

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

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IN RE: SRBA

Case No. 39576,

)
) MOTION TO FILE LATE OBJECTIONS
) AS TO WATER RIGHT NUMBERS:
) 36-02373; 36-02671A;
) 36-07157B; 36-07480B; 36-07366;
) 36-07367A; 36-02667; 36-07381A;
) 36-07445A

95-08-0043

* * * * *

Don and Carol McFarland, Husband and Wife, by and through their counsel of record, Benoit, Alexander, Sinclair, Harwood & High, hereby move the Court for leave to file late objections to the Basin 36 Director's Report pursuant to the Court's Order of July 28, 1995 and/or I.R.C.P. Rule 55(c) on the grounds that there is good cause for the late objection and the moving parties named herein have a meritorious position to be asserted in the SRBA, as to Water Right Nos. 36-02373; 36-02671A; 36-07157B; 36-07480B; 36-07366; 36-07367A; 36-02667; 36-07381A and 36-07445A.

DATED this 18 day of August, 1995.

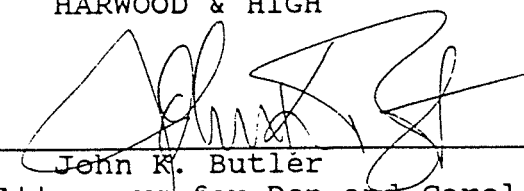
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AUG 22 1995

Department of Water Resources
Adjudication Bureau

BENOIT, ALEXANDER, SINCLAIR,
HARWOOD & HIGH

By


John K. Butler

Attorneys for Don and Carol McFarland

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, with offices at 126 Second Avenue North, Twin Falls, Idaho, certifies that on the 18th day of August, 1995, he caused a true and correct copy of the **MOTION TO FILE LATE OBJECTIONS** to be forwarded with all required charges prepared, by the method(s) indicated below, to the following:

Don and Carol McFarland
P.O. Box 268
Eden, ID 83325-02268

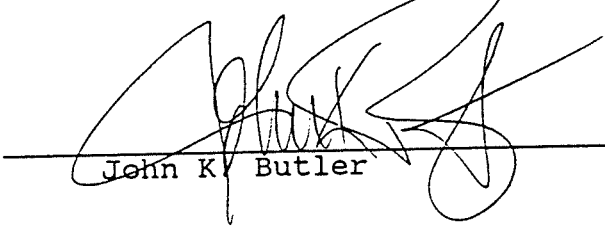
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Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 38711-4449

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Fax _____
Fed. Express _____

United States Department of Justice
Environment and Natural
Resource Division
550 West Fort Street, Box 33
Boise, ID 83734

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Fed. Express _____



John K. Butler

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,

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AFFIDAVIT OF JOHN K. BUTLER

* * * * *

STATE OF IDAHO)
) ss.
County of Twin Falls)

John K. Butler, being first duly sworn on oath, deposes and
says:

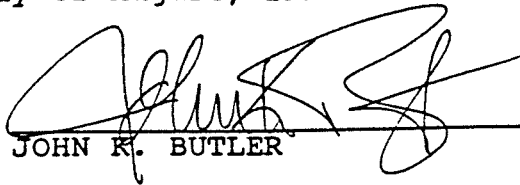
1. I am the attorney for Don and Carol McFarland.
2. Don and Carol McFarland seek to have this Court allow the
filing of late objections as to the Basin 36 Director's Report on
the grounds that since the Director's Report was first issued,
there have been or may have been changes made to the Director's
Recommendations, that were a factor on which Don and Carol
McFarland relied in not objecting to said Report.
3. The primary and overriding concern of Don and Carol
McFarland were that the Director was recommending that the period
of use from March 15th to November 15th of their water rights
described herein, be changed to April 1st to October 31st. Prior
to the issuance of said Report, Don and Carol McFarland had
attempted to have the Department of Water Resource change their
recommended period of use.

4. Historically, Don and Carol McFarland have had a period of use with respect to the water rights described herein from March 15th to November 15th. When the Director's Report was initially issued, it provided in General Provision 12(b), a mechanism by which the Department could or would permit an extended period of use by allowing early or late diversion of irrigation water. Since the issuance of that Report, this Court, in or about May, 1995, deleted such provision which adversely affects the interests and rights of Don and Carol McFarland's water rights described herein, and Don and Carol McFarland, now wish the opportunity to participate in the SRBA proceedings and assert their rights which would have otherwise been protected by General Provision 12(b).

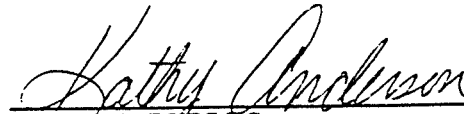
5. If the Director's Report had not provided a recommendation by which the mechanism would be put in place, as described above, so as to allow for an extended period of use, Don and Carol McFarland would have timely objected to said report, without the necessity of filing a late objection.

6. It is respectfully submitted, that Don and Carol McFarland have good cause for filing the late objection, and have a meritorious position to be asserted in the SRBA proceedings, and it is therefore respectfully requested, that this court grant leave to Don and Carol McFarland, so as to allow and permit the filing of their late objections, which have been filed concurrently herewith.

DATED this 18 day of August, 1995.


JOHN K. BUTLER

SUBSCRIBED AND SWORN to before me this 18th day of August, 1995.



NOTARY PUBLIC

Residing at: Twin Falls, Idaho

My Commission Expires: 4-3-2000

Twin Falls

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, with offices at 126 Second Avenue North, Twin Falls, Idaho, certifies that on the 18th day of August, 1995, he caused a true and correct copy of the AFFIDAVIT OF JOHN K. BUTLER to be forwarded with all required charges prepared, by the method(s) indicated below, to the following:

Don and Carol McFarland
P.O. Box 268
Eden, ID 83325-02268

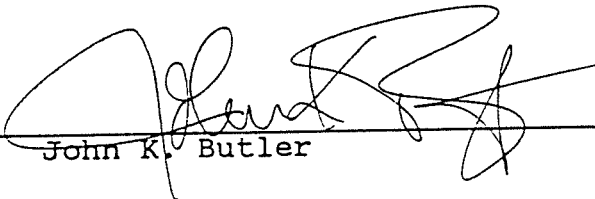
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John K. Butler