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MAY 29 2009

DEPARTMENT OF
WATER RESOURCES

Attorneys for Olsen Livestock Consultants, Inc.

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MOFFATT, THOMAS, BARRETT, ROCK &
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23091.0000

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. 37-00353G

**MOTION TO FILE LATE RESPONSE OR
PARTICIPATE**

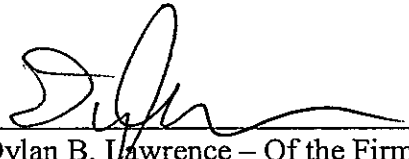
COMES NOW Olsen Livestock Consultants, Inc., by and through its undersigned counsel of record, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., and pursuant to Idaho Rules of Civil Procedure 7, 24, and 55(c), and Rules 1(a), 1(b), 10(h), and 10(k) of this Court's Administrative Order 1 ("AO1"), hereby files this Motion to File Late Response or Participate in the above-referenced subcase. In short, Olsen seeks leave from this Court to file the response attached hereto as Exhibit A. Alternatively, Olsen seeks leave to participate in this subcase.

This motion is supported by a legal brief in support and the Affidavit of Dylan B. Lawrence, filed contemporaneously herewith.

Olsen respectfully requests a hearing on this motion.

DATED this 28th day of May, 2009.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Dylan B. Lawrence – Of the Firm
Attorneys for Olsen Livestock
Consultants, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May, 2009, I caused a true and correct copy of the foregoing **MOTION TO FILE LATE RESPONSE OR PARTICIPATE** to be served by the method indicated below, and addressed to the following:

Barbara A. Barry

Represented by:

Paul L. Arrington

BARKER ROSHOLT & SIMPSON, LLP

113 Main Avenue West, Suite 303

P.O. Box 485

Twin Falls, Idaho 83303-0485

Fax: (208) 735-2444

☒ U.S. Mail, Postage Prepaid

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile

Director of IDWR

P.O. Box 83720

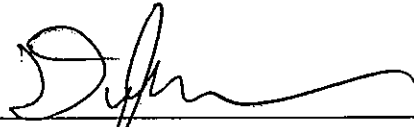
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile



Dylan B. Lawrence

EXHIBIT A

TO MOTION TO FILE LATE RESPONSE OR
PARTICIPATE – SUBCASE NO. 37-00353G

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 37-353G

(Insert water right number
From the Objection Form)

**STANDARD FORM 2
RESPONSE TO OBJECTION**

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

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Olsen Livestock Consultants, Inc.

Address: P.O. Box 1145

Bellevue, ID 83313

Daytime Phone: (208) 788-4149

Name & Address of Attorney, if any:

Scott L. Campbell/Dylan B. Lawrence
Moffatt Thomas Barrett Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829

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

Name: Barbara Barry

Address: P.O. Box 1197

Bellevue, ID 83313

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. Please see Exhibit A.

E **VERIFICATION** (Must be Completed)

State of Idaho)
) ss.
County of Ada)

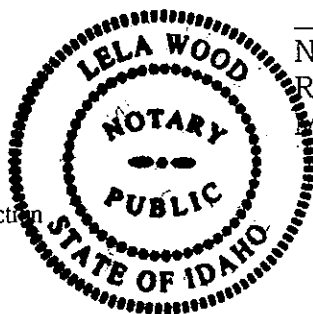
Dylan B. Lawrence, duly sworn, upon oath, deposes and says:
(Name of person filing response)

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 response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: May 28, 2009



Lela Wood
Notary Public for Idaho

Residing at: Boise

My Commission Expires: 5-31-2012

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.



CERTIFICATE OF MAILING

I certify that on 5-28-2009, I mailed the original and copies of this 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 claimant of the water right at the following address:

Name: Barbara Barry, c/o Paul Arrington, Barker Rosholt & Simpson LLP
Address: 113 Main Avenue West, Suite 303, P.O. Box 485, Twin Falls, ID 83303-0485

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

Name: Same as above
Address: Same as above

4. 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

Your signature or signature of attorney
mailing on your behalf

EXHIBIT A

This claim has been disallowed by IDWR, and the Claimant has objected on the basis that the right should have been recommended. The Claimant has filed an objection to Olsen Livestock Consulting, Inc.'s water right 37-353J, seeking to further reduce the quantity and place of use for that water right, or have it disallowed altogether, in order to "free up" water to augment Claimant's claim to 37-353G. Therefore, Olsen has a critical interest in the objection that Claimant has filed in this subcase, 37-353G.