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DEPARTMENT OF
WATER RESOURCES

Albert P. Barker, ISB #2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

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

**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. 37-60, 37-61, 37-62, 37-63A,
	)	37-64A, 37-66A, 37-67B, 37-68A, 37-69B,
Case No. 39576	)	37-70, 37-71B, 37-230, 37-231B, 37-232,
	)	37-577AZ, 37-2492, 37-4266, 37-22050,
	)	37-22051, 37-22052
	)	
	)	RESPONSE OF GERALD BASHAW,
	)	GRACE EAKIN, JOHN STEVENSON,
	)	PEPIN CORSO-HARRIS, PETE VAN DER
	)	MEULEN, ROCKY SHERBINE, AND
	)	TOM O'GARA TO SUN VALLEY
	)	RANCH, LLC'S FIRST SET OF
	)	DISCOVERY REQUESTS TO "THE
	)	CONCERNED WATER USERS"

COMES NOW, Objectors Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O'Gara, by and through their attorneys of record, Barker Rosholt & Simpson LLP, in response to Sun Valley Ranch, LLC's First Set of Discovery Requests to Gerald Bashaw, Grace Eakin, John F. Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O'Gara hereby makes the following responses in accordance with the Idaho Rules of Civil Procedure.

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS"

GENERAL OBJECTIONS

1. Objectors Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O’Gara object to the Requests for Admission, Interrogatories, and Requests for Production and to the definitions and instructions to the extent they purport to require discovery responses beyond that required under the local rules and orders of the Idaho Rules of Civil Procedure. These responses are provided in accordance with the Idaho Rules of Civil Procedure irrespective of any definitions and instructions that may accompany the discovery requests.

2. These responses are made subject to all objections as to competence, relevance, materiality, and admissibility. These responses are subject to all objections that would require the exclusion of any statement, material, or information herein provided if such requests were asked of, or any statement, material, or information provided were made by witness present and testifying in court. All such objections are reserved and may be interposed at the time of trial.

3. Objectors specifically objects to these discovery requests to the extent they seek information protected by the attorney-client privilege, the accountant-client privilege, the work product doctrine, and the rules governing discovery relating to experts as set forth in Rule 26(b)(4). This objection is intended to apply to each of the discovery requests that seek such information and will not be repeated specifically for each request to which it applies. Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O’Gara, to the extent possible, construed each request as requesting only information and/or documents not subject to any applicable protection.

4. No incidental or implied admissions are intended. The fact that Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and

Tom O’Gara have responded to any discovery request or part thereof should not be taken as an admission that Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O’Gara accept that the discovery request or the response or objection thereto constitutes admissible evidence. Similarly, the fact that Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O’Gara have responded to all or part of a request is not intended to and shall not be construed to be a waiver by Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O’Gara of all or part of any objection to other requests. Gerald Bashaw, Grace Eakin, John Stevenson, Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine, and Tom O’Gara’s answers to any discovery request herein do not constitute a waiver of its right to object to any future additional, or supplemental discovery requests regarding the same or similar matters.

5. Each of these objections is incorporated into the response to each of the Admissions, Interrogatories, and each of the Requests for Production of Documents as though set forth verbatim therein.

6. Objectors object to the discovery requests directed at water rights which were not objected to by Claimant on the grounds that such discovery is unduly burdensome, oppressive and not calculated to lead to the discovery of admissible evidence.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that no third party, including any individual CWU, has instituted a judicial action seeking to have all or any portion of the Water Rights declared as forfeited in full or in part.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objectors admit that they are not aware that any other third party, outside of the SRBA, has instituted a judicial action to have any portion of the water rights declared as forfeited. However, Objectors admit that in the SRBA, they raised the issue of partial forfeiture of water rights claimed by Sun Valley Ranch, and that the SRBA is a judicial action “instituted” by the State of Idaho.

REQUEST FOR ADMISSION NO. 2: Admit that no third party, including any individual CWU, has a valid water right authorizing the use of any portion of the Water Rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objectors object to this request on the grounds that it is vague and ambiguous. Assuming that the question is whether someone else has perfected a new water right in the portions of the water rights forfeited by Sun Valley Ranch, Objectors respond that they are not aware that any such new rights have been perfected. However, the Big Wood River is over-appropriated. Under the authority of *Jenkins* and *Sagewillow*, under Idaho law when a right is forfeited, junior in priority water right holders move up the ladder of priority. Therefore, any right on the Big Wood River junior to any forfeited rights claimed by Sun Valley Ranch would move up in priority and have the ability to use the water claimed by Sun Valley Ranch under its water rights claims.

REQUEST FOR ADMISSION NO. 3: Admit that no third party, including any individual CWU has asserted or is asserting a valid claim of right to all or any portion of the Water Rights by adverse possession.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objectors admit that they are aware of no other third party asserting a claim of adverse possession, other than the partial forfeiture objections raised in the SRBA as to these water rights.

REQUEST FOR ADMISSION NO. 4: Admit that no third party, including any individual CWU, has used all or any portion of the Water Rights pursuant to an existing water right.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Denied. To the extent that any portion of the water right was not used by Sun Valley Ranch then any use by junior water users on the river of the unused portion of the water claimed under the Sun Valley Ranch water rights could be construed to be using a portion of the “water rights” as that term is defined in these discovery requests. Objectors understand that the Big Wood River is over-appropriated. Priority cuts are made on a regular basis. Therefore any junior water user who was not curtailed as a result of Sun Valley Ranch not using any portion or all of its water rights would have used the water represented by the “water rights” claimed by Sun Valley Ranch.

REQUEST FOR ADMISSION NO. 5: Admit that no third party, including any individual CWU, has obtained a determination of forfeiture or partial forfeiture to all or any portion of the Water Rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objectors admit that they are not aware of any legal determination of forfeiture or partial forfeiture of any portion of water rights claimed by Sun Valley Ranch.

REQUEST FOR ADMISSION NO. 6: Admit that no third party, including any individual CWU, has initiated or acquired a legal right to use all or any portion of the Water Rights by either appropriation or application to a beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Denied. Any junior water user on the Big Wood River has the right to have their water continued to be delivered should it be determined that any portion of the Sun Valley Ranch water rights have been forfeited.

Accordingly, any water user on the Big Wood River who has put the water to beneficial use is

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O’GARA TO SUN VALLEY RANCH, LLC’S FIRST SET OF DISCOVERY REQUESTS TO “THE CONCERNED WATER USERS

entitled to a legal right to continue to use that portion of the water under the *Sagewillow* and *Jenkins* decisions. Objectors as holders of junior water rights on the Big Wood River would be among those who moved up the ladder of priority.

REQUEST FOR ADMISSION NO. 7: Admit that you are aware of no evidence supporting the contention that the water master's delivery logs relating to the delivery of water pursuant to the Water Rights or any water rights for SVR have been in error from 1919 through 2006.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Denied. Chuck Brockway, Sr. has stated that the measuring device at the Blacks 61 headgate was inaccurately reading water delivery. Dr. Brockway stated that the reason he installed a Parshall flume 2 in 2008 at the Blacks 61 measuring point was to more accurately measure water deliveries. The District 37 water master has concluded that no more than 24 to 26 cfs of water can be delivered through the Bypass Extension Canal to the Blacks 61 canal. The District 37 water master has expressed concern over the accuracy of the Blacks 61 measuring device and his ability to compare the old delivery measurement with the new Parshall flume measurement. Objectors are aware that the Blacks 61 diversion in the River is not measured at all, has fallen into disrepair and therefore is unlikely to provide an accurate delivery mechanism. For these reasons Objectors believe there is reason to doubt the accuracy of the delivery records. Objectors have requested Dr. Brockway's explanation of the difference and calculations comparing the old and new measuring devices at Blacks 61, but have not received that information from Claimant.

INTERROGATORIES

INTERROGATORY NO. 1: If your response to any and each request for admission hereinabove set forth is anything other than an unqualified admission, then for each and every request for admission for which you have made anything but an unqualified admission, state

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS

separately and in order beginning with the first request for admission to which you have made anything but an unqualified admission and continuing to the last such request for admission, the following:

- a. State in complete detail and with particularity each and every fact, reason and theory upon which you base your response to the request for admission;
- b. Identify each and every person who you contend has knowledge of all or any of the facts upon which facts you base your response to the request for admission;
- c. Identify each and every document which you contend evidences, relates to or otherwise pertains to each and every fact upon which you base your response to the request for admission;
- d. State whether in your response to this interrogatory you have disclosed the name of each person presently known to you to have knowledge of facts upon which you base your responses to said requests for admissions which you have not unqualifiedly admitted. Unless your answer is an unqualified "yes" or "admit," state in detail and with particularity each reason that you have failed to disclose the name of each person in your response to this interrogatory; and
- e. State whether in your response to this interrogatory you have disclosed each document which you presently know or believe to exist, whether or not in your possession, custody or control, which relates to or otherwise pertains to the facts upon which you base your responses to said requests for admissions which you have not unqualifiedly admitted. Unless your answer is an unqualified "yes" or "admit," state in detail and with particularity each reason that you have failed to disclose each such document in your response.

ANSWER TO INTERROGATORY NO. 1: See Responses to Requests for Admissions. The persons with knowledge of the facts are identified in the Responses. The relevant documents are identified herein.

INTERROGATORY NO. 2: Identify the name, address, and job title or capacity of each person who prepared or assisted in the preparation of the responses to these Interrogatories.

ANSWER TO INTERROGATORY NO. 2: Answers to Interrogatories were prepared by counsel based on information provided by Objectors, information from Claimant and from the Water Master records. Objectors object to disclosing the substance of the communications between Objectors and counsel on the grounds that it violates the attorney-client and work-product privileges.

INTERROGATORY NO. 3: With respect to water rights 37-60, 37-61 and 37-62, you have filed an objection asserting that:

The total volume of water rights should be limited to the historic delivery of no more than 21.81 cfs for this entire place of use. Place of use should be limited to no more than 640 acres historic use.

With respect to this objection, please:

- a. Identify each and every person who was responsible for determining that the total volume of water right should be limited to the historic delivery of no more than 21.81 cfs for the above-stated objection for water rights 37-60, 37-61 and 37-62;
- b. Identify each and every person who was responsible for determining that the place of use should be limited to no more than 640 acres historic use for the above-stated objection for water rights 37-60, 37-61 and 37-62;

c. Identify all data upon which the above-stated objection for water rights 37-60, 37-61 and 37-62 was based, including, but not limited to: shape files, aerial photographs, records, individual statements, affidavits, investigations and/or opinions;

d. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the total volume should be limited to 21.81 cfs for water rights 37-60, 37-61 and 37-62;

e. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the place of use should be limited to 640 acres for water rights 37-60, 37-61 and 37-62;

f. Identify the exact location of the 640 acre place of use to which you assert water rights 37-60, 37-61 and 37-62 should be limited;

g. Identify the source and all facts and circumstances regarding historic use of water rights 37-60, 37-61 and 37-62; and

h. Identify any and all persons who you contend have knowledge of the facts and circumstances alleged in the above-stated objection and for each such person, state the basis for and state in detail the facts which you contend are known by such person.

ANSWER TO INTERROGATORY NO. 3: The water right delivery records of all the surface water rights objected to in these subcases are based on the delivery records of Blacks 61 at point of diversion. The place of use of these rights overlap.

a. The decision to file this quantity objection was based on directions from Objectors after consultation with counsel.

b. The decision to file this place of use objection was based on direction from Objectors after consultation with counsel.

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS

c. The data relied upon for the quantity and POU objections were water master delivery records, a summary of those records, the IDWR back files for these rights, and numerous aerial photos and maps. Subsequent 404 and stream channel alteration studies by Claimant support the POU objections.

d. The water master delivery records suggest that for the period of the 1970s 21.81 cfs was delivered to the property based upon analysis after the priority cuts have been taken into account. In other words, the delivery of the 21.81 cfs was during a time when all the rights were in priority.

e. The place of use objection was based upon the IDWR policy that areas that are “greened up” by sub-irrigation from local groundwater or surface water sources are not irrigated within the meaning of the Idaho Water Law and should not be included in the place of use. The aerial photography appeared to demonstrate that there were substantial acreages in the claimed place of use which could only have been irrigated by sub-irrigation from topography of the property. Subsequently Claimant’s 404 wetlands mapping confirms significant acreage that is wetlands claimed in the POU, and that the claimed irrigation POU overlaps land identified as forested cover. Current estimates place the actual irrigated acreage at between 900-1000 acres.

f. Objectors are forwarding aerial mapping relied upon under separate cover.

g. The primary source of historic record of water rights use is from the water master records.

h. Buzz Peterson, Lee Peterson, Kevin Lakey, prior water masters, Bill Yager, Bill Molyneux, Bill Sherbine, Hadley Stuart and Chuck Brockway Sr., are known to have some knowledge of the delivery of water to the Sun Valley Ranch property. IDWR claims processing personnel presumably have some knowledge, including Alan Merritt and Doug Jones.

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O’GARA TO SUN VALLEY RANCH, LLC’S FIRST SET OF DISCOVERY REQUESTS TO “THE CONCERNED WATER USERS

Claimant's wetlands delineation firms and the COE have knowledge of wetlands determinations. These individuals are known to Claimant.

INTERROGATORY NO. 4: With respect to water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A, you have filed an objection asserting that:

The total volume of water rights should be limited to the historic delivery of no more than 21.81 cfs for this entire place of use. Place of use should be limited to no more than 640 acres historic use.

With respect to this objection, please:

- a. Identify each and every person who was responsible for determining that the total volume of water right should be limited to the historic delivery of no more than 21.81 cfs for the above-stated objection for water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A;
- b. Identify each and every person who was responsible for determining that the place of use should be limited to no more than 640 acres historic use for the above-stated objection for water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A;
- c. Identify all data upon which the above-stated objection was based for water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A, including, but not limited to: shape files, aerial photographs, records, individual statements, affidavits, investigations and/or opinions;
- d. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the total volume should be limited to 21.81 cfs for water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A;
- e. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the place of use should be limited to 640 acres for water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A;

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f. Identify the exact location of the 640 acre place of use to which you assert water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A should be limited;

g. Identify the source of and all facts and circumstances regarding historic use of water rights 37-63A, 37-64A, 37-66A, 37-67B and 37-68A; and

h. Identify any and all persons who you contend have knowledge of the facts and circumstances alleged in the above-stated objection and for each such person, state the basis for and state in detail the facts which you contend are known by such person.

ANSWER TO INTERROGATORY NO. 4: The water right delivery records of all the surface water rights objected to in these subcases are based on the delivery records of Blacks 61 at point of diversion. The place of use of these rights overlap.

a. The decision to file this quantity objection was based on directions from Objectors after consultation with counsel.

b. The decision to file this place of use objection was based on direction from Objectors after consultation with counsel.

c. The data relied upon for the quantity and POU objections were water master delivery records, a summary of those records, the IDWR back files for these rights, and numerous aerial photos and maps. Subsequent 404 and stream channel alteration studies by Claimant support the POU objections.

d. The water master delivery records suggest that for the period of the 1970s 21.81 cfs was delivered to the property based upon analysis after the priority cuts have been taken into account. In other words, the delivery of the 21.81 cfs was during a time when all the rights were in priority.

e. The place of use objection was based upon the IDWR policy that areas that are “greened up” by sub-irrigation from local groundwater or surface water sources are not irrigated within the meaning of the Idaho Water Law and should not be included in the place of use. The aerial photography appeared to demonstrate that there were substantial acreages in the claimed place of use which could only have been irrigated by sub-irrigation from topography of the property. Subsequently Claimant’s 404 wetlands mapping confirms significant acreage that is wetlands claimed in the POU, and that the claimed irrigation POU overlaps land identified as forested cover. Current estimates place the actual irrigated acreage at between 900-1000 acres.

f. Objectors are forwarding aerial mapping relied upon under separate cover.

g. The primary source of historic record of water rights use is from the water master records.

h. Buzz Peterson, Lee Peterson, Kevin Lakey, prior water masters, Bill Yager, Bill Molyneux, Bill Sherbine, Hadley Stuart and Chuck Brockway Sr., are known to have some knowledge of the delivery of water to the Sun Valley Ranch property. IDWR claims processing personnel have some knowledge, including Alan Merritt and Doug Jones. Claimant’s wetlands delineation firms and the COE have knowledge of wetlands determinations. These individuals are known to Claimant.

INTERROGATORY NO. 5: With respect to water rights 37-69B and 37-70, you have filed an objection asserting that:

The total volume of water rights should be limited to the historic delivery of no more than 21.81 cfs for this entire place of use. Place of use should be limited to no more than 640 acres historic use.

With respect to this objection, please:

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O’GARA TO SUN VALLEY RANCH, LLC’S FIRST SET OF DISCOVERY REQUESTS TO “THE CONCERNED WATER USERS

- a. Identify each and every person who was responsible for determining that the total volume of water right should be limited to the historic delivery of no more than 21.81 cfs for the above-stated objection for water rights 37-69B and 37-70;
- b. Identify each and every person who was responsible for determining that the place of use should be limited to no more than 640 acres historic use for the above-stated objection for water rights 37-69B and 37-70;
- c. Identify all data upon which the above-stated objection was based for water rights 37-69B and 37-70, including, but not limited to: shape files, aerial photographs, records, individual statements, affidavits, investigations and/or opinions;
- d. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the total volume should be limited to 21.81 cfs for water rights 37-69B and 37-70;
- e. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the place of use should be limited to 640 acres for water rights 37-69B and 37-70;
- f. Identify the exact location of the 640 acre place of use to which you assert water rights 37-69B and 37-70; and
- g. Identify the source and all facts and circumstances regarding historic use of water rights 37-69B and 37-70; and
- h. Identify any and all persons who you contend have knowledge of the facts and circumstances alleged in the above-stated objection and for each such person, state the basis for and state in detail the facts which you contend are known by such person.

ANSWER TO INTERROGATORY NO. 5:

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS

a. This quantity objection is a mistake. The objection was based on these rights being combined on the same POU as 37-60 et al, which is not the case. The quantity objection should be that the quantity should not exceed 1.0 to 1.5 inches per acre under this right for the final POU, depending on the duty of water for this property.

b. This POU objection was a mistake. The objection was based on these rights combined on the same POU as 37-60 et al, which is not the case. The POU objection should be the acreage should not exceed 184.6 acres, less the sub-irrigated property and the wetlands and existing forested cover shown on Claimant's 404 and stream channel alteration documents.

c. The data relied upon for the quantity and POU objections were water master delivery records, a summary of those records, the IDWR back files for these rights, and numerous aerial photos and maps. Subsequent 404 and stream channel alteration studies by Claimant support the POU objections.

d. See 5(a) and 5(b) above.

e. The place of use objection was based upon the IDWR policy that areas that are "greened up" by sub-irrigation from local groundwater or surface water sources are not irrigated within the meaning of the Idaho Water Law and should not be included in the place of use. The aerial photography appeared to demonstrate that there were substantial acreages in the claimed place of use which could only have been irrigated by sub-irrigation from topography of the property. Subsequently Claimant's 404 wetlands mapping confirms significant acreage that is wetlands claimed in the POU, and that the claimed irrigation POU overlaps land identified as forested cover. Current estimates place the actual irrigated acreage at between 900-1000 acres.

f. Objectors are forwarding aerial mapping relied upon under separate cover.

g. The primary source of historic record of water rights use is from the water master records.

h. Buzz Peterson, Lee Peterson, Kevin Lakey, prior water masters, Bill Yager, Bill Molyneux, Bill Sherbine, Hadley Stuart and Chuck Brockway Sr., are known to have some knowledge of the delivery of water to the Sun Valley Ranch property. IDWR claims processing personnel presumably have some knowledge, including Alan Merritt and Doug Jones. Claimant's wetlands delineation firms and the COE have knowledge of wetlands determinations. These individuals are known to Claimant.

INTERROGATORY NO. 6: With respect to water right 37-71B, you have filed an objection asserting that:

The total volume of water rights should be limited to the historic delivery of no more than 21.81 cfs for this entire place of use. Place of use should be limited to no more than 640 acres historic use.

With respect to this objection, please:

a. Identify each and every person who was responsible for determining that the total volume of water right should be limited to the historic delivery of no more than 21.81 cfs for the above-stated objection for water right 37-71B;

b. Identify each and every person who was responsible for determining that the place of use should be limited to no more than 640 acres historic use for the above-stated objection for water right 37-71B;

c. Identify all data upon which the above-stated objection was based for water right 37-71B, including, but not limited to: shape files, aerial photographs, records, individual statements, affidavits, investigations and/or opinions;

d. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the total volume should be limited to 21.81 cfs for water right 37-71B;

e. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the place of use should be limited to 640 acres for water right 37-71B;

f. Identify the exact location of the 640 acre place of use to which you assert water right 37-71B should be limited;

g. Identify the source and all facts and circumstances regarding historic use of water right 37-71B; and

h. Identify any and all persons who you contend have knowledge of the facts and circumstances alleged in the above-stated objection and for each such person, state the basis for and state in detail the facts which you contend are known by such person.

ANSWER TO INTERROGATORY NO. 6:

a. This quantity objection is a mistake. The objection was based on these rights being combined on the same POU as 37-60 et al, which is not the case. The quantity objection should be that the quantity should not exceed 1.0 to 1.5 inches per acre under this right for the final POU depending on the duty of water for this property.

b. This POU objection was a mistake. The objection was based on these rights combined on the same POU as 37-60 et al, which is not the case. The POU objection should be the acreage should not exceed 184.6 acres, less the sub-irrigated property and the wetlands and existing forested cover shown on Claimant's 404 and stream channel alteration documents.

- c. The data relied upon for the quantity and POU objections were water master delivery records, a summary of those records, the IDWR back files for these rights, and numerous aerial photos and maps. Subsequent 404 and stream channel alteration studies by Claimant support the POU objections.
- d. See 6(a) and 6(b) above.
- e. The place of use objection was based upon the IDWR policy that areas that are “greened up” by sub-irrigation from local groundwater or surface water sources are not irrigated within the meaning of the Idaho Water Law and should not be included in the place of use. The aerial photography appeared to demonstrate that there were substantial acreages in the claimed place of use which could only have been irrigated by sub-irrigation from topography of the property. Subsequently Claimant’s 404 wetlands mapping confirms significant acreage that is wetlands claimed in the POU, and that the claimed irrigation POU overlaps land identified as forested cover. Current estimates place the actual irrigated acreage at between 900-1000 acres.
- f. Objectors are forwarding aerial mapping relied upon under separate cover.
- g. The primary source of historic record of water rights use is from the water master records.
- h. Buzz Peterson, Lee Peterson, Kevin Lakey, prior water masters, Bill Yager, Bill Molyneux, Bill Sherbine, Hadley Stuart and Chuck Brockway Sr., are known to have some knowledge of the delivery of water to the Sun Valley Ranch property. IDWR claims processing personnel presumably have some knowledge, including Alan Merritt and Doug Jones. Claimant’s wetlands delineation firms and the COE have knowledge of wetlands determinations. These individuals are known to Claimant.

INTERROGATORY NO. 7: With respect to water rights 37-230, 37-231B, and 37-232, you have filed an objection asserting that:

The total volume of water rights should be limited to the historic delivery of no more than 21.81 cfs for this entire place of use. Place of use should be limited to no more than 640 acres historic use.

With respect to this objection, please:

- a. Identify each and every person who was responsible for determining that the total volume of water right should be limited to the historic delivery of no more than 21.81 cfs for the above-stated objection for water rights 37-230, 37-231B, and 37-232;
- b. Identify each and every person who was responsible for determining that the place of use should be limited to no more than 640 acres historic use for the above-stated objection for water rights 37-230, 37-231B, and 37-232;
- c. Identify all data upon which the above-stated objection was based for water rights 37-230, 37-231B, and 37-232, including, but not limited to: shape files, aerial photographs,
- d. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the total volume should be limited to 21.81 cfs for water rights 37-230, 37-231B, and 37-232;
- e. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the place of use should be limited to 640 acres for water rights 37-230, 37-231B, and 37-232;
- f. Identify the exact location of the 640 acre place of use to which you assert water rights 37-230, 37-231B, and 37-232 should be limited;
- g. Identify the source and all facts and circumstances regarding historic use of water rights 37-230, 37-231B, and 37-232; and

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h. Identify any and all persons who you contend have knowledge of the facts and circumstances alleged in the above-stated objection and for each such person, state the basis for and state in detail the facts which you contend are known by such person.

ANSWER TO INTERROGATORY NO. 7: The water right delivery records of all the surface water rights objected to in these subcases are based on the delivery records of Blacks 61 at point of diversion. The place of use of these rights overlap.

a. The decision to file this quantity objection was based on directions from Objectors after consultation with counsel.

b. The decision to file this place of use objection was based on direction from Objectors after consultation with counsel.

c. The data relied upon for the quantity and POU objections were water master delivery records, a summary of those records, the IDWR back files for these rights, and numerous aerial photos and maps. Subsequent 404 and stream channel alteration studies by Claimant support the POU objections.

d. The water master delivery records suggest that for the period of the 1970s 21.81 cfs was delivered to the property based upon analysis after the priority cuts have been taken into account. In other words, the delivery of the 21.81 cfs was during a time when all the rights were in priority.

e. The place of use objection was based upon the IDWR policy that areas that are “greened up” by sub-irrigation from local groundwater or surface water sources are not irrigated within the meaning of the Idaho Water Law and should not be included in the place of use. The aerial photography appeared to demonstrate that there were substantial acreages in the claimed place of use which could only have been irrigated by sub-irrigation from topography of the

property. Subsequently Claimant's 404 wetlands mapping confirms significant acreage that is wetlands claimed in the POU, and that the claimed irrigation POU overlaps land identified as forested cover. Current estimates place the actual irrigated acreage at between 900-1000 acres.

f. Objectors are forwarding aerial mapping relied upon under separate cover.

g. The primary source of historic record of water rights use is from the water master records.

h. Buzz Peterson, Lee Peterson, Kevin Lakey, prior water masters, Bill Yager, Bill Molyneux, Bill Sherbine, Hadley Stuart and Chuck Brockway Sr., are known to have some knowledge of the delivery of water to the Sun Valley Ranch property. IDWR claims processing personnel presumably have some knowledge, including Alan Merritt and Doug Jones. Claimant's wetlands delineation firms and the COE have knowledge of wetlands determinations. These individuals are known to Claimant.

INTERROGATORY NO. 8: With respect to water right 37-577AZ, you have filed an objection asserting that:

The total volume of water rights should be limited to the historic delivery of no more than 21.81 cfs for this entire place of use. Place of use should be limited to no more than 640 acres historic use.

With respect to this objection, please:

a. Identify each and every person who was responsible for determining that the total volume of water right should be limited to the historic delivery of no more than 21.81 cfs for the above-stated objection for water right 37-577AZ;

b. Identify each and every person who was responsible for determining that the place of use should be limited to no more than 640 acres historic use for the above-stated objection for water right 37-577AZ;

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c. Identify all data upon which the above-stated objection was based for water right 37-577AZ, including, but not limited to: shape files, aerial photographs, records, individual statements, affidavits, investigations and/or opinions;

d. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the total volume should be limited to 21.81 cfs for water right 37-577AZ;

e. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the place of use should be limited to 640 acres for water right 37-577AZ;

f. Identify the exact location of the 640 acre place of use to which you assert water right 37-577AZ should be limited;

g. Identify the source and all facts and circumstances regarding historic use of water right 37-577AZ; and

h. Identify any and all persons who you contend have knowledge of the facts and circumstances alleged in the above-stated objection and for each such person, state the basis for and state in detail the facts which you contend are known by such person.

ANSWER TO INTERROGATORY NO. 8: The water right delivery records of all the surface water rights objected to in these subcases are based on the delivery records of Blacks 61 at point of diversion. The place of use of these rights overlap.

a. The decision to file this quantity objection was based on directions from Objectors after consultation with counsel.

b. The decision to file this place of use objection was based on direction from Objectors after consultation with counsel.

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS

c. The data relied upon for the quantity and POU objections were water master delivery records, a summary of those records, the IDWR back files for these rights, and numerous aerial photos and maps. Subsequent 404 and stream channel alteration studies by Claimant support the POU objections.

d. The water master delivery records suggest that for the period of the 1970s 21.81 cfs was delivered to the property based upon analysis after the priority cuts have been taken into account. In other words, the delivery of the 21.81 cfs was during a time when all the rights were in priority.

e. The place of use objection was based upon the IDWR policy that areas that are “greened up” by sub-irrigation from local groundwater or surface water sources are not irrigated within the meaning of the Idaho Water Law and should not be included in the place of use. The aerial photography appeared to demonstrate that there were substantial acreages in the claimed place of use which could only have been irrigated by sub-irrigation from topography of the property. Subsequently Claimant’s 404 wetlands mapping confirms significant acreage that is wetlands claimed in the POU, and that the claimed irrigation POU overlaps land identified as forested cover. Current estimates place the actual irrigated acreage at between 900-1000 acres.

f. Objectors are forwarding aerial mapping relied upon under separate cover.

g. The primary source of historic record of water rights use is from the water master records.

h. Buzz Peterson, Lee Peterson, Kevin Lakey, prior water masters, Bill Yager, Bill Molyneux, Bill Sherbine, Hadley Stuart and Chuck Brockway Sr., are known to have some knowledge of the delivery of water to the Sun Valley Ranch property. IDWR claims processing personnel presumably have some knowledge, including Alan Merritt and Doug Jones.

Claimant's wetlands delineation firms and the COE have knowledge of wetlands determinations. These individuals are known to Claimant.

INTERROGATORY NO. 9: With respect to water right 37-2492, you have filed an objection asserting that:

The total volume of water rights should be limited to the historic delivery of no more than 21.81 cfs for this entire place of use. Place of use should be limited to no more than 640 acres historic use.

With respect to this objection, please:

a. Identify each and every person who was responsible for determining that the total volume of water right should be limited to the historic delivery of no more than 21.81 cfs for the above-stated objection for water right 37-2492;

b. Identify each and every person who was responsible for determining that the place of use should be limited to no more than 640 acres historic use for the above-stated objection for water right 37-2492;

c. Identify all data upon which the above-stated objection was based for water right 37-2492, including, but not limited to: shape files, aerial photographs, records, individual statements, affidavits, investigations and/or opinions;

d. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the total volume should be limited to 21.81 cfs for water right 37-2492;

e. State in complete detail and with particularity each and every basis, fact, reason, theory, criteria and document upon which you assert that the place of use should be limited to 640 acres for water right 37-2492;

f. Identify the exact location of the 640 acre place of use to which you assert water right 37-2492 should be limited;

g. Identify the source of and all facts and circumstances regarding historic use of water right 37-2492; and

h. Identify any and all persons who you contend have knowledge of the facts and circumstances alleged in the above-stated objection and for each such person, state the basis for and state in detail the facts which you contend are known by such person.

ANSWER TO INTERROGATORY NO. 9: The water right delivery records of all the surface water rights objected to in these subcases are based on the delivery records of Blacks 61 at point of diversion. The place of use of these rights overlap.

a. The decision to file this quantity objection was based on directions from Objectors after consultation with counsel.

b. This objection should be read to say that the place of use for this right should be 118.5 acres, less wetlands and sub-irrigated property, and when combined with all other property in the combined POU should not exceed a total irrigated acreage, now estimated at between 900-1000 acres.

c. The data relied upon for the quantity and POU objections were water master delivery records, a summary of those records, the IDWR back files for these rights, and numerous aerial photos and maps. Subsequent 404 and stream channel alteration studies by Claimant support the POU objections.

d. The water master delivery records suggest that for the period of the 1970s 21.81 cfs was delivered to the property based upon analysis after the priority cuts have been taken into

account. In other words, the delivery of the 21.81 cfs was during a time when all the rights were in priority.

e. The place of use objection was based upon the IDWR policy that areas that are “greened up” by sub-irrigation from local groundwater or surface water sources are not irrigated within the meaning of the Idaho Water Law and should not be included in the place of use. The aerial photography appeared to demonstrate that there were substantial acreages in the claimed place of use which could only have been irrigated by sub-irrigation from topography of the property. Subsequently Claimant’s 404 wetlands mapping confirms significant acreage that is wetlands claimed in the POU, and that the claimed irrigation POU overlaps land identified as forested cover. Current estimates place the actual irrigated acreage at between 900-1000 acres.

f. Objectors are forwarding aerial mapping relied upon under separate cover.

g. The primary source of historic record of water rights use is from the water master records.

h. Buzz Peterson, Lee Peterson, Kevin Lakey, prior water masters, Bill Yager, Bill Molyneux, Bill Sherbine, Hadley Stuart and Chuck Brockway Sr., are known to have some knowledge of the delivery of water to the Sun Valley Ranch property. IDWR claims processing personnel have some knowledge, including Alan Merritt and Doug Jones. Claimant’s wetlands delineation firms and the COE have knowledge of wetlands determinations. These individuals are known to Claimant.

INTERROGATORY NO. 10: Identify any experts or consultants with whom you, your attorneys or any of your representatives have communicated, consulted or conversed in connection with this action. This interrogatory is directed to any and all experts or consultants,

regardless of the particular matter with which they are concerned. In conjunction with this interrogatory, also state:

- a. The business address of each such person, and the name of any business entity with which each person is associated or affiliated;
- b. The person's profession, education, background, training and specific area of knowledge;
- c. The date or dates each such person was contacted;
- d. If any such person has rendered a report, the date of each report, indicating whether such report was written or oral;
- e. The name and address of the person or firm who has present custody or control of any such reports; and
- f. Precisely what evidence, physical or otherwise, was provided to each such person.

ANSWER TO INTERROGATORY NO. 10: Objectors have engaged Dr. Wendy Pabich, Water Futures Inc., as a hydrology consultant and Nathan Welch, Earth Made Simple, P.O. Box 3203, Hailey, Idaho 83333 as a consultant on preparing GIS mapping in connection with these subcases. Objectors object to the second sentence of this Interrogatory which appears to assert that is directed to all experts or consultants of objectors regardless of the particular “matter” in which they are concerned. Objectors are responding only with respect to the consulting experts consulted regarding the objections to Sun Valley Ranch’s Water Right claims which are the subject of these subcases. Dr. Pabich’s resume is attached. At this time, it has not been determined whether or not Dr. Pabich or Mr. Welch will be called as expert witnesses in this matter. Currently, they are consulting experts. Under Rule 26(B)(4)(b), a party may not discover facts known or opinions held by an expert who has been retained or specifically

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employed by another party in anticipation of litigation or preparation of trial and is not expected to be called as a witness at trial. Accordingly, under Rule 26(B)(4)(b), Objectors object to providing further information concerning the work of these consulting experts until such time as a determination is made that they will be designated as trial witnesses.

INTERROGATORY NO. 11: Identify the name and address of each person who you expect to call as an expert witness at the trial, for each such person, state the subject matter on which the expert is expected to testify, and state the substance of the opinions to which that person is expected to testify and the facts upon which those opinions are based.

ANSWER TO INTERROGATORY NO. 11: At this time, Objectors have not determined who will be called as expert witnesses at trial. This answer will be supplemented in accordance with the trial scheduling order.

INTERROGATORY NO. 12: Identify each person who you expect to call as a witness at the trial of this matter, and, for each such person, state the subject matter on which the witness is expected to testify, and state the substance to which that person is expected to testify and the facts upon which said testimony is based.

ANSWER TO INTERROGATORY NO. 12: Trial witness may include these persons identified in Answer to Interrogatory No. 3(h). At this time, Objectors have not identified who will be called as a witness at trial of this matter. This answer will be supplemented when such determinations have been made or in accordance with any scheduling order from the Court.

INTERROGATORY NO. 13: If you contend that SVR has forfeited any of its Water Rights in full or in part, for this contention identify the basis, including all facts and circumstances supporting the contention.

ANSWER TO INTERROGATORY NO. 13: Objectors' objections that the Sun Valley Ranch water rights have been forfeited in part is based upon the doctrine of partial forfeiture. To the extent that Sun Valley Ranch has not put the water rights in full to beneficial use for more than five years prior to the institution of the SRBA or the filing of claims by Claimant in the SRBA, the rights are subject to partial forfeiture. This contention is based upon the summary of water right delivery records produced herewith.

INTERROGATORY NO. 14: State whether you, your agents, employees, or representatives, have obtained any written or recorded statements from anyone concerning the subject matter of your objections. If so, please state the names of the persons from whom statements were taken, the name of the person obtaining the statement, and the present custodian of such statement.

ANSWER TO INTERROGATORY NO. 14: Other than notes of counsel, Objectors have not obtained any written or recorded statements. Objectors object to the production of counsel's notes as protected by the attorney-client and work-product privileges.

INTERROGATORY NO. 15: If you contend that the water master's delivery logs regarding SVR's Water Rights are inaccurate or contain erroneous information, for this contention describe in detail all facts and circumstances supporting this contention.

ANSWER TO INTERROGATORY NO. 15: See Response to Request for Admission No. 7.

INTERROGATORY NO. 16: Identify any and all documents referred to or relied upon in responding to SVR's first set of discovery.

ANSWER TO INTERROGATORY NO. 16: Water master delivery records summary, aerial photography.

REQUESTS FOR PRODUCTION

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS

REQUEST FOR PRODUCTION NO. 1: All documents identified in your response to SVR's First Set of Interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: The summary of water master delivery records is attached. The aerial photography is being forwarded under separate cover. Objectors are not reproducing the IDWR back files, or Claimant's own 404 and stream channel alteration studies, as those documents are equally available to Claimant's as to Objectors.

REQUEST FOR PRODUCTION NO. 2: Any and all documents reflecting communications between each and every individual CWU and IDWR, its representatives, agents and employees, and any other entity concerning SVR including letters, memos, emails, text messages, and any other form of written or electronic communication.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objectors are not aware of such communications with IDWR other than formal filings with the IDWR or SRBA court concerning Sun Valley Ranch Water Rights.

REQUEST FOR PRODUCTION NO. 3: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 1.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 4: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 2.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO 5: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 3.

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 6: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 4.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 7: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 5.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 8: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 6.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 9: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 7.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 10: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: See Response to Request to Production No. 1.

REQUEST FOR PRODUCTION NO. 11: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 9.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 12: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 10.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 13: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 14: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 12.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 15: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 13.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 16: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 14.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 17: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 15.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 18: Produce all documents that reflect, refer, or relate to your answer to Interrogatory 16.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 19: Produce all documents that you intend to introduce at trial.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19: See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 20: Produce all documents that reflect, refer, or relate in any way to your objections to SVR's water rights.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20: See Response to Request for Production No. 1.

DATED this ____ day of August, 2009.

BARKER ROSHOLT & SIMPSON LLP



Albert P. Barker

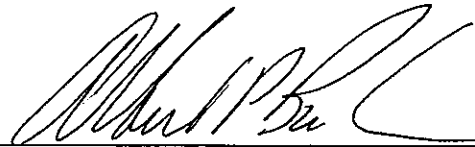
Attorney for Gerald Bashaw, Grace Eakin, John Stevenson,
Pepin Corso-Harris, Pete Van Der Meulen, Rocky Sherbine,
and Tom O'Gara

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of August, 2009, I mailed the original and copies of the **RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA, ALSO KNOWN AS "THE CONCERNED WATER USERS"** to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

Kirstin K. Dutcher
Lawson Laski Clark & Pogue PLLC
675 Sun valley Road, Suite A
P. O. Box 3310
Ketchum, ID 83340

Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front Street, 6th Floor
P. O. Box 83720
Boise, ID 83720-00098



Albert P. Barker

RESPONSE OF GERALD BASHAW, GRACE EAKIN, JOHN STEVENSON, PEPIN CORSO-HARRIS, PETE VAN DER MEULEN, ROCKY SHERBINE, AND TOM O'GARA TO SUN VALLEY RANCH, LLC'S FIRST SET OF DISCOVERY REQUESTS TO "THE CONCERNED WATER USERS"

			1 col		1 row (w/)	Priority	1 row (w/)	Priority	1 row (w/)	
61	Black's	E. Hadley Stuart Jr.	1970	2878.00	9/29/1970	164	17.55			
61	Black's	E. Hadley Stuart Jr.	1971	2982.00	--	196	15.21			
61	Black's	E. Hadley Stuart Jr.	1972	3361.00	--	196				
61	Black's	E. Hadley Stuart Jr.	1973	2594.00	8/22/1973	183				reinstated 9/5/1973
61-61A	Black's	E. Hadley Stuart Jr.	1974	2206.00	--	196				
61-61A	Black's	E. Hadley Stuart Jr.	1975	2334.00	--	196				
61-61A	Black's	E. Hadley Stuart Jr.	1976	2504.00	--	196				
61-61A	Black's	E. Hadley Stuart Jr.	1977	3325.20	8/15/1977	120	27.71			
61-61A	Black's	E. Hadley Stuart Jr.	1978	2772.00	8/8/1979	191	14.51			reinstated 8/13/1979
61-61A	Black's	E. Hadley Stuart Jr.	1979	3310.00	--	196	16.89			
61-61A	Black's	E. Hadley Stuart Jr.	1980	3342.00	--	196	17.05			
61-61A	Black's	E. Hadley Stuart Jr.	1981	3300.00	8/26/1981	131	25.19			
61-64	Black's/Flood	E. Hadley Stuart Jr.	1982	4110.00	--	196	20.97			27.40
61-64	Black's/Flood	E. Hadley Stuart Jr.	1983	2579.00	9/10/1983	145	17.79			137
61-64	Black's/Flood	E. Hadley Stuart Jr.	1984	6866.00	8/21/1984	126	54.49			131
61-64	Black's/Flood	E. Hadley Stuart Jr.	1985	4842.00	7/19/1985	146	33.16			136
61-64	Black's/Flood	E. Hadley Stuart Jr.	1986	3432.00	--	196	17.51			139
61-64	Black's/Flood	E. Hadley Stuart Jr.	1987	2019.00	8/18/1987	123	16.41			166
61-64	Black's/Flood	E. Hadley Stuart Jr.	1988	2223.70	7/19/1988	94	23.66			179
61-64	Black's/Flood	E. Hadley Stuart Jr.	1989	3252.00	8/3/1989	108	30.11			159
61-64	Black's/Flood	E. Hadley Stuart Jr.	1990	3396.00	7/30/1990	105	32.34			181
61-64	Black's/Flood	E. Hadley Stuart Jr.	1991	3779.00	8/12/1991	117	32.30			181
61-64	Black's/Flood	E. Hadley Stuart Jr.	1992	3673.00	7/14/1992	89	41.27			124
61-64	Black's/Flood	E. Hadley Stuart Jr.	1993	3208.00	--	196	16.37			
61-64	Black's/Flood	E. Hadley Stuart Jr.	1994	2772.00	7/4/1994	76	36.47			112
61	Black's	E. Hadley Stuart Jr.	1995	3191.20	--	196				24.75
61	Black's	E. Hadley Stuart Jr.	1996	3249.40	--	196				
61	Black's	E. Hadley Stuart Jr.	1997	3203.06	--	196				
61	Black's	E. Hadley Stuart Jr.	1998	3499.00	--	196				
61	Black's	E. Hadley Stuart Jr.	1999	4705.00	--	196				
61	Black's	E. Hadley Stuart Jr.	2000	4689.00	7/26/2000	101	46.43			
61	Black's	E. Hadley Stuart Jr.	2001	3206.00	7/30/2001	105	30.53			
61	Black's	E. Hadley Stuart Jr.	2002	5159.00	7/31/2002	106	48.67			
61	Black's	E. Hadley Stuart Jr.	2003	5704.00	8/11/2003	116	49.17			
61	Black's	E. Hadley Stuart Jr.	2004	6507.00	7/31/2004	106	61.39			
61	Black's	E. Hadley Stuart Jr.	2005	6062.80	8/12/2005	117	51.82			
61	Black's	E. Hadley Stuart Jr.	2006	4149.00	--	196	21.17			

claim date for 37-61 and 37-70

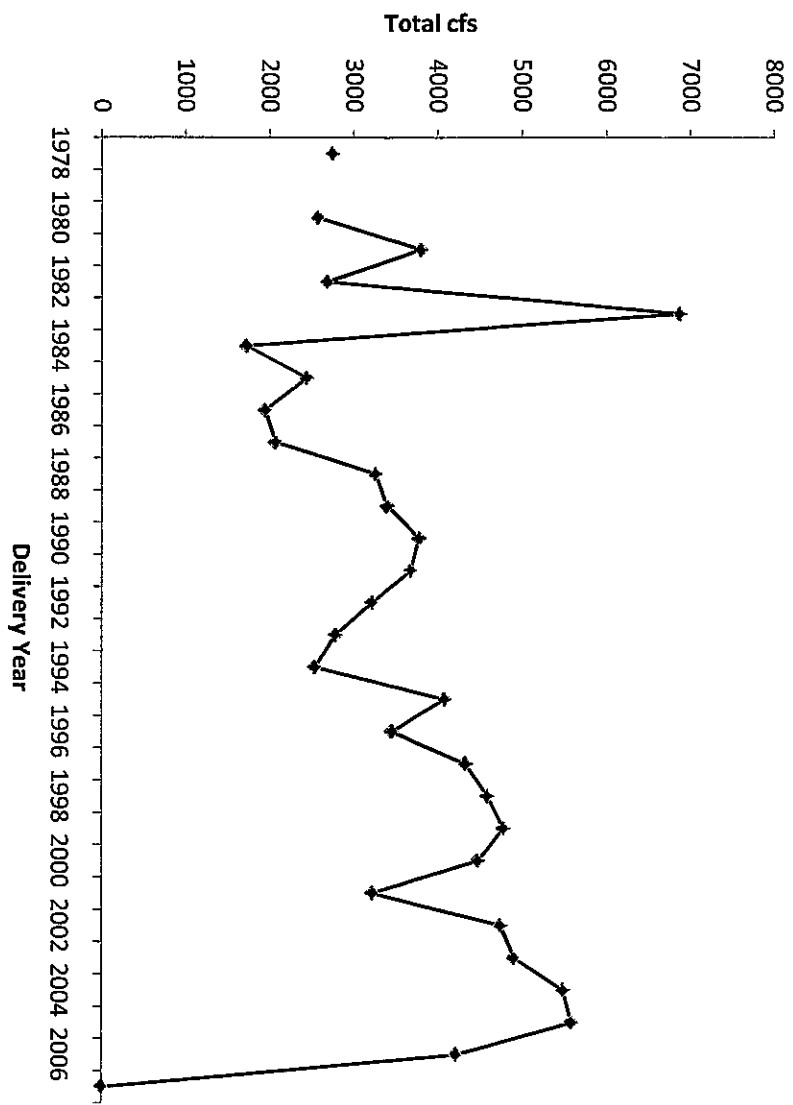
reinstated 9/9/1985

reinstated 8/13/1979

reinstated 9/5/1973

1

year	yearly cfs	yearly acre feet	total number of days	daily mean cfs	priority	cut
1978	2744.7	5444	173 *	15.9		*added by hand
1979						
1980	2568.4 *	5095	132 *	41.6		
1981	3803 *	7543.1	163 *	23.3		
1982	2679 *	5313.1	150 *	17.9		
1983	6866	13619 *	137	47		
1984	1728	3427	129 *	13		
1985	2432	4864 *	136 *	18		
1986	1945	3858	139	14		
1987	2064	4128	166	12		
1988	3252	6450.02	179	18.17		3394 = total 24hr cfs
1989	3394	6736	159	21		
1990	3779	7495	181	21.4		
1991	3673	7273	181	20		
1992	3208	6352	124	26		
1993	2772	5489	171	16		
1994	2524	4997.52	112	23		
1995	4070	8058.6	152	27		
1996	3444	6819.12	140	25		
1997	4315	8544	144	30		
1998	4572	9053	146	31		
1999	4765	9435	129	37		
2000	4457	8825	152	29		
2001	3206	6348	138	23		
2002	4728	9361	157	30		
2003	4888	9678	183	27		
2004	5462	10815	181	30		
2005	5558	11005	178	31		
2006	4199	8314	140	30		
2007	0	0	0	0		



WENDY J. PABICH, Ph.D.

P.O. Box 3814
Hailey, ID 83333
(208) 788-6097
wjpabich@gmail.com

EXPERTISE AND INTERESTS

Research, field studies, teaching and consulting in water resources, water and wastewater planning, water rights, watershed dynamics, coastal and marine ecology and management, nutrient biogeochemistry, groundwater, environmental policy and planning; skiing, mountain biking, backpacking, traveling, painting and writing.

EDUCATION

Ph.D. Environmental Engineering, Parsons Water Resource Laboratory, Massachusetts Institute of Technology, 2001
M.S. Urban Studies & Planning, Massachusetts Institute of Technology, 1995
M.S. Geology, Duke University, 1995
B.A. Geography (*cum laude*), Dartmouth College, 1988

CERTIFICATIONS

Wilderness First Responder (80 hr), Wilderness Medicine Institute
Level 1 Avalanche Training, American Avalanche Association
Open Water Diver, PADI

RELEVANT EXPERIENCE

Independent Consultant, Hailey, Idaho.

Providing technical and policy consulting services related to water and wastewater issues, including evaluating nutrient chemistry and management issues for a waste-to-energy firm specializing in methane production from dairies; conducting water rights investigations; providing water policy guidance to governing bodies; working as an independent technical expert for County P&Z and Commissioners to evaluate water and wastewater components of development proposals; and performing water quality assessments and avalanche studies. Responsibilities have included designing studies, building and managing teams of researchers, project management and public presentations.

Co-Instructor, Sierra Institute Himalayan Field Studies Program, Ladakh, India (Fall Semester 2005). Undergraduate field courses in natural history, sustainable development, wilderness skills and environmental education. Course included extended backpacking through remote Himalayan terrain.

Advisor, The Wild Gift, Sun Valley, Idaho. Advisor to non-profit organization providing outstanding youth a compelling experience in deep wilderness and supporting their commitment to a one-year, self-designed leadership project that will advance wildlands stewardship and the development of sustainable human community and lifestyle. Participated as an advisor on a three-week educational backpacking and river rafting adventure in the Wrangell St. Elias National Park in Alaska (summer 2003), and in the Boulder/White Clouds (summer 2006).

Currently mentoring student working on sustainable design in urban housing projects (www.wildgift.org).

Lecturer, MIT Department of Civil and Environmental Engineering and Project Supervisor, Big and Little Wood River Watershed Nitrogen Loading Assessment, Blaine County, Idaho. Designed and taught year-long project course and supervised three Masters of Engineering theses. Project focused on assessing nitrogen loading to two Idaho watersheds and included development of land use-based mass balance GIS model of nitrogen loads and transport, design and evaluation of appropriate management strategies, e.g., nutrient trading and agricultural best management practices (BMPs), and public outreach and education (<http://ceemeng.mit.edu/~Idaho/index.html>).

Co-Director, Wood River Valley Watershed Project, Hailey, Idaho. Co-initiator, organizer and fundraiser for a study of water quantity and quality in the Wood River Valley, initiated in response to burgeoning development pressure in the valley. The goal of the \$750,000 project is to better understand the limitations of our water resources for future development, how surface and groundwater are being impacted by changing land uses, and to provide a scientific basis for policy and planning tools. The project will be undertaken in collaboration with the US Geological Survey and will synthesize existing hydrologic studies, identify gaps in data and understanding of issues related to water quantity and quality, and develop a series of research projects, including field measurement and modeling, designed to answer residual technical questions (http://id.water.usgs.gov/projects/wood_river_valley/index.html).

Project Manager and Scientist, Winsegansett Marsh Restoration Feasibility Assessment, Fairhaven, Massachusetts. Managed NOAA hydrological enhancement and *Phragmites* control project. Scientific responsibilities include study design, fieldwork, analysis and project engineering; management responsibilities include client interface, budgeting, staff and subcontractor oversight, and overall project direction.

Project Manager and Scientist, Massachusetts Marine Beach Bacteria Project. The purpose of this project was to identify bacterial sources at each of three beaches and to provide recommendations for reducing bacterial loads. This included developing a Quality Assurance Project Plan (QAPP) conducting sanitary surveys and developing a bacterial sampling plan for each site in order to assess the sources and magnitudes of bacterial pollutant load. Scientific responsibilities include study design, fieldwork, and analysis; management responsibilities include client interface, budgeting, and overall project direction.

Hydrologist, Development of Methodology to Assess Natural Resource Damages (NRD) to Groundwater. Provided technical input and direction for two states designing methodologies to assess natural resource damages (NRD) to groundwater.

Technical Lead, Conestoga Nutrient Trading Pilot Program, Pennsylvania. Lead Data Needs Committee for a large, multi-institutional project aimed at developing a pilot nutrient trading program for the state of Pennsylvania. Designed and managed development of GIS tool to estimate watershed nitrogen loads and transport in order to identify and prioritize potential nutrient trading partners, and to evaluate potential for implementation of agricultural best management practice (BMPs). Participated in programmatic design, policy development and public outreach efforts.

Scientist, Evaluation of Nitrogen Reduction Opportunities Under U.S. Farm Bill.

Synthesized existing data on recommended fertilizer application rates for heavily agricultural states and evaluated relationship between application rate and yield in order to recommend policy options for reducing synthetic fertilizer use nationally. Analyzed possible changes to recommended application rates and use of risk management tools, precision agriculture and best management practices as potential policy avenues.

Scientific Panel Participant, Development of Proposed EPA Nutrient Criteria. Evaluated and commented on EPA draft technical guidance documents for National Nutrient Criteria Program. Participated in science panel for EPA public hearing.

Co-author. Historical, Present and Future Assessment of Nitrogen Use in the U.S.

Evaluated nitrogen inputs to and exports from the US from human activity from 1961 to present and projected nitrogen use through 2030. Inputs analyzed included use of inorganic nitrogen fertilizer, emissions of NO_x from fossil-fuel combustion, and nitrogen fixation in agricultural systems. Riverine transport to coastal oceans, nitrogen exports in food and feed, and atmospheric advection to the oceans were the primary export pathways evaluated. Assessed impact of possible future changes in diet or agricultural practices on nitrogen fluxes.

Consultant, Cape Cod Nutrient Loading Study. Reviewed and compared several nitrogen loading models and subsequent estuarine response methods for development of critical load assessment for three shallow embayments on Cape Cod, Massachusetts.

Consultant, Eel River Watershed Association. Provided technical review and testimony related to nitrogen loading modeling and riverine response, environmental impact assessment, and permit conditions, including groundwater monitoring plans, for a proposed 1,800 home subdivision and wastewater treatment facility.

Consultant, Review of Effluent Trading in Watersheds. Reviewed states' experiences with effluent trading in watersheds and synthesized requirements for successful program development.

Graduate Researcher. Measurement and Modeling of Denitrification in Groundwater, Cape Cod. Designed and implemented field-based research project to evaluate the rate of denitrification of anthropogenically-derived nitrogen in groundwater from fertilizer, atmospheric deposition, and septic waste, and to assess the role of nitrate and dissolved organic carbon (DOC) as controls on denitrification rate using stoichiometry and stable isotopes of nitrogen. Investigated the relationship between vadose thickness and DOC in order to predictively model groundwater DOC concentrations. Developed kinetics model to predict groundwater denitrification rates. Significant field and analytical laboratory work included designing, constructing, installing and sampling several fields of multi-level groundwater sampling wells, optimizing methods for measurement of low level nitrate and ammonium, and developing methods for analysis of N₂/Ar by gas chromatography in aqueous samples.

Graduate Researcher. Analysis of Hydrothermally-Generated Electricity in the U.S.

Analyzed extraction technology, market opportunities, and regulatory framework of domestic hydrothermal industry for U.S. Department of Energy, Geothermal Division.

Graduate Researcher. Sedimentological Study of Beach Replenishment, Revere Beach, Massachusetts. Designed and implemented field-based research project to evaluate sediment

transport mechanics of a beach replenishment project. Collected and analyzed sedimentology of nearshore and beach samples to estimate transport pathways, evaluated beach profiles to estimate erosion and deposition rates, and successfully correlated transport pathways with theoretical model of transport on a log-spiral beach.

PUBLICATIONS AND MANUSCRIPTS

Bowman JL, Kroeger KD, Tomasky G, Pabich WJ, Cole ML, Carmichael RH and I Valiela. (2007) A review of land-sea coupling by groundwater discharge to New England estuaries: Mechanisms and effects. *Applied Geochemistry* 22 (2007):175-191

Colman JA, Masterson, Pabich WJ & Walter DA (2004) Effects of aquifer travel time on nitrogen transport to a coastal embayment. *Ground Water* 42(7):1069-1078.

Howarth RW, Boyer EW & Pabich WJ. (2002) Nitrogen Use in the United States from 1961 – 2000 and Potential Future Trends. *Ambio* 31:88-96.

Pabich WJ, Hemond HF & Valiela I (accepted). Denitrification rates in groundwater, Cape Cod, USA: Control by nitrate and DOC concentrations. *Biogeochemistry*.

Pabich WJ and Susskind L. (1995). Chemco, Inc. Role Simulation. Program on Negotiation at Harvard Law School. Copyright President and Fellows of Harvard College.

Pabich WJ, Valiela I & Hemond HF (2001). Relationship between DOC concentration and vadose zone thickness and depth below water table in groundwater of Cape Cod, U.S.A. *Biogeochemistry*. 55: 247-268.

Valiela I, Bowen JD, Cole ML, Kroeger KD, Lawrence D, Pabich WJ, Tomasky G & Mazzilli S. 2001. Following up on a Margalevian concept: Interactions and exchanges among adjacent parcels of coastal landscapes. In: J.M. Gill, J.L. Pretus and T.T. Packard (eds.), *A Marine Science Odyssey into the 21st Century*. Scientia Marina 65 (Suppl. 2): 217-231.

Valiela I, Bowen J., Pabich WJ, Tomasky G, Kroeger K, M Cole and RH Carmichael (in revision) Land-estuary couplings by groundwater discharge: Mechanisms and effects. *Ground Water*.

Westgate EJ, Kroeger KD, Pabich WJ & Valiela I. 2000. Fate of anthropogenic nitrogen in a nearshore Cape Cod aquifer. *Biological Bulletin* 199:221-223.

PRESENTATIONS

Howarth RW, Boyer EW & Pabich WJ. October 16, 2001. The Nation's Nitrogen Story. N2001 The Second International Nitrogen Conference. Potomac, MD.

Pabich WJ, Hemond HF & Valiela I. July 24, 2001. Denitrification rates in groundwater, Waquoit Bay watershed, Cape Cod, MA: Control by nitrate and DOC concentrations (poster presentation). Gordon Conference. Forested Catchments: Hydrological, Geochemical, and Biological Processes, Andover, NH.

Pabich WJ & Howarth RW. June 25, 2001. Human influences on the delivery of nitrogen to coastal systems. American Society of Agronomy & Soil Science Society of America, Northeast Branch, Annual Meeting, W. Greenwich, RI.

Pabich WJ, Hemond HF & Valiela I. February 14, 2001. Denitrification rates in groundwater, Waquoit Bay watershed, Cape Cod, MA: Control by nitrate and DOC concentrations. ASLO 2001 Aquatic Sciences Meeting, Albuquerque, NM.

Pabich WJ. April 25, 2000. Vadose zone thickness and depth below the water table as controls on DOC concentration in groundwater, Cape Cod. Woods Hole Oceanographic Institution, Challenges in Coastal Groundwater Research, Spring 2000 Groundwater Seminar Series.

Pabich WJ. February 3, 2000. DOC and nitrogen in Cape Cod groundwater. U.S. Geological Survey Cape Cod Toxic Substances Hydrology Research Site Meeting. Westborough, MA.

Pabich WJ, Valiela I & Hemond HF. 1999. Vadose zone thickness as a control on dissolved organic carbon (DOC) delivery to groundwater, Waquoit Bay watershed, Cape Cod. ASLO 99 Conference, Santa Fe, NM.

Pabich WJ. October 21, 1998. Kinetic modeling of denitrification in groundwater on Cape Cod. MIT Parsons Laboratory, Aquatic Sciences Seminar Series.

Pabich WJ. December 4, 1996. Measuring rates of denitrification in a sandy coastal aquifer. MIT Parsons Laboratory, Aquatic Sciences Seminar Series.

HONORS AND AWARDS

Charles A. Collis Scholar, Dartmouth College, 1986-1988
Geography Dept. Award for Excellence, Dartmouth College, 1988
Alfred Kiel Fellow for the Wiser Use of Science and Technology, MIT, 1994-1995
Parsons Fellow, MIT, 1995-1996
Martin Fellow, MIT, 1996
MIT Fellow for Sustainability, 1996-1998
NOAA National Estuarine Research Reserve Graduate Fellow, 1997-2000
MIT Sea Grant recipient, 1997-1999

THESES

Pabich WJ. (2000) Denitrification of anthropogenic nitrogen in groundwater: Measurement and modeling using stable isotopic and mass balance approaches. Ph.D. dissertation, Massachusetts Institute of Technology, Cambridge, MA, 188 p.
(<https://dspace.mit.edu/bitstream/1721.1/8751/1/48067648.pdf>).

Pabich WJ (1995) Hydrothermally-Generated Electricity in the United States: An Industry Analysis. M.S. thesis, Massachusetts Institute of Technology, Cambridge, MA, 62 p.

Pabich WJ (1995) A Sedimentological Study of a Replenished Beach: Revere Beach, Massachusetts. M.S. Thesis, Duke University, Durham, NC, 144 p.

PANEL DISCUSSIONS

Water and Sustainability. Sun Valley Sustainability Conference. September 27-29, 2006.

Perspective with Gene Dallago. KSVT TV Channel 13, The Valley's Water Crisis with Drs. Wendy Pabich and Lee Brown. March 2-9, 2006.

Interactions between the science and policy of nitrogen deposition. July 24, 2001. Gordon Conference. Forested Catchments: Hydrological, Geochemical, and Biological Processes. Andover, NH.

The Scientific/Policy Underpinnings of the Ecoregional Nutrient Criteria. June 27, 2001. EPA National Nutrient Criteria Stakeholders Meeting. Crystal City, VA.

ACTIVITIES

Member of Ecological Society of America, Geological Society of America, American Society of Limnology and Oceanography, Dartmouth Environmental Network. Interests include downhill and backcountry skiing, backpacking, traveling, mountain biking, rafting, running, and watercolor and oil painting.

EMPLOYMENT HISTORY

2005-2007	Consultant. Hailey, ID. Providing engineering, science and policy services including water and wastewater planning, water rights investigations, Nutrient Pathogen Studies and avalanche terrain assessment.
2003-2005	Tetra Tech, EM Inc., Environmental Scientist and Project Manager, Boston, MA
2002-2003	Lecturer, Department of Civil & Environmental Engineering, Massachusetts Institute of Technology, Cambridge, MA
2001-2003	Staff Scientist, Oceans Program, Environmental Defense, Boston, MA
1995-2001	Research Assistant, Parsons Water Resources Laboratory, Massachusetts Institute of Technology, Cambridge, MA
1996	Teaching Assistant, Aquatic Chemistry Laboratory, Dept. of Civil and Environmental, Engineering, Massachusetts Institute of Technology, Cambridge, MA
1994	Research Assistant, Energy Laboratory, Massachusetts Institute of Technology, Cambridge, MA
Fall 1994	Teaching Assistant, Environmental Policy and Regulation, Dept. of Urban Studies and Planning, Massachusetts Institute of Technology, Cambridge, MA

Fall 1993	Research Assistant, MIT-Harvard Program on Negotiation, Cambridge, MA
1991-1993	Research Assistant, Geology Department, Duke University, Durham, NC
Summers 1992-1993	Teaching Assistant, Biological Oceanography and Marine Biology, Duke University Marine Laboratory, Beaufort, NC
1989-1991/ Part-Time 1991-1993	Research Associate and Consultant, Public Policy and Management Group, Temple, Barker & Sloane, Inc. (now Mercer Management Consulting), Lexington, MA
Fall 1988	Geography Intern, National Geographic Society, Washington, D.C.

Volunteer Positions

1999-2000	Task Force Member, Eel River Watershed Nutrient Technical Advisory Committee Massachusetts Executive Office of Environmental Affairs, Lakeville, MA.
1995-2000	Appointed Board Member and Vice Chair, Town of Marblehead Conservation Commission, Marblehead, MA
Spring 1993	Environmental Policy Intern, Office of Senator John Kerry, Boston, MA