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Attorneys for FMC Corporation

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 No. A29-11342              |
|                | ) |                                    |
| Case No. 39576 | ) | <b>MOTION TO ALLOW FILING OF A</b> |
|                | ) | <b>LATE CLAIM OR IN THE</b>        |
|                | ) | <b>ALTERNATIVE TO SET ASIDE A</b>  |
|                | ) | <b>PARTIAL DECREE PURSUANT TO</b>  |
|                | ) | <b>I.R.C.P. 60(a) TO ALLOW</b>     |
|                | ) | <b>AMENDMENT OF CLAIM</b>          |
| _____          | ) |                                    |

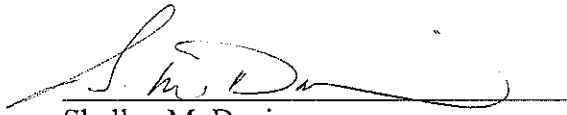
COMES NOW the claimant, FMC CORPORATION, by and through its counsel John K. Simpson, of the firm Barker, Rosholt & Simpson, LLP, and moves this Court pursuant to Idaho Rules of Civil Procedure 7(b)(1), 55(c) and 60(a) for an order (1) allowing FMC Corporation ("FMC") to file a late claim to correct the incorrect claim for the right as a beneficial use rather than as a licensed right, or in the alternative, for an

order (2) setting aside the partial decree entered for water right number 29-11342, and to allow the late filing of a claim for the same water right.

The reasons and legal basis for this Motion are set forth in detail in FMC Corporation's Memorandum in Support of Motion to Allow Filing of a Late Claim or Alternatively Setting Aside Partial Decree Pursuant to I.R.C.P. 60(a) to Allow Amendment of Claim, and the Affidavits of Rob Hartman, Carter Fristchle, and Shelley Davis in support of the Motion filed herewith.

Dated this 2<sup>nd</sup> day of May, 2005.

BARKER ROSHOLT & SIMPSON LLP



Shelley M. Davis

Attorneys for FMC Corporation

## CERTIFICATE OF MAILING

I certify that on May 2, 2005, I mailed the original and copies of this Motion to File a Late Claim or in the Alternative to Set Aside a Partial Decree Pursuant to I.R.C.P. 60(a) to Allow Amendment of Claim including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

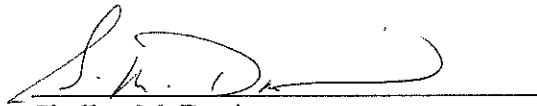
Clerk of the District  
Court Snake River  
Basin Adjudication 253  
Third Avenue North  
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2. Copies to:

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