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DEPARTMENT OF
WATER RESOURCES

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Attorney for Big Wood Canal Company

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. 37-13112
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**RESPONSE TO SINCLAIR OIL COMPANY'S
MOTION TO FILE LATE OBJECTION**

COMES NOW, BIG WOOD CANAL COMPANY (BWCC) By and through its attorney of record, Craig Hobdey and responds to SINCLAIR OIL COMPANY'S MOTION TO FILE LATE OBJECTION as follows:

1. The motion is ill-founded as there is no justifiable reason for allowing the objection at this late date. It is clear the motion was filed as retaliatory and punitive measure against BWCC for filing objections to Sinclair Oil's water rights in Part 3 of Basin 37. The Sun Valley Company has a cadre of lawyers and any delay in filing these objections was not based upon potential "law of the case ramifications" because Sun Valley Company/Sinclair Oil is or should have been well aware of the law of the case and shouldn't need BWCC to point out the legal standards.
Sun Valley Company correctly states the legal stance of filing a late objection. The first standard is whether the default (in this instance failure to file late objections) was

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willful. Obviously the default was willful, Sun Valley Company had many months to review the claims of Part 2 of Basin 37 and decided not to file objections against BWCC rights, until after BWCC filed objections to Sun Valley Company's rights.

2. To allow the late objections would severely prejudice BWCC. BWCC is an irrigation company not a commercial enterprise nor a legal factory. BWCC budgets money for operations and maintenance, not for defending frivolous late objections and therefore to allow late objections would strain the budget of BWCC unnecessarily.
3. A meritorious position has not been presented. It sets forth no facts indicating that BWCC shareholders exceed the statutory allotment of one inch per acre. The points of diversion are and have been in use for many, many, many years and the place of use has been approved, and has not changed for many years, even prior to the filing of the SRBA.

For the forgoing reasons BWCC respectfully requests the Court deny Sun Valley Company's Motion to File Late Objections. Additionally, BWCC requests costs and attorney fees for having to defend this frivolous motion, such costs and attorney fees are based on Idaho Code §§12-120, 12-121, 12-123 and Rule 54, Idaho Rules of Civil Procedure.

DATED THIS 18 day of June, 2008.

HOBDEY LAW OFFICE, PLLC

By: Craig D. Hobdey
Craig D. Hobdey

CERTIFICATE OF SERVICE

I hereby certify that on the 18 day of June, 2008, I caused to be served copies of the foregoing BIG WOOD CANAL COMPANY'S RESPONSE TO SINCLAIR OIL COMPANY'S MOTION TO FILE LATE OBJECTION by U.S. Mail, postage prepaid to the following:

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