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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 No. 37-02658

**AFFIDAVIT OF ANDREW J. WALDERA IN  
SUPPORT OF MOTION TO FILE LATE  
OBJECTION AND REQUEST FOR  
EXPEDITED HEARING**

STATE OF IDAHO )  
 ) ss.  
COUNTY OF ADA )

Andrew J. Waldera having been duly sworn upon oath, deposes and states as follows:

1. I am one of the attorneys providing legal services to Sinclair Oil Company, dba Sun Valley Company (hereinafter "SVC"), in the above-captioned matter.

2. I have knowledge of the files in this matter, and I make this affidavit based upon personal knowledge.

3. I make this affidavit in support of SVC's Motion to File Late Objection and Request for Expedited Hearing.

4. On November 14, 2007, Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris, and the Big Wood Canal Company (hereinafter "Concerned Water Users") filed objections to multiple water rights, including water right nos. 37-415, 37-416, 37-4108, and 37-12111 (hereinafter the "Water Rights") held by SVC.

5. Neither SVC nor I were served with notice of Concerned Water Users' objections to the water rights.

6. SVC and I did not become aware of Concerned Water Users' objections until December 5, 2007 following a conversation with Jim Speck, an attorney whose clients were also affected by Concerned Water Users' objections.

7. The Concerned Water Users objected to SVC's water rights asserting that:

Combined use of this right along with other rights from the same place of use should be limited to one inch or 0.02 cfs per acre, rather than the quantities in the recommendation.

Total volume of water delivered to the property from all water rights shall not exceed 3.5 AF per acre.

Under Idaho Code 42-1501, aesthetic, wildlife and recreation are not beneficial uses authorized by the Idaho legislature or Constitution to be held in the name of private entities. If such uses are allowed, the right cannot carry a priority date earlier than the first date that the legislature authorized that beneficial use to be held by a private party.

8. The objection period for Basin 37 ended on November 14, 2007, which was the same day in which Concerned Water Users filed their objections at issue in this case.

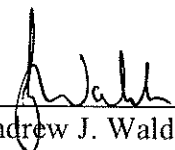
9. After discovering the existence of Concerned Water Users' objection, and out of concern for potential law of the case ramifications, my office worked diligently to prepare Standard Form Responses for all 244 of the Concerned Water Users' objections.

10. After preparing and filing the above-referenced responses, my office next turned its attention to the review of approximately 190 water rights held among the Concerned Water Users to determine whether their water rights are subject to any of the same objections raised by them, or others.

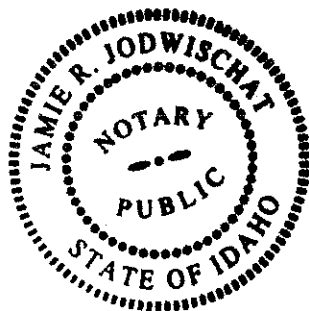
11. This extensive water right review process is time consuming and ongoing. At present, this office is awaiting receipt of approximately 150 water right back files that are not available on the Idaho Department of Water Resources' website.

12. To date, no initial hearings have been scheduled, no schedule for trial has been entered, and no settlements between any of the parties have occurred.

Further your affiant sayeth naught.

  
\_\_\_\_\_  
Andrew J. Waldera

SUBSCRIBED AND SWORN to before me this 7th day of March, 2008.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at Nampa  
My Commission Expires 5-23-12

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2008, I caused a true and correct copy of the foregoing **AFFIDAVIT OF ANDREW J. WALDERA IN SUPPORT OF MOTION TO FILE LATE OBJECTION AND REQUEST FOR EXPEDITED HEARING** to be served by the method indicated below, and addressed to the following:

Director  
IDAHO DEPARTMENT OF WATER RESOURCES  
322 E. Front St., 6th Floor  
P.O. Box 83720  
Boise, ID 83720-0098  
Fax: (208) 287-6700

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile

Chief, Natural Resources Division  
Office of the Attorney General  
STATE OF IDAHO  
P.O. Box 44449  
Boise, ID 83711-4449  
Fax: (208)

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile

UNITED STATES DEPARTMENT OF JUSTICE  
Environment & Natural Resource Division  
550 W. Fort St., MSC 033  
Boise, ID 83724  
Fax: (208)

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile

Albert P. Barker  
BARKER, ROSHOLT & SIMPSON, LLP  
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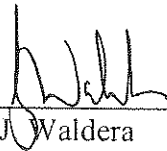
*Attorneys for Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, and Pepin Corso-Harris*

Maxine and A.W. Molyneux  
1174 Gannett-Picabo Rd.  
Bellevue, ID 83313  
*Claimants*

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John I. and Kristy Molyneux  
10407 Hwy. 75  
Bellevue, ID 83313  
*Claimants*

(X) U.S. Mail, Postage Prepaid  
( ) Hand Delivered  
( ) Overnight Mail  
( ) Facsimile

  
\_\_\_\_\_  
Andrew J. Waldera