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MAY 23 2006

DEPARTMENT OF
WATER RESOURCES

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

A. Subcase 27-7302

(Insert water right number
From the Objection Form)

Case No. 39576

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Zach C. Miller, Davis Graham & Stubbs LLP

Address: 1500 17th Street, Suite 500

Denver, CO 80202

Daytime Phone: 303-892-7391

Name & Address of Attorney, if any:

Same

(Attorneys for claimant)

**C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING**

Name: Bureau of Land Management, U.S. Dept. of Interior

Address: Idaho State Office

1387 South Vinnell Way, Boise, ID 83709-1657

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ Name and Address
2. ☐ Source
3. ☐ Quantity
4. ☐ Priority Date
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☒ Place of Use (SEE ATTACHMENT FOR RESPONSE)
11. Recommendation
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

State of COLORADO
City + DENVER) ss.
County of DENVER

ZACH C. MILLER, duly sworn, upon oath, deposes and says:
(Name of person filing response)

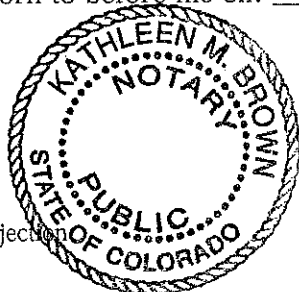
That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)

Zach C. Miller

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 5-19-06



Kathleen M. Brown
Notary Public for STATE OF COLORADO
Residing at: _____
My Commission Expires: 5-27-08

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F:

CERTIFICATE OF MAILING

I certify that on May 19, 2006, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

(VIA FEDERAL EXPRESS)

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

Name: Nu-West Mining, Inc., c/o Dan Kline

Address: 3010 Conda Road, Soda Springs, ID 83276

3. One copy to the party who filed the objection at the following address:

Name: Bureau of Land Management, Idaho State Office, U.S. Dept. of the Interior

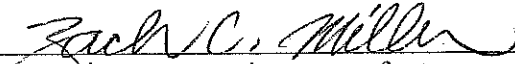
Address: 1387 South Vinnell Way, Boise, ID 83709-1657

4. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449


Your signature or signature of attorney
mailing on your behalf

ATTACHMENT

Objector United States of America, acting through the Department of the Interior, Bureau of Land Management, Idaho State Office ("BLM") asserts that (1) claimant's use of Federal land in the described place of use for these rights is unauthorized, and (2) the description of the place of use is not sufficient. BLM's objections are incorrect for the following reasons:

1. Corrected Name of Owner/Claimant. We note initially that the name of the claimant/owner of these rights should be corrected and changed from Conda Partnership to Nu-West Mining, Inc., 3010 Conda Road, Soda Springs, Idaho 83276 (see below).
2. Authority Conduct Activities on Federal Lands. Conda Partnership was the lessee under Federal Phosphate Mineral Lease I-04 and related Special Use Permit, which authorize the conduct of mining and related activities on the covered federal lands. Conda Partnership assigned its interests in that Lease and these water rights to partner Nu-West Mining, Inc. in 1995, and Conda Partnership thereafter was dissolved. Therefore, Nu-West Mining, Inc., as the federal mineral lessee, is duly authorized to conduct mining operations on the federal lands covered by Lease I-04 and related Special Use Permit.
3. Description of Place of Use. Water is used under these rights for dust abatement on the haul roads and related facilities at the North Maybe and South Maybe Canyon Mines, which are both covered and encompassed by the above Federal Phosphate Lease I-04 and related Special Use Permit. The detailed legal description for the extensive area covered by Lease I-04 and related Special Use Permit is incorporated herein by reference but covers portions of Sections 28, 33, and 34, Township 7 South, Range 44 East, and Sections 3, 4, 9, 10, 14, and 15, Township 8 South, Range 44 East of the Boise Meridian, Caribou County, Idaho.