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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. 37-02502 37-02618
37-07663 37-07758 37-07800

**SINCLAIR AND NEWFOUNDLAND'S FIRST
SET OF REQUESTS FOR ADMISSION,
INTERROGATORIES, AND REQUESTS FOR
PRODUCTION OF DOCUMENTS TO
THOMAS M. O'GARA FAMILY TRUST**

Please take notice that Sinclair Oil Corporation, d/b/a Sun Valley Company and Newfoundland Partners LP (hereafter the "Objectors"), by and through their attorneys of record, MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED, and pursuant to Idaho Rules of Civil Procedure 26, 33, 34, and 36 and pursuant to Section 1 of the Court's Administrative

Order 1, hereby submits its First Set of Requests for Admissions, Interrogatories, and Requests for Production of Documents to Thomas M. O’Gara Family Trust as follows:

**I.
INSTRUCTIONS**

1. In responding to these Requests for Admissions, Interrogatories, and Requests for Production, you are requested to furnish all information available to you, or subject to your reasonable inquiry, including information in the possession of your attorneys, investigators, employees, agents, representatives, guardians, consultants, expert witnesses, and any other person or persons acting on your behalf, and not merely such information as is known to you by your own personal knowledge.

2. In responding to these requests, you must make a diligent search of your records and all other papers and materials that are in your possession or available to you, or to the individuals described in the preceding paragraph. If any item has subparts, answer each part separately and in full. If you cannot answer any of the following requests in full after exercising due diligence to secure the information necessary to do so, please so state and answer or respond to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

3. If you object to any request on the ground that the information sought is privileged and non-discoverable, please state the basis for your claim of privilege and, in the case of any request for production, identify the documents and records which you object to producing, in sufficient detail as to enable the court to rule upon claim of privilege.

4. These requests are deemed to be continuing. If, after responding to these requests, you acquire any further information responsive to them, you are hereby requested,

pursuant to Idaho Rule of Civil Procedure 26(e), to file and serve supplemental answers or responses containing such further information.

5. If you fail to respond to one or more of these requests or if your response to one or more of these requests is evasive or incomplete, Objectors may move the Court for an order compelling you to fully respond to these requests and to pay the reasonable expenses, including attorney fees, incurred by it in obtaining the order.

6. If you fail to produce documents and records requested herein on the ground that the necessary information, records or documents are not within your care, custody, possession or control, please state what efforts you have made to obtain such information, documents or records.

7. If you fail to respond to any of these requests in full or fail to supplement your answers or responses as requested, Objectors may move the Court for an order precluding you from introducing into evidence, or otherwise using either at trial or on motion for summary judgment, any testimony, witness, exhibit, document, record, publication, or other item or information not timely disclosed in your responses to these requests.

II. DEFINITIONS

1. The term “communication(s)” shall include, without limitation, any dissemination of information or transmission of a statement from one person to another or in the presence of another, whether written, oral, or by action or conduct.

2. The terms “document(s)” and/or “record(s)” mean any tangible thing upon which has been placed handwriting, e-mail transmission, typewriting, printing, photocopying, photographing, digital or computerized data, or any other form of recording, communication or representation including, but not limited to, letters, words, pictures, sounds, magnetic impulses,

symbols, numbers or any combination thereof, whether or not visible to the unassisted human eye. This definition shall include, but is not limited to, any and all originals, copies, or drafts of any and all of the following: Records, notes, summaries, schedules, contracts, agreements, orders, meeting minutes, design manuals, operations manuals, installation manuals, inventories, audits, acknowledgments, diaries, findings, forecasts, tests, appraisals, reports, memoranda, telephone recordings, telephone logs, telephone lists, diaries, calendars, planners, daytimers, correspondence and letters, e-mail, telegrams, telexes, facsimiles and faxes, cables, tapes, tape recordings, statements, receipts, invoices, transcripts, recordings, photographs, witness statements, pictures, films, videotapes, computer programs, computer databases, models, things and materials of any nature whatsoever. Any “document” which contains any comment, notation, addition, insertion or marking of any kind which is not part of another document is to be considered as a separate “document.”

3. The term “drawing(s)” shall include, without limitation, any and all drawings, as-builts, mylars, designs, blueprints, sketches, maps, plans, notes, graphic depictions, schematics, or similar items, whether prepared by an engineer, architect, surveyor, other licensed professional, or other person.

4. When asked to “identify” a person or entity or when asked for the “identity” of a person or entity, please include:

- (a) The name of the person or entity;
- (b) The present or last known address and telephone number of the person or entity;
- (c) The present or last known occupation, title, business, and employer of the person or entity; and

(d) The present or last known address and telephone number of the employer of the person or entity.

5. When asked to “identify” a record or document please include:

(a) The nature or type of record or document (*e.g.*, letter, photograph, map, drawing, tape recording, etc.);

(b) The subject matter of the record or document and/or a general description of its contents;

(c) The “identity” of the person who authored or created the record or document;

(d) The date of the document or, if it bears no date, the date on which it was prepared or created; and

(e) The physical location of the original and any copies of the document or record of which you are aware and the “identity” of the present custodian of the record or document.

III. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that you are the owner or claimant of the following water rights: 37-00115F, 37-00501B, 37-00501C, 37-00590B, 37-00597B, 37-02502, hereinafter referred to collectively as “Rights.”

REQUEST FOR ADMISSION NO. 2: Please admit that the rights, as recommended by the Idaho Department of Water Resources (“IDWR”), share the same irrigation place of use, namely 268 acres located within T01N, R19E, Sections 5 and 8.

REQUEST FOR ADMISSION NO. 3: Please admit that the Rights, as recommended by the IDWR, collectively total a diversion quantity of 10.1 cfs.

REQUEST FOR ADMISSION NO. 4: Please admit that the irrigation of 268 acres at a rate of one inch, or 0.02 cfs, per acre requires the diversion of 5.36 cfs.

REQUEST FOR ADMISSION NO. 5: Please admit that the Rights, as recommended by IDWR, do not contain a combined use limitation restricting their diversion to a combined one inch, or 0.02 cfs, per acre.

REQUEST FOR ADMISSION NO. 6: Please admit that the combined use of the Rights, as recommended by IDWR, on the above-reference place of use (T01N, R19E, Sections 5 and 8) exceeds one inch, or 0.02 cfs, per acre.

REQUEST FOR ADMISSION NO. 7: Please admit that the combined use of the Rights, as recommended by IDWR, on the above-reference place of use (T01N, R19E, Sections 5 and 8) exceeds the delivery of 3.5 AFA per acre to the field headgate.

REQUEST FOR ADMISSION NO. 8: Please admit that the customary season or period of use for lands lying within T01S, R19E is April 15 to October 31 (200 days).

IV. INTERROGATORIES

INTERROGATORY NO. 1: If any of the above Requests for Admission are denied either in whole or in part, please provide a complete description of all facts relied upon in making the denial, along with the identity of all persons having sufficient knowledge of each fact to testify as a witness. Also, please provide a description of the substance and content of all expert opinions relied upon in making the denial.

INTERROGATORY NO. 2: Please identify each and every individual known to you who has any knowledge of, or who claims to have knowledge of, any facts or evidence about the water use under the Rights or the Rights themselves, together with a summary of each person's knowledge.

INTERROGATORY NO. 3: Please identify each and every person you intend to call as a lay witness at the trial of this matter, together with a summary of the substance of each person's expected testimony.

INTERROGATORY NO. 4: Please identify each and every person you expect to call as an expert witness at the trial in this matter, and for each such person, state with particularity:

- (a) The qualifications upon which you intend to rely to establish said person as an expert witness;
- (b) The subject matter on which said person is expected to testify;
- (c) The substance of the facts and opinions to which he or she is expected to testify; and
- (d) The other information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure and Rule 705 of the Idaho Rules of Evidence.

INTERROGATORY NO. 5: If you contend that you are entitled to receive and/or use in excess of one inch, or 0.02 cfs, of water per acre for irrigation purposes, please describe in full and complete detail all facts and reasons supporting such a contention.

INTERROGATORY NO. 6: Please describe in full and complete detail the configuration and operation of your irrigation system, including but not limited to the physical specifications of the system, the efficiency of the system, and the names and titles of those who operate and maintain the system.

INTERROGATORY NO. 7: Please describe in full and complete detail any and all water conservation measures you have adopted related to the irrigation of the above-referenced place of use (T01N, R19E, Sections 5 and 8).

V.
REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce copies of any and all documents relied upon in, identified in, or responsive to your answers to each of the above-stated requests for admission or interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce copies of all documents and exhibits that you expect to offer as evidence at the trial of this matter.

REQUEST FOR PRODUCTION NO. 3: Please produce copies of any notes, memoranda, letters or other correspondence prepared by you or between you and any other individual or entity regarding your Rights and use of water under the Rights.

REQUEST FOR PRODUCTION NO. 4: Please produce copies of any and all written reports or documents of any kind whatsoever generated, relied upon, reviewed or possessed by expert witnesses of any type retained by you to review or analyze this matter and/or render expert testimony.

REQUEST FOR PRODUCTION NO. 5: Please produce the current resume and/or curriculum vitae of all expert witnesses or consultants with whom you have consulted.

REQUEST FOR PRODUCTION NO. 6: Please produce copies of any or all statements previously made by Objectors or its respective employees, agents, or representatives relating in any way to this matter, including any written statement signed or otherwise adopted or approved by Objectors or its respective employees, agents or representatives.

REQUEST FOR PRODUCTION NO. 7: Please produce copies of any statements which your witnesses will use, or you anticipate may be used, to refresh their memory, either for deposition or trial.

REQUEST FOR PRODUCTION NO. 8: Please produce copies of any communications including, without limitation, all meeting minutes and all e-mails, letters or other correspondence, between you and any other person, which relate in any way to this matter.

REQUEST FOR PRODUCTION NO. 9: Please produce copies of any and all written reports, drawings, maps, photographs, invoices, receipts, operations manuals, installation manuals, maintenance records, management records, e-mails, letters, correspondence or documents of any kind whatsoever related to the configuration of your irrigation system, including but not limited to data that describes, identifies, or shows:

- (a) The construction of your irrigation system;
- (b) The geospatial layout of your irrigation system;
- (c) When construction of your irrigation system was completed;
- (d) The existing configuration of your irrigation system;
- (e) Post-construction improvements made to your irrigation system;
- (f) The location, size, and capacity of any pumps used for irrigation, including the capacity of associated nozzles;
- (g) The location, capacity, and length of any ditches used for irrigation;
- (h) Whether lining material was used in the construction of any ditches used for irrigation;
- (i) The location, size, length, diameter, and type of any piping used for irrigation purposes; and
- (j) The location, size, and purpose of any other fixture or equipment used for irrigation purposes.

REQUEST FOR PRODUCTION NO. 10: Please produce copies of any and all written reports, photographs, invoices, receipts, estimates, bids, contracts, subcontracts, operations manuals, installation manuals, resumes, advertisements, job descriptions, job performance evaluations, payroll reports, maintenance records, management records, e-mails, letters, correspondence, or documents of any kind whatsoever related to the operation and maintenance of your irrigation system, including but not limited to data that describes, identifies, or shows:

(a) The name and address of any person or entity currently responsible for maintenance or operation of your irrigation facilities;

(b) The name and address of any person or entity that has been responsible for maintenance or operation of your irrigation facilities in the past;

(c) The qualifications of any person or entity responsible for maintenance or operation of your irrigation facilities, now or in the past;

(d) The job description/duties of any person or entity responsible for maintenance or operation of your irrigation facilities, now or in the past;

(e) The name and address of any person or entity responsible for the installation or construction of any fixture, improvement, or piece of equipment for irrigation purposes;

(f) Any maintenance or improvement to your irrigation facilities for which you are directly responsible; and

(g) Any qualifications you have for the design, operation, maintenance, or improvement of irrigation facilities.

REQUEST FOR PRODUCTION NO. 11: Please produce copies of any and all written reports, photographs, invoices, receipts, estimates, bids, contracts, subcontracts, operations manuals, resumes, advertisements, maintenance records, management records, e-mails, letters, correspondence, or documents of any kind whatsoever related to the condition of your irrigated land and irrigation system, including but not limited to data that describes, identifies, or shows:

- (a) The reports of any soil analysis performed on your irrigated land;
- (b) The name and/or address of any person or entity responsible for performing any soil analysis on your irrigated land;
- (c) Crop yields on your irrigated land;
- (d) Crop yields in your locale;
- (e) Cropping patterns on your irrigated land;
- (f) Cropping patterns in your locale;
- (g) Crop consumptive use on your irrigated land;
- (h) Crop consumptive use in your locale;
- (i) Application to your irrigated lands or facilities of fertilizers, sediment control materials, or any other chemicals;
- (j) Readings from pressure instruments or results from any water pressure tests performed on your irrigation system; and
- (k) The name and/or address of any person or entity responsible for performing any water pressure tests on your irrigation system.

REQUEST FOR PRODUCTION NO. 12: Please produce copies of any and all documents regarding any and all water conservation measures for irrigation of the above-referenced place of use (T01N, R19E, Sections 5 and 8).

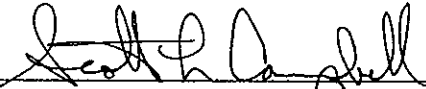
REQUEST FOR PRODUCTION NO. 13: To the extent not produced in response to the preceding requests for production, please produce all electronically stored information in your possession, custody, or control that is responsive to the Objectors' First Set of Requests for Admissions, Interrogatories, and Requests for Production pursuant to Idaho Rule of Civil Procedure 34(a), including, but not limited to, information stored on any desktop computer, laptop computer, blackberry, hard drive, external storage media, local area network, wide area network, handheld device, personal digital assistant, mobile phone, server, and/or archive/backup system.

VI. REQUEST FOR INSPECTION

To the extent necessary to supplement the information received according to the Objectors' First Set of Requests for Admissions, Interrogatories, and Requests for Production regarding configuration, operation, and maintenance of irrigation facilities, please make arrangements to permit entry upon irrigated land in your control to enable inspection, measuring, surveying, and testing of the facilities.

DATED this 17th day of September, 2008.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 

Scott L. Campbell – Of the Firm
Attorneys for Sinclair Oil Corporation
d/b/a Sun Valley Company and
Newfoundland Partners LP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September, 2008, I caused a true and correct copy of the foregoing **SINCLAIR AND NEWFOUNDLAND'S FIRST SET OF REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO THOMAS M. O'GARA FAMILY TRUST** to be served by the method indicated below, and addressed to the following:

Albert P Barker
BARKER ROSHOLT & SIMPSON
1010 W Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Fax: (208) 334-6034

Representing: Thomas M. O'Gara Family Trust

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

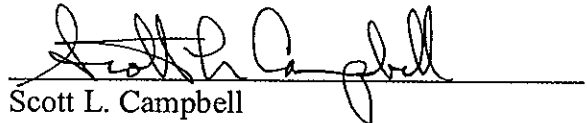
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Representing: Dana Dowers and The Valley Club

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Director
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