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Department of Water Resources
Adjudication Bureau

**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	)	A. Subcase No. 37-713D
	)	
Case No. 39576	)	RESPONSE TO CLAIMANTS' FIRST
	)	SET OF REQUESTS FOR ADMISSION
	)	TO OBJECTORS
	)	
	)	

COMES NOW, Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, and Pepin Corso-Harris, by and through their attorneys of record, Barker Rosholt & Simpson, LLP, and pursuant to Rule 36 of the Idaho Rules of Procedure, hereby respond to the Requests for Admissions as required by Idaho Rule 36.

REQUEST FOR ADMISSION NO. 1: Admit that Exhibit A is a true and correct copy of the recommendation for water right No. 37-713D (the "Water Right") as set forth in the Director's Report for Irrigation and Other Water Rights in Basin 37, Part 3 filed with this Court in February, 2007.

RESPONSE TO ADMISSION NO. 1: Objectors admit that the document entitled Exhibit A which was emailed to counsel on December 2, 2008, but which was not attached to the Request for Admissions, appears to be a true and correct copy of the Recommendation for Water Right No. 37-713D as set forth in the Director's Report for Basin 37, Part 3 filed in the SRBA Court in February, 2007.

REQUEST FOR ADMISSION NO. 2: Admit that you do not object to or otherwise challenge the source of the Water Right as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 2 Admit.

REQUEST FOR ADMISSION NO. 3: Admit that the source of the Water Right set forth in Exhibit A is correct.

RESPONSE TO ADMISSION NO. 3: Objectors object to Request for Admission No. 3 on the grounds that it seeks information which is irrelevant and not calculated to lead to the discovery of admissible evidence in this action. Objectors did not object to the source of water right in their amended objection and therefore take no position concerning whether the source as set forth in the Recommendation is "correct" or not.

REQUEST FOR ADMISSION NO. 4: Admit that you do not object to or otherwise challenge the quantity of the Water Right as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 4: Denied for the reasons set forth in Objectors' Amended Objection.

REQUEST FOR ADMISSION NO. 5: Admit that the quantity of the Water Right as set forth in Exhibit A is correct.

RESPONSE TO ADMISSION NO. 5: Denied for the reasons set forth in Objectors' Amended Objection and the SRBA Special Master's Order Granting Motion to Amend

Objection in this Subcase. The SRBA Court has ruled that it is proper for Objector's amended objections to seek of a measuring device for delivery of water as part of their objection to the volume recommendation.

REQUEST FOR ADMISSION NO. 6: Admit that you do not object to or otherwise challenge the priority date of the Water Right as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 6: Admit.

REQUEST FOR ADMISSION NO. 7: Admit that the priority date for the Water Right as set forth in Exhibit A is correct.

RESPONSE TO ADMISSION NO. 7: Objectors object to Request for Admission No. 7 on the grounds that it seeks information which is irrelevant and not calculated to lead to the discovery of admissible evidence in this action. Objectors did not object to the priority date of water right in their amended objection and therefore take no position concerning whether the priority date as set forth in the Recommendation is "correct" or not.

REQUEST FOR ADMISSION NO. 8: Admit that you do not object to or otherwise challenge the points of diversion for the Water Right as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 8: Admit.

REQUEST FOR ADMISSION NO. 9: Admit that the points of diversion for the Water Right as set forth in Exhibit A are correct.

RESPONSE TO ADMISSION NO. 9: Objectors object to Request for Admission No. 9 on the grounds that it seeks information which is irrelevant and not calculated to lead to the discovery of admissible evidence in this action. Objectors did not object to the points of diversion of water right in their amended objection and therefore take no position concerning whether the points of diversion as set forth in the Recommendation are "correct" or not.

REQUEST FOR ADMISSION NO. 10: Admit that you do not object to or otherwise challenge the period of use, quantity or place of use for irrigation as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 10: Admit.

REQUEST FOR ADMISSION NO. 11: Admit that the period of use, quantity and place of use for irrigation by the Water Right as set forth in Exhibit A are correct.

RESPONSE TO ADMISSION NO. 11: Objectors object to Request for Admission No. 11 on the grounds that it seeks information which is irrelevant and not calculated to lead to the discovery of admissible evidence in this action. Objectors did not object to the period of use, quantity, and place of use for irrigation of the water right in their amended objection and therefore take no position concerning whether the period of use, quantity, and place of use for irrigation as set forth in the Recommendation are “correct” or not.

REQUEST FOR ADMISSION NO. 12: Admit that you do not object to or otherwise challenge the period of use or quantity for fire protection storage of the Water Right as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 12: Admit.

REQUEST FOR ADMISSION NO. 13: Admit that the period of use and quantity for aesthetic storage of the Water Right as set forth in Exhibit A are correct.

RESPONSE TO ADMISSION NO. 13: Objectors object to Request for Admission No. 13 on the grounds that it seeks information which is irrelevant and not calculated to lead to the discovery of admissible evidence in this action. Objectors did not object to the period of use and quantity for fire protection storage of the water right in their amended objection and therefore take no position concerning whether the period of use and quantity for fire protection storage as set forth in the Recommendation are “correct” or not.

REQUEST FOR ADMISSION NO. 14: Admit that you do not object to or otherwise challenge the period of use or quantity for aesthetic storage of the Water Right as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 14: Deny. See Response for Request for Admission No. 4.

REQUEST FOR ADMISSION NO. 15: Admit that the period of use and quantity for aesthetic storage of the Water Right as set forth in Exhibit A are correct.

RESPONSE TO ADMISSION NO. 15: Deny. See Response for Request for Admission No. 5.

REQUEST FOR ADMISSION NO. 16: Admit that you do not object to or otherwise challenge the period of use or quantity for recreation storage of the Water Right as set forth in Exhibit A.

RESPONSE TO ADMISSION NO. 16: Deny. See Response for Request for Admission No. 4.

REQUEST FOR ADMISSION NO. 17: Admit that the period of use and quantity for recreation storage of the Water Right as set forth in Exhibit A are correct.

RESPONSE TO ADMISSION NO. 17: Deny. See Response for Request for Admission No. 5.

DATED this 30th day of December, 2008.

BARKER ROSHOLT & SIMPSON LLP



Albert P. Barker
Attorneys for Tom O'Gara, John F. Stevenson,
Bill Molyneux, Pete Van Der Meulen, Grace Eakin,
Rocky Sherbine, Gerald Bashaw, and Pepin
Corso-Harris

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 31st day of December, 2008, I caused to be served a true and correct copy of the foregoing **RESPONSE TO CLAIMANTS' FIRST SET OF REQUESTS FOR ADMISSION TO OBJECTORS** by the method indicated below, and addressed to each of the following:

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