189 (May 18, 2000) as follows:

COPY

1. The State of Idaho joins with Magic West, Inc. in its proposal to the Special Master. Magic West's proposal closely mimics the statutory language that provides the authority for the remark.¹

2. The State requests that the Special Master accept Magic West, Inc.'s proposed language with the addition of the citation to the statutory provision the remark is based on. Therefore, the State requests that the following language be inserted:

Water Right No. 61-07724 is subject to completion of the appropriation in accordance with the laws of the State governing the appropriation of water and the terms of the license to appropriate water that is ultimately issued. I.C. Section 42-1421(3).

The director retains jurisdiction over right no. 61-07724 to take action authorized by the conditions contained in the permit or license or by applicable law. I.C. Section 42-1421(4).

3. The State further joins with Magic West, Inc. and requests that the Special Master correct the typographical error in the remark under the quantity element of Special Master's Recommendation and change the existing reference of 61-07224 to the correct 61-07724.

WHEREFORE, the State respectfully requests that the Special Master grant the relief as requested herein.

DATED this 24th day of May 2000.

ALAN G. LANCE
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PETER J. AMPE
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¹ As the State noted at oral argument, the State is generally not in favor of including statutory provisions or other statements of general law as part of remarks in Partial Decrees. However, due to the unique circumstances presented in these subcases, the State has no objection to the inclusion of the remarks as set forth herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May 2000, I caused to be served a true and correct copy of the foregoing STATE OF IDAHO'S RESPONSE TO PROPOSED CHANGES TO REMARKS to the following addressees by the method indicated:

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P.O. Box 1906
Twin Falls, Idaho 83303-1906

- ☒ U.S. Mail, postage prepaid
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