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Claimants:

Walter W. Candy

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Margaret Candy

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Attorney Name and Address:

HEPWORTH, LEZAMIZ & HOHNHORST,
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

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STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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In Re SRBA

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Subcase No. 36-00135B

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36-00134A

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Case No. 39576

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CLAIMANTS' FIRST SET OF

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INTERROGATORIES, REQUEST FOR

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PRODUCTION OF DOCUMENTS AND

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REQUEST FOR ADMISSIONS

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TO: The Department of Water Resources and to its attorneys of record:

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YOU WILL PLEASE TAKE NOTICE that the claimants require you to answer

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under oath the following interrogatories and respond to the requests for admission and

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requests for production of documents within fifteen (15) days from the service hereunder,

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and in conformance with all provisions of Rules 33, 34 and 36 of the Idaho Rules of Civil

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Procedure.

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Lezamiz &
Hohnhorst

CLAIMANTS' FIRST SET OF INTERROGATORIES, REQUEST FOR
PRODUCTION OF DOCUMENTS AND REQUEST FOR ADMISSIONS - 1

1 In answering these interrogatories and responding to these requests for
2 admission and requests for production of documents, furnish all information available to
3 you, including information in the possession of your attorneys and investigators, experts,
4 etc., retained by you or your attorneys, not merely information known of your own personal
5 knowledge.

6 If you cannot answer the following interrogatories or respond to the following
7 requests for admission and requests for production of documents in full, after exercising due
8 diligence to secure the information to do so, so state, and answer to the extent possible,
9 specifying your inability to answer the remainder, and stating whatever information and
10 knowledge you have concerning the unanswered portion.

11 These interrogatories and requests for production of documents are deemed
12 continuing interrogatories and requests for production of documents, and your answers
13 thereto are to be supplemented as additional information and knowledge becomes available
14 or known to you. These requests for admission must be answered within the time provided
15 by the Idaho Rules of Civil Procedure after service of the request or within such shorter or
16 longer time as the court may allow. If answers are not forthcoming within the time period
17 provided, these requests for admission WILL BE DEEMED ADMITTED.

18 INTERROGATORY NO. 1: State the name, address and telephone number
19 of each person who you are aware of who has or purports to have knowledge about the
20 subject matter of these subcases and please briefly describe the substantive matters upon
21 which each persons purport to have knowledge.
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1 INTERROGATORY NO. 2: Please state the name, address and telephone
2 number of each person who investigated the claims in these subcases and briefly describe
3 the particular circumstances investigated by each person.

4 INTERROGATORY NO. 3: If you, or any person or entity that you are aware
5 of, have given any statements relating to the subject matter of these claims, please state:

- 6 a.) the name, address and telephone number of the person who gave the
7 statement;
8 b.) the name, address and telephone number of the person or persons to
9 whom the statement was given;
10 c.) the dates upon which the statement was given; and
11 d.) the details of the contents of the statement.

12 INTERROGATORY NO. 4: Please list the name, address and telephone
13 number of each witness you may utilize at trial, and for each such witness who is or
14 purports to be an expert regarding any aspect of these subcases, please detail the entirety
15 of the skills, experience, educational background of the purported witness and provide a
16 detailed synopsis of the subject matter upon which the expert may testify, including the
17 factual basis for the testimony, the substance of the testimony, and all opinions or
18 conclusions that may be drawn by that expert.

19 INTERROGATORY NO. 5: Please list and describe, in detail, each exhibit you
20 may utilize at trial, including:

- 21 a.) what the exhibit is;
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- b.) what it depicts or purports to depict;
- c.) who prepared it and/or where it came from; and
- d.) who has possession or control of the original.

INTERROGATORY NO. 6: If you contend that the claimants have made any admissions as defined in I.R.E. 801, whether oral, written, or by nonverbal conduct, for each purported admission please state the precise substance and content of the purported admission, when and by whom it was made and who purports to have witnessed it.

INTERROGATORY NO. 7: Upon what facts, circumstances and legal theories do you base your contentions that the recommended quantity of use in cfs and annual consumptive use should be decreed rather than the amounts claimed, and what documents support those contentions.

INTERROGATORY NO. 8: Upon what facts, circumstances and legal theories do you base your contention that the recommended period of the year for the uses should be decreed rather than the prior decreed irrigation season, and what documents support your contentions.

INTERROGATORY NO. 9: What facts, data, circumstances, legal theories and scientific methodology did you utilize to determine the duty of water for these claims, and what documents or information did you utilize in making your calculations and determinations.

INTERROGATORY NO. 10: Other than the elements listed in Idaho Code § 42-1411(2)(a-i) please list each matter which you contend is necessary to define the two

1 claimed rights (including each "general provision," "remark" or other averment in the
2 Director's Report) and state the legal and factual basis for each matter which you contend
3 is necessary.

4 INTERROGATORY NO. 11: If you deny any portion of any of the below
5 requests for admission, please state the entire factual basis for each such denial, the name
6 and address of each witness you contend may testify in support of such denial, and any
7 expert opinion or conclusion which you contend may support such denial.

8 REQUEST FOR PRODUCTION OF DOCUMENTS

9 REQUEST FOR PRODUCTION NO. 1: Please produce a true and accurate
10 copy of each document which is identified or referred to, or relating to your responses to
11 the above interrogatories.

12 REQUEST FOR PRODUCTION NO. 2: Please produce a copy of each
13 exhibit that you may utilize at trial.

14 REQUEST FOR PRODUCTION NO. 3: If you deny any portion of any of the
15 requests for admission below, please produce copies of all documents which you contend
16 support each denial.

17 REQUEST FOR ADMISSIONS

18 REQUEST FOR ADMISSION NO. 1: Admit that the total quantity
19 recommended for both claims is less than the amount reasonably required to irrigate 36
20 acres in the Hagerman Valley.

21 REQUEST FOR ADMISSION NO. 2: Admit that the quantity recommended
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1 for both claims is less than the amount required to irrigate the 36 acres to which these two
2 claims are appurtenant.

3 REQUEST FOR ADMISSION NO. 3: Admit that the claimants' irrigation
4 systems are reasonably efficient under current circumstances.

5 REQUEST FOR ADMISSION NO. 4: Admit that the claimants' irrigation
6 practices are reasonably efficient under current circumstances.

7 REQUEST FOR ADMISSION NO. 5: Admit that your recommendations in cfs
8 and cfs per acre on these claims do not take into account the efficiency of the claimants'
9 irrigation systems, or practices.

10 REQUEST FOR ADMISSION NO. 6: Admit that the claimants' reasonable
11 irrigation requirements on the property exceed the amount you recommended.

12 REQUEST FOR ADMISSION NO. 7: Admit that your recommendation of an
13 amount less than previously decreed is based on an allegations that the claimants have
14 forfeited the difference between the prior decreed amount and the amounts recommended.

15 REQUEST FOR ADMISSION NO. 8: Admit that the New International
16 Mortgage Decree is a valid decree entered by a Federal Court.

17 REQUEST FOR ADMISSION NO. 9: Admit that the two claims involved here
18 have been validly decreed in the New International Mortgage Decree.

19 REQUEST FOR ADMISSION NO. 10: Admit that the State of Idaho was a
20 party to the New International Mortgage Litigation, that a final judgment was entered there
21 and that both of these claims were decided in that litigation.
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1 REQUEST FOR ADMISSION NO. 11: Admit that, both now and before filing
2 your recommendation, you did not have evidence showing nonuse of the difference
3 between the prior decreed amounts and the recommended amounts for a continuance 5-year
4 period before November 19, 1987.

5 REQUEST FOR ADMISSION NO. 12: Admit that, both now and before filing
6 your report, you did have evidence showing that the claimants had used amounts in excess
7 of the combined recommended amount in the last 10 years.

8 REQUEST FOR ADMISSION NO. 13: Admit that, both now and before filing
9 the report, you did have evidence showing that the claimants had used a portion of the total
10 decreed amounts at least once every five years since entry of the New International
11 Mortgage Decree.

12 REQUEST FOR ADMISSION NO. 14: Admit that your recommendation is for
13 less than the amounts beneficially used by the claimants, and that you knew or had reason
14 to know this prior to filing your report.

15 REQUEST FOR ADMISSION NO. 15: Admit that the amounts you
16 recommended are not the maximum amounts which have been used beneficially or which
17 may be beneficially used upon the property.

18 REQUEST FOR ADMISSION NO. 16: Admit that you did not determine the
19 maximum amount which could be beneficially used upon the property.

20 REQUEST FOR ADMISSION NO. 17: Admit that you did not utilize all
21 information or data reasonably available to you in recommending the amounts you have
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1 recommended.

2 REQUEST FOR ADMISSION NO. 18: Admit that the evapotranspiration
3 figures you have utilized, if any, in making your recommendation are based on data from
4 average temperatures over a period of 20 days or more.

5 REQUEST FOR ADMISSION NO. 19: Admit that you did not adjust any
6 evapotranspiration figures you used to account for the maximum soiling holding capacity
7 or holding period of the soils on the claimants' land.

8 REQUEST FOR ADMISSION NO. 20: Admit that you did not perform any on-
9 site testing of the soil moisture holding capacity or holding period of the claimants' land.

10 REQUEST FOR ADMISSION NO. 21: Admit that you do not know what the
11 soil holding capacity of the claimants' land is or the moisture holding period of that soil.

12 REQUEST FOR ADMISSION NO. 22: Admit that actual evapotranspiration
13 of a crop may regularly exceed the monthly average evapotranspiration requirement of the
14 same crop.

15 REQUEST FOR ADMISSION NO. 23: Admit that crops stress results if actual
16 evapotranspiration requirements of a crop are not available to the crop.

17 REQUEST FOR ADMISSION NO. 24: Admit that, if the actual
18 evapotranspiration requirement is not available to a crop, either from irrigation water or
19 extant soil moisture, crop stress results.

20 REQUEST FOR ADMISSION NO. 25: Admit that the soils have maximum
21 water holding capacities and holding periods on the claimants' land so that the soil will not
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1 retain water in a zone available for crops for more than 10 days.

2 REQUEST FOR ADMISSION NO. 26: Admit that the claimants' land has soils
3 with water holding capacities lower than any water holding capacity you considered in
4 making your recommendation.

5 REQUEST FOR ADMISSION NO. 27: Admit that the claimants' land has
6 shallow soils which affect the amount of moisture retained in the soil, the length of time for
7 which moisture is retained in the soil, and the water which is available to their growing
8 crops.

9 REQUEST FOR ADMISSION NO. 28: Admit that soil conditions on claimants'
10 land, including water holding capacities, vary to the extent that determining water holding
11 capacity and, ultimately crop water needs, requires the location by location evaluation.

12 REQUEST FOR ADMISSION NO. 29: Admit that soil conditions in the
13 Hagerman Valley, including water holding capacities, vary to the extent that determining
14 water holding capacity and, ultimately crop water needs, requires the location by location
15 evaluation.

16 REQUEST FOR ADMISSION NO. 30: Admit that Soil Conservation Service
17 data is reasonably available to you.

18 REQUEST FOR ADMISSION NO. 31: Admit that, at and before the times you
19 made your recommendations, you knew that the computer model you have available to you
20 to determine crop irrigation requirements had consistently understated the actual crop and
21 irrigation requirements.
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1 REQUEST FOR ADMISSION NO. 32: Admit that that model understated
2 actual crop irrigation requirements if you used average monthly temperatures as an input.

3 REQUEST FOR ADMISSION NO. 33: Admit that irrigation efficiencies derived
4 from Hubble Report information, in your experience, often exceed the efficiencies obtained
5 in the field.

6 REQUEST FOR ADMISSION NO. 34: Admit that the irrigation efficiencies
7 derived from the Hubble Report with respect to the claimants' land exceed the efficiencies
8 reasonably obtainable on the claimants' land.

9 REQUEST FOR ADMISSION NO. 35: Admit that, at and before the time you
10 filed the Director's Report for Basin 36, you calculated irrigation requirements for the
11 Hagerman Valley by utilizing monthly average of evapotranspiration figures rather than
12 figures adjusted to peak evapotranspiration requirements.

13 REQUEST FOR ADMISSION NO. 36: Admit that it is not a generally accepted
14 scientific method to calculate instantaneous rate irrigation requirements with a goal of
15 avoiding crop stress by utilizing monthly average evapotranspiration figures as a crop
16 requirement input.

17 REQUEST FOR ADMISSION NO. 37: Admit that it is a generally accepted
18 scientific principle that any calculation of peak instantaneous flow rate, in order to meet
19 irrigation requirements, requires utilization of peak evapotranspiration data rather than data
20 based on an average for a period greater than the moisture holding period of the given soils.

21 REQUEST FOR ADMISSION NO. 38: Admit that, before you filed the
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1 Director's Report for Basin 36, you calculated irrigation requirements in the Hagerman
2 Valley for particular claimants without conducting field examinations.

3 REQUEST FOR ADMISSION NO. 39: Admit that you calculated irrigation
4 requirements for the claimants' land without conducting a field examination.

5 REQUEST FOR ADMISSION NO. 40: Admit that you have not obtained all
6 reasonably available information which affects the crop irrigation requirements for crops
7 grown on the claimants' land.

8 REQUEST FOR ADMISSION NO. 41: Admit that you have recommended that
9 other claimants in the Hagerman Valley be decreed more than 1 inch per acre of water for
10 irrigated land.

11 REQUEST FOR ADMISSION NO. 42: Admit that you have recommended that
12 other claimants in the Hagerman Valley be decreed more than 1 inch per acre of water for
13 irrigated land in circumstances where you did not conduct a field examination of the
14 respective claimants' land.

15 REQUEST FOR ADMISSION NO. 43: Admit that you have recommended that
16 other claimants in the Hagerman Valley be decreed more than 1 inch per acre although the
17 respective claimant did not provide you with information relating to the reasonableness of
18 using more than 1 inch per acre for irrigation of crops in the Hagerman Valley, or on that
19 claimant's land.

20 REQUEST FOR ADMISSION NO. 44: Admit that before you mailed your
21 proposed recommendation pursuant to error correction and before filing the Director's
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CLAIMANTS' FIRST SET OF INTERROGATORIES, REQUEST FOR
PRODUCTION OF DOCUMENTS AND REQUEST FOR ADMISSIONS - 11

1 Report for Basin 36, you did not notify the claimants that they would have to provide you
2 with information in order for you to recommend more than 1 inch per acre.

3 REQUEST FOR ADMISSION NO. 45: Admit that you did not conduct the
4 investigation necessary to reasonably determine the nature and extent of the claimants'
5 rights.

6 REQUEST FOR ADMISSION NO. 46: Admit that you did not measure the
7 capacity of the claimants' diversion system.

8 REQUEST FOR ADMISSION NO. 47: Admit that it is not possible, with a
9 reasonable degree of scientific certainty, to establish that it would be impossible to
10 beneficially use water for irrigation before March 15 on claimants' land.

11 REQUEST FOR ADMISSION NO. 48: Admit that the "standard irrigation
12 season" you have recommended, which is based on 75% probability of 24° frost, is a
13 compromise season of use which does not take into account all variability in the seasons
14 from day-to-day and year-to-year.

15 REQUEST FOR ADMISSION NO. 49: Please admit that your 75% probability
16 of 24° frost "standard" is based on average climatic occurrences over some period of years.

17 REQUEST FOR ADMISSION NO. 50: Please admit that prior to filing your
18 recommendation on these claims, you utilized a 75% probability of 24° frost standard to
19 derive dates for the beginning and ending of the irrigation season, and those dates were
20 different from those listed your Director's Report for these claims.

21 REQUEST FOR ADMISSION NO. 51: Please admit that your 75% probability
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1 of 24° frost standard means that, statistically, 1 out of every 4 years there will not be
2 continuous frost before your beginning date or after your ending date.

3 REQUEST FOR ADMISSION NO. 52: Please admit that weather station data
4 for the Hagerman Valley was reasonably available to you prior to filing your
5 recommendation.

6 REQUEST FOR ADMISSION NO. 53: Please admit that prior to error
7 correction you did not intend to utilize microclimatic data regarding the Hagerman Valley
8 in recommending season of use.

9 REQUEST FOR ADMISSION NO. 54: Please admit that you applied a
10 standard irrigation season limitation to claims within the subbasin without regard for
11 whether or not an individual claimant has beneficially used the water outside of the season.

12 REQUEST FOR ADMISSION NO. 55: Please admit that the claimants have
13 actually beneficially used their water prior to the beginning date of the recommended
14 irrigation season and after the recommended date for the end of the season.

15 REQUEST FOR ADMISSION NO. 56: Please admit that you have
16 recommended, as a matter of policy, a diversion rate of greater than 1 inch per acre for
17 claims appurtenant to land of five acres or less.

18 REQUEST FOR ADMISSION NO. 57: Please admit that you did not follow
19 the procedures as set out in your claims investigation manual in your investigation and
20 recommendation of the claimants' rights.

21 REQUEST FOR ADMISSION NO. 58: Please admit that you, by your own
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1 policy, should have followed the procedures as set out in the claims investigation manual
2 in making the recommendations regarding these claims.

3 REQUEST FOR ADMISSION NO. 59: Admit that you have no legal or factual
4 basis upon which to claim forfeitures, i.e. five years of continuous nonuse, of all or a
5 portion of either of the decreed rights.

6 REQUEST FOR ADMISSION NO. 60: Please admit that you do not have
7 standing to claim forfeiture of all or a portion of the claimants' decreed rights.

8 REQUEST FOR ADMISSION NO. 61: Please admit that you do not have
9 evidence of five-years continuous nonuse of all or any portion of these rights.

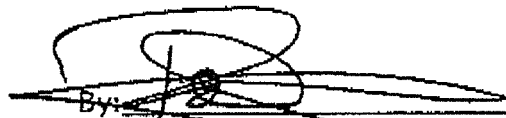
10 REQUEST FOR ADMISSION NO. 62: Please admit that you have no evidence
11 of five-years continuous nonuse of all or any portion of the rights when water was
12 reasonably available to be diverted under the rights.

13 REQUEST FOR ADMISSION NO. 63: Admit that all of the documentation
14 you have regarding, period of use, duty of water, season of use, or consumptive use, is not
15 contained in nor referred to in the "CVR's" (Claims Files) for these two claims.

16 REQUEST FOR ADMISSION NO. 64: Admit that any "duty of water"
17 investigation performed by you with respect to this land has not been designed to determine
18 the daily water needs of the most consumptive crop grown on this piece of ground.

19 Dated this 10th day of February, 1995.

20 HEPWORTH, LEZAMIZ & HOHNHORST,
21 CHARTERED



Patrick D. Brown
Attorneys for Claimants

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CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the claimants in this matter, certifies that he caused to be mailed a copy of the above and foregoing CLAIMANTS' FIRST SET OF INTERROGATORIES, REQUEST FOR PRODUCTION OF DOCUMENTS AND REQUEST FOR ADMISSIONS on the 10th day of February, 1995, to:

Nicholas B. Spencer
Deputy Attorney General
Idaho Department of Water Resources
P. O. Box 44449
Boise, ID 83711-4449

David W. Harder
United States Department of Justice
Environmental & Natural Resources Division
550 West Fort Street
Box 33
Boise, ID 83734


Patrick D. Brown

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