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DEPARTMENT OF
WATER RESOURCES

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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. 37-00415, 37-00416,
	)	37-04108, 37-12111
	)	
	)	RESPONSE TO FIRST SET OF
	)	REQUESTS FOR ADMISSIONS
	)	FOR SINCLAIR OIL COMPANY,
	)	dba SUN VALLEY COMPANY.
	)	

COMES NOW BIG WOOD CANAL COMPANY and responds to First Set of Requests for Admissions:

REQUEST FOR ADMISSION NO. 1: In its Objections to SVC water rights 37-415, 37-416, 37-4108, and 37-12111, BWCC states 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..." Please admit that this language references only the irrigation component of those water rights;

RESPONSE FOR ADMISSION NO. 1: Deny.

REQUEST FOR ADMISSION NO. 2: With respect to the language cited above in Request for Admission 1, please admit that BWCC's Objection applies only to the quantity of water actually

RESPONSE TO FIRST SET OF REQUEST FOR ADMISSIONS
FOR SINCLAIR OIL COMPANY dba SUN VALLEY COMPANY

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used for irrigation under SVC's water rights, and not to the quantity of water diverted.

RESPONSE FOR ADMISSION NO 2: Deny.

REQUEST FOR ADMISSION NO. 3: Please admit that BWCC owns at least one water right recommendation in the SRBA which includes irrigation as a purpose of use.

RESPONSE FOR ADMISSION NO. 3: Admit.

REQUEST FOR ADMISSION NO. 4: In its Objections to SVC water rights 37-415, 37-416, 37-4108, and 37-12111, BWCC states that, "Total volume of water delivered to this property from all water rights shall not exceed 3.5 AF per acre." Please admit that this language references only the irrigation component of those water rights.

RESPONSE FOR ADMISSION NO 4: Deny

REQUEST FOR ADMISSION NO. 5: With respect to the language cited above in Request for Admission 4, please admit that BWCC's Objection applies only to the quantity of water used for irrigation under SVC' water rights, and not to the quantity of water diverted.

RESPONSE FOR ADMISSION NO 5: Deny

REQUEST FOR ADMISSION NO 6: Please admit that the term "minimum stream flow" as used in Idaho Code 42-1501, *et seq.*, refers to the maintenance of a "minimum flow of water in cubic feet per second of time or minimum lake level in feet above mean sea level" in "any lake, spring, creek, stream, river or other natural body of standing or moving water which is subject to appropriation under the laws of the State of Idaho."

RESPONSE FOR ADMISSION NO 6: Admit that this Request for Admission quotes in part provisions of Idaho Code §§42-1502(f) and 42-1502(e). Further admit that Idaho Code §42-1501 *et seq.* establishes minimum stream flow as a beneficial use of water in the State of Idaho only when made pursuant to Idaho Code §42-1501 *et seq.* Objectors deny the remaining provisions of Request for Admission No. 6 and further state that there is no affirmative authorization in Idaho Code §42-1501 *et seq.* or any other provision of the Idaho Constitution or the Idaho Code for authorizing aesthetic, recreation or wildlife use by Sinclair Oil Corporation.

REQUEST FOR ADMISSION NO. 7: Please admit that the aesthetic, recreation, and wildlife used of water under SVC's water rights 37-415, 37-416, and 37-12111 apply to the use of water within

SVC's resort, after water has already been diverted from a natural stream.

RESPONSE FOR ADMISSION NO. 7: According to the recommendation, Sinclair Oil Corporation's water right Nos. 37-415 and 37-416, are for irrigation, aesthetic and wildlife uses. There are no recreation uses either recommended or claimed for those two rights. With respect to those two rights, the place of use appears to include area of Trail Creek as well as areas where water has been diverted from Trail Creek. The claims are not limited to uses after diversion from a natural stream. It is unclear whether and the extent to which Sinclair Oil Corporation is claiming aesthetic or wildlife uses instream of Trail Creek or within land after the water is diverted from Trail Creek. With respect to right No. 37-12111, this right does seek aesthetic, recreation and wildlife use for what appears to be an impoundment on Trail Creek as the place of use and the point of diversion are both identical. Therefore, this impoundment appears to be an instream use of water, and there is no off-stream use claimed.

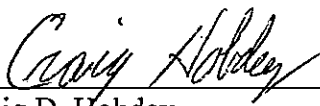
REQUEST FOR ADMISSION NO. 8: Please admit that SVC's use of water under water rights 37-415, 37-416, and 37-12111 does not require or seek to maintain a minimum flow in Trail Creek or any other natural stream.

RESPONSE FOR ADMISSION NO. 8: Deny. See Request to Response for Admission No. 7.

REQUEST FOR ADMISSION NO 9: Please admit that SVC's use of water under water rights 37-415, 37-416, and 37-12111 does not require or seek to maintain a "minimum lake level in feet above mean sea level" in any lake or other natural body of standing water.

RESPONSE FOR ADMISSION NO 9: Deny. See Request to Response for Admission No. 7. Specifically, it appears that, in Water Right 37-12111 Sinclair Oil Corporation does seek a minimum level of water impounded in a natural water body. It also appears that Water Rights 37-415 or 37-416 seek to maintain certain levels of water in aesthetic ponds which would be equivalent to a minimum lake level. It is not clear from Sinclair Oil's claim if any of these aesthetic ponds are natural bodies of water.

DATED THIS 11 day of June, 2008



Craig D. Hobdey
Attorney for Big Wood Canal Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11 day of June, 2008, I served a true and correct copy of the foregoing RESPONSE TO FIRST SET OF ADMISSIONS by the method indicated below and addressed to the following:

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Tara Martens
Dylan Lawrence
Andrew Snook
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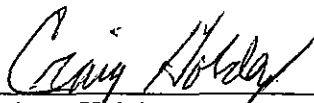
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