

ALBERT P. BARKER
JOHN A. ROSHOLT
JOHN K. SIMPSON
TRAVIS L. THOMPSON
SHELLEY M. DAVIS
PAUL L. ARRINGTON
SCOTT A. MAGNUSON



1010 W Jefferson, Suite 102
Post Office Box 2139
Boise, ID 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

113 Main Avenue West, Suite 303
Twin Falls, ID 83301-6167
(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

FACSIMILE COVER SHEET

DATE: September 29, 2009

TO: Tara Martens
Moffatt Thomas
Craig Hobdey
Chris Bromley, IDWR

FACSIMILE #: 208-734-7508

208-934-4420

208-287-6700

FROM: Albert P. Barker

RE: Supplemental Response of CWU to First Set of Interrogatories, Water Right
Nos. 37-415, 37-416, 37-4108, 37-12111

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 15

- ☒ Original will not be sent
☐ Original will be sent by first class mail
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MESSAGE:

Please see the attached.

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WE APPRECIATE YOUR COOPERATION.

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

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	
	)	
Case No. 39576	)	Subcase Nos. 37-00415, 37-00416,
	)	37-04108, 37-12111
	)	
	)	SUPPLEMENTAL RESPONSE OF THE
	)	CONCERNED WATER USERS TO FIRST
	)	SET OF REQUESTS FOR ADMISSIONS,
	)	INTERROGATORIES, AND REQUESTS
	)	FOR PRODUCTION TO MEMBERS OF
	)	THE "CONCERNED WATER USERS"
	)	
	)	

COMES NOW the Objectors Tom O'Gara, John Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, and Pepin Corso-Harris, by and through their attorneys of record, and pursuant to Rules 26, 33, 34 and 36 of the Idaho Rules of Civil Procedure, hereby supplements its response to Sinclair Oil Corporation's First Set of Requests for Admissions, Interrogatories and Requests for Production.

GENERAL OBJECTIONS

1. Respondents Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, and Pepin Corso-Harris object to the method of service by Sinclair Oil Corporation. These discovery requests were served after business hours by fax on a Friday afternoon. These discovery requests should therefore be deemed served the following business day. Otherwise, Sinclair Oil has deprived Respondents of their time for filing responses allowed by the Idaho Rules of Civil Procedure.

2. Respondents object to the Interrogatories 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.

3. 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.

4. Respondents specifically object 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 the discovery relating to experts as set forth in Rule 26(b)(4). The objection is intended to apply to all of the discovery requests that seek such information and will not be repeated specifically for each request to which it applies.

Respondents, to the extent possible, construed each request as requesting only information and/or documents not subject to any applicable protection.

5. No incidental or implied admissions are intended. The fact that the Respondents have responded to any discovery request or part thereof should not be taken as an admission that the Respondents accept that the discovery request or the response or objection thereto constitutes admissible evidence. Similarly, the fact that the Respondents have responded to all or part of a request is not intended to and shall not be construed to be a waiver by the Respondents of all or part of any objection to other requests. Respondents' answers to any discovery requests herein do not constitute a waiver of the Respondents' right to object to any future additional, or supplemental discovery requests regarding the same or similar matters.

6. Each of these objections is incorporated into the response to each of the Interrogatories as though set forth verbatim therein.

INTERROGATORIES

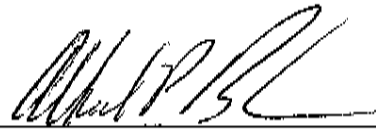
INTERROGATORY NO. 9: Please identify, in full and complete detail, any diaries, journals, calendars, reports, records, day-timers or any other similar document of which you are aware and which relate in any way to this matter.

ANSWER TO INTERROGATORY NO. 9: At this time, Objectors are aware of the documents contained in the IDWR files and back files for these water rights.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 9: The property records of the County suggest that 165 acres in Sinclair Oil's claimed POU are owned by persons or entities other than Sinclair. See attached maps. Also, the aerial photos supplied by Sinclair show that large portions of its claimed POU are hillsides, not irrigated.

DATED this 29th day of September, 2009.

BARKER ROSHOLT & SIMPSON LLP

A handwritten signature in black ink, appearing to read 'Albert P. Barker', is positioned above a horizontal line.

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 29th day of September, 2009, I caused to be served a true and correct copy of the foregoing **SUPPLEMENTAL RESPONSE OF THE CONCERNED WATER USERS TO FIRST SET OF REQUESTS FOR ADMISSIONS, INTERROGATORIES, AND REQUESTS FOR PRODUCTION TO MEMBERS OF THE "CONCERNED WATER USERS"** by the method indicated below, and addressed to each of the following:

Scott L. Campbell	☐ U.S. Mail, Postage Prepaid
Tara Martens	☐ Hand Delivered
Dylan B. Lawrence	☐ Overnight Mail
Andrew J. Snook	☒ Facsimile
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS	☐ Electronic Mail
101 So. Capital Blvd., 10 th Floor	
P. O. Box 829	
Boise, ID 83701	

Director	☐ U.S. Mail, Postage Prepaid
IDAHO DEPARTMENT OF WATER RESOURCES	☐ Hand Delivered
322 E. Front Street, 6 th Floor	☐ Overnight Mail
P. O. Box 83720	☒ Facsimile
Boise, ID 83720-00098	☐ Electronic Mail

Chief, Natural Resources Division	☒ U.S. Mail, Postage Prepaid
Office of the Attorney General	☐ Hand Delivered
STATE OF IDAHO	☐ Overnight Mail
P. O. Box 44449	☐ Facsimile
Boise, ID 83711-2530	☐ Electronic Mail

UNITED STATES DEPARTMENT OF JUSTICE	☒ U.S. Mail, Postage Prepaid
Environment & Natural Resource Division	☐ Hand Delivered
550 W. Fort Street, MSC 033	☐ Overnight Mail
Boise, ID 83724	☐ Facsimile
	☐ Electronic Mail

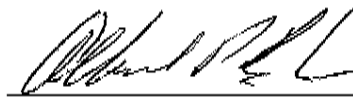
James P. Speck	☒ U.S. Mail, Postage Prepaid
SPECK & AANESTAD	☐ Hand Delivered
120 East Avenue	☐ Overnight Mail
P. O. Box 987	☐ Facsimile
Ketchum, ID 83340	☐ Electronic Mail

Fritz X. Haemmerle
HAEMMERLE AND HAEMMERLE
P. O. Box 1800
Hailey, ID 83333

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

Craig Hobdey
HOBDEY & HOBDEY
P. O. Box 176
Gooding, ID 83330

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail



Albert P. Barker

Private Parcels within Sun Valley Co. dba Sinclair Oil POU



DRAFT CONFIDENTIAL

2004 USDA aerial

0 0.05 0.1 0.2 0.3 0.4 Miles

[illegible]

0 195 390 780 1,170 Feet

1 inch equals 0.23 miles

DRAFT CONFIDENTIAL

Acreage of Recommended ROU = 630.0

Irrigated/Acreage within ROU = 178.0

