

MAY 12 2008

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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

Subcase No. 37-13043

**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 Big Wood Canal Company's objections to the water rights.

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

7. Big Wood Canal Company, like the other 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 Big Wood Canal Company and the other Concerned Water Users filed the objections at issue in this matter.

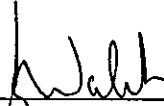
9. After discovering the existence of the Big Wood Canal Company and other Concerned Water Users' objections, and out of concern for potential law of the case ramifications, my office worked diligently to prepare Standard Form Responses for each of the Big Wood Canal Company and other Concerned Water Users' objections.

10. After preparing and filing the above-referenced responses, my office next turned its attention to the review of the water rights held by Big Wood Canal Company to determine whether its water rights are subject to any of the same objections raised by it, or others.

11. This extensive water right review process is time consuming and ongoing. At present, this office is awaiting receipt of two 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 8th day of May, 2008.





NOTARY PUBLIC FOR IDAHO
Residing at Boise, ID
My Commission Expires 7/24/2012

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ~~8th~~ ^{9th} day of May, 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:

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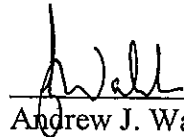
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Andrew J. Waldera