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RECEIVED

JUN 30 2008

**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	)	Subcase Nos. 63-198AJ, 63-199B,
	)	63-200B, 63-2392B, 63-2968 and
	)	63-30181
	)	MOTION TO FILE LATE
Case No. 39576	)	RESPONSES
	)	
_____	)	

COMES NOW Lindsey Lateral Association (hereinafter "LLA"), by and through its undersigned counsel of record, Racine Olson Nye Budge and Bailey, Chartered, and hereby files this Motion to File Late Response(s) to the water rights identified above. This motion is supported by the Affidavit of Candice M. McHugh filed contemporaneously herewith.

BACKGROUND

On June 15, 2007, Lindsey Lateral Association filed an objection to its water right no. 63-32000 without the assistance of counsel. Lindsey Lateral Association hired counsel prior to the initial hearing on its water right. At the initial hearing for subcase number 63-32000, held in Boise on May 31, 2008, it became apparent that there are overlapping technical and legal issues relating to the Lindsey Lateral Association's claimed place of use and the Nampa & Meridian Irrigation District's water right recommendations on the above listed subcases relating to the quantity and place of use elements, among others. The objection period for Basin 63, Part 3

ended on June 20, 2007 and the response period ended on August 20, 2007. Lindsey Lateral Water Users Association did not file any objection or responses to Nampa & Meridian Irrigation District's water rights at that time because it believed filing an objection to its own water right was sufficient.

On or about June 15, 2007, Nampa & Meridian Irrigation District filed objections and responses to the water rights listed above. Thus, these water rights are at issue and are scheduled for initial hearing on June 27, 2008.

ARGUMENT

Due to recently discovered facts, Lindsey Lateral Association seeks an order from the Court granting it leave to file responses in the subcases identified above. In subcases where partial decrees have not been entered by the court, the standard for filing late pleadings in subcases is determined by applying the "good cause" standard. The delay in filing the responses is not willful, will not prejudice the parties and the grounds supporting the filing of the late responses are meritorious.

First, Lindsey Lateral Association timely filed an objection to the disallowal of its water right no. 63-32000 believing that action was sufficient to bring all issues relating to its water right before the Court. However, because Lindsey Lateral Association is seeking a water right that overlaps with water rights owned by the Nampa & Meridian Irrigation District, in order to fully address the issues raised by its objection, it is necessary for Lindsey Lateral Association to participate in the above listed water rights held by Nampa & Meridian Irrigation District because the quantity element under Lindsey Lateral Association's claim may affect the quantity and place of use element under Nampa & Meridian Irrigation District's water rights.

Second, as soon as Lindsey Lateral Association became aware of the Nampa & Meridian Irrigation District objections and common issues at the hearing held May 30, 2008, it moved to

amend its claim which was granted. Lindsey Lateral Association must file its amended claim by June 30, 2008. Lindsey Lateral Association's amended claim will be claiming a portion of prior decreed right no. 67, which is currently recommended to the Nampa & Meridian Irrigation District and renumbered to 63-199B. Keeping in mind judicial economy, it is necessary for all issues relating to these overlapping subcases to be resolved together. There have been no substantive hearings in subcase nos. 63-198AJ, 63-199B, 63-2392B, and 63-2968 and the initial hearings for those subcases are scheduled for June 27, 2008.

Third, historical documents and information and conversations with IDWR personnel indicate that Lindsey Lateral Association or its members may be the owners of a portion of prior decreed water right no. 67 (renumbered to 63-199B) and that claim no. 63-32000 should be recommended to Lindsey Lateral Association.

Finally, Lindsey Lateral Association has started initial discussions with Nampa & Meridian Irrigation District and their counsel to fully investigate the issue but final resolution has not occurred. In order to protect Lindsey Lateral Association's position, it is necessary for them to become a party to Nampa & Meridian District's water rights through these late responses.

CONCLUSION

For the foregoing reasons, Lindsey Lateral Association respectfully requests that the court grant its Motion for Late Responses and accept for filing the response(s) attached hereto as Exhibit A.

DATED this 21st day of June, 2008.

RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED

By: Candice M. McHugh
CANDICE M. McHUGH

CERTIFICATE OF MAILING

I certify that a true and correct copy of the above **MOTION TO FILE LATE RESPONSE(S)** was served this 21st day of June, 2008, via United States mail with sufficient first-class postage to the following:

Clerk of the SRBA Court 253 Third Avenue North PO Box 2707 Twin Falls, ID 83302-2707	Original	
Natural Resources Division Chief State of Idaho Attorney General's Office PO Box 44449 Boise, ID 83711-4449		IDWR Repository PO Box 83720 Boise, ID 83720-0098
United States Department of Justice Environment & Natural Resources Div 550 West Fort Street MSC 033 Boise, ID 83724		S. Bryce Farris Daniel V. Steenson 455 S Third St PO Box 2773 Boise, ID 83701-2773
Lynn Tominaga, President Lindsey Lateral Association PO Box 2624 Boise, ID 83701-2624	<i>courtesy copy</i>	


CANDICE M. McHUGH
Attorney

EXHIBIT A

**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**

)
)
)
)
)
)

**A. Subcase Nos. 63-198AJ, 63-
199B, 63-200B, 63-2392B, 63-
2968 and 63-30181**
(Insert water right number)

**STANDARD FORM 2
RESPONSES TO OBJECTIONS**

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Lindsey Lateral Association
Address: c/o Lynn Tominaga
President
P.O. Box 2624
Boise, ID 83701-2624

Daytime Phone: (208) 890-4014

Name & Address of Attorney, if any:

Candice M. McHugh
Racine Olson Nye Budge & Bailey, Chtd
101 South Capitol Boulevard, Suite 208
Boise, ID 83702
Telephone: 208-395-0011
Facsimile: 208-433-0167

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

Name: **Nampa & Meridian Irrigation District**
Address: c/o Bryce Farris, 455 S Third St, PO Box 2773,
Boise, ID 83701-2773

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**
11. **Recommendation:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

Lindsey Lateral Association provides water to its members located within the boundaries of the Nampa & Meridian Irrigation District under its own water right. Lindsey Lateral Association believes that a portion of its water right has been recommended to Nampa & Meridian Irrigation District in error. Lindsey Lateral Association has a claim that overlaps the place of use claimed by Nampa & Meridian Irrigation District and the place of use or other elements of Nampa & Meridian Irrigation District's water rights which are likely affected by Lindsey Lateral Association's claim, thus, Lindsey Lateral Association is filing this response to participate in these subcases.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.

County of Ada)

c/o Lindsey Lateral Association
Candice M. Mchugh, Esq., duly sworn, upon oath, deposes and says:
(Name of person filing objection)

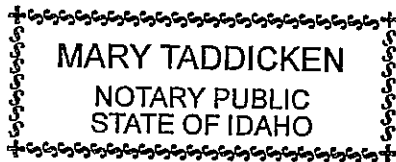
That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

Candice M. Mchugh
(Attorney signing in representative capacity)

CANDICE M. MCHUGH

Subscribed and sworn to before me on this 27th day of June, 2008



Notary Public for Mary Taddicken
Residing at: Boise
My Commission Expires: 9-12-13

CERTIFICATE OF MAILING

I certify that on June 27, 2008, I mailed the original and copies of this late 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

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

S. Bryce Farris
455 S Third Street
PO Box 2773
Boise, ID 83701-2773

Lindsey Lateral Association
c/o Lynn Tominaga
PO Box 2624
Boise, ID 83701-2624

courtesy copy

3. Copies to:

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

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

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


CANDICE M. MCHUGH