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DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA	)	A. Subcase No. See Attachment A
	)	
Case No. 39576	)	STANDARD FORM 2
	)	RESPONSE TO OBJECTION
_____	)	

B. NAME AND ADDRESS OF PERSON RESPONDING:

Albert & Alvera Fols, P.O. Box 56, Carmen, ID 83462
Charles & Mary Harling, P.O. Box 283, Carmen, ID 83462
A.C. & Luella Pilkerton, P.O. Box 23, Carmen, ID 83462
Lloyd & Sheryl Tutor, HC 60 Box 52E12, Round Mountain, NV 89045
James Edgren & Jennifer Brady, P.O. Box 266, Carmen, ID 83462
Tracy Mascia, P.O. Box 80, Carmen, ID 83462

Name and Address of Attorney:

Travis L. Thompson & Paul L. Arrington
Barker Rosholt & Simpson, LLP
113 Main Ave. W., Suite 303
P.O. Box 485
Twin Falls, Idaho 83303-0485
(208) 733-0700

**C. NAME AND ADDRESS OF PERSON(S) WHO FILED OBJECTION TO WHICH
YOU ARE RESPONDING:**

John E. & Ruth C. Burns, P.O. Box 264, Carmen, ID 83462
George Matejko, P.O. Box 129, Carmen, ID 83462
Rick & Linda Rice, P.O. Box 285, Carmen, ID 83462
Robert & Jacqueline Ernest, P.O. Box 132, Carmen, ID 83462
William W. Clementz, P.O. Box 255, Carmen, ID 83462
James & Rowena Quinn, P.O. Box 1473, Carmen, ID 83462

Name and Address of Objector's Attorney:

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
P.O. Box 50130
Idaho Falls, ID 83405

D. I am responding to the objection(s) to the following elements:

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:
10. ☐ Other Conditions:
11. Recommendation:
☐ This water right should not exist
☒ This water right was not recommended, but should be recommended with the elements described above.

- E. REASONS SUPPORTING RESPONSE:** These water rights, with places of use on the south side of Carmen Creek, were properly disallowed as a result of an accomplished transfer that moved all exchange water rights to the north side of Carmen Creek. The Department's review and analysis of these water rights in the *Supplemental Director's Report Regarding SRBA Subcase Nos. 75-69A, et al.*, dated January 11, 2010, correctly concluded that these water rights should be disallowed.

Furthermore, the Objections are confusing. The Objectors claim that “water rights should be recommended as they were previously recommended in January 2007 by the Department.” However:

1. Water rights 75-14540 and 75-10061Q are both late claims and were not included in the 2007 Director’s Report; and
2. The 2007 Director’s Report total recommended diversion rate exceeded the combined 0.90 cfs that was decreed for the exchange water rights in the 1902 *Palmer v. McNutt* decree;

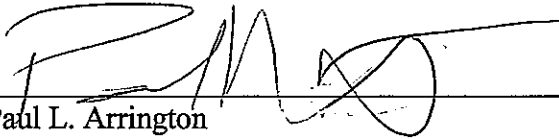
Finally, water right 75-10061Q was not included in the *Supplemental Director’s Report* and no objections are presently authorized for this water right. However, the Respondents understand that the Department intends to amend the *Supplemental Director’s Report* to confirm that all exchange rights claimed for lands south of Carmen Creek should be disallowed.

VERIFICATION

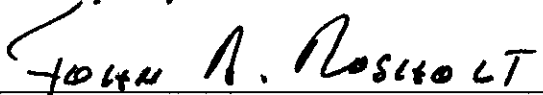
State of IDAHO)
) ss.
County of Twin Falls)

PAUL L. ARRINGTON, duly sworn, upon oath, deposes and says:

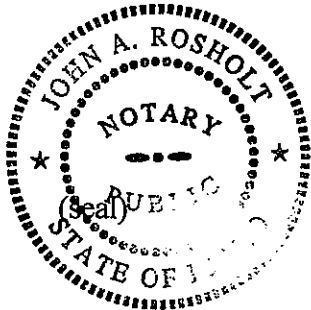
That I am the party/claimant filing this response, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding, and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.


Paul L. Arrington
Barker Rosholt & Simpson LLP
Attorneys for Respondent

Subscribed and sworn to before me on: 4/7/2010



John A. Rosholt



Notary Public for: Idaho
Residing at: Twin Falls
My Commission Expires: 2011

CERTIFICATE OF MAILING

I certify that on April 7, 2010, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
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Twin Falls, ID 83303-2707

2. Copies to:

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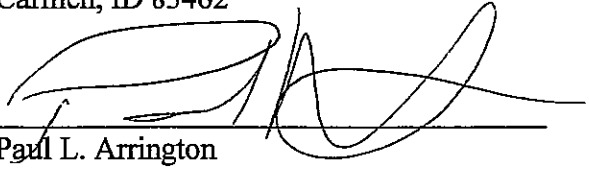
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Paul L. Arrington

Attachment A

75-10061A
75-10061Q
75-10061R
75-10061Y
75-10061AE
75-10062A
75-10062P
75-10062W
75-10062AC
75-14441
75-14443
75-14540