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OFFICE OF THE
ATTORNEY GENERAL

Claimants:

Walten E. Mildren

Attorney Name and Address:

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389
Telephone: (208)734-7510

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 No. 36-00051A

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Case No. 39576

**MOTION AND MEMORANDUM FOR
PROTECTIVE ORDER AND
REQUEST FOR EXPEDITED HEARING**

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DESCRIPTIVE SUMMARY

This document contains the Motion for Protective Order filed by Walten E. Mildren ("Mildren") to prevent, or postpone, the proposed November 20, 1995 deposition of Mildren by Sand Springs Ranch ("Sand Springs") pursuant to Sand Springs' November 12, 1995 deposition notice.

MOTION FOR PROTECTIVE ORDER

Mildren, through his attorneys, Hepworth, Lezamiz & Hohnhorst, and pursuant

1 to Rule 26(c) I.R.C.P., hereby moves the Court for an order protecting Mildren from the
2 deposition that Sand Springs seeks to conduct on November 20, 1995, on the grounds that
3 such deposition, at this time and carried out by this entity, would be untimely, oppressive
4 and unreasonable. A copy of Sand Springs' November 12, 1995 deposition notice served
5 on Mildren (the "deposition notice") is attached hereto for the Court's reference.

6 Mildren requests that the Court order that: 1) such discovery may be had only
7 after Sand Springs has been allowed to become a party to a subcase in which Mildren is
8 also a party; 2) the deposition request is interposed for the purpose of causing unnecessary
9 delay and attempting to prohibit Mildren from proceeding with discovery; 3) Sand Springs
10 is not a proper entity to engage in such discovery; and 4) Sand Springs pay Mildren's
11 reasonable attorney fees and expenses in seeking this order, pursuant to I.R.C.P. 37(a)(4).

12 Mildren requests an expedited hearing.

13 MEMORANDUM

14 On or about August 18, 1995, Sand Springs filed a Motion to File Late
15 Response to Mildren Objection, which seeks leave to file late responses to the objection to
16 the Basin 36 director's report filed by Mildren (subcase 36-00051A). Sand Springs waived
17 its right to be a party to the subcase by failing to timely file a response to Mildren's
18 objection pursuant to Administrative Order 1, Rule 6.f., which reads as follows:

19 A party to the adjudication who does not file an objection or response waives
20 the right to be a party to the subcase and to receive notice of further
proceedings in the subcase. (Emph. added).

21 No relief has been granted to set aside Sand Springs waiver and, therefore, Sand Springs is
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1 not a party to the subcase and has no right to conduct discovery. As I.R.C.P. 30(A) reflects
2 only a party is entitled to conduct discovery.

3 Pursuant to the affidavits of Patrick D. Brown and LeAnn McMillan filed
4 simultaneously herewith, Sand Springs' deposition notice is intended to delay discovery by
5 Mildren. I.R.C.P. 26(d) specifically provides "the fact that a party is conducting discovery,
6 whether by deposition or otherwise, shall not operate to delay any other party's discovery."

7 Mildren does not assert immunity from discovery. However, for the above
8 reasons, the depositions should not be conducted by Sand Springs at this time. Mildren
9 respectfully requests that the court grant this motion for protective order.

10 Dated this 15th day of November, 1995.

11 HEPWORTH, LEZAMIZ & HOHNHORST,
12 CHARTERED

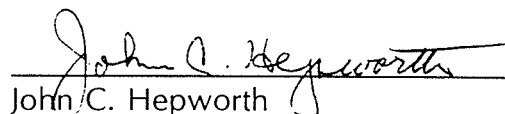
13 By: John C. Hepworth
14 John C. Hepworth, Attorneys for
15 Mildren
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CERTIFICATE OF SERVICE

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 on the 15th day of November, 1995, he served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Chief, Natural Resources Div. ☒ U.S. Mail
Office of the Attorney General ☐ Hand Delivered
State of Idaho ☐ Overnight Mail
P. O. Box 44449 ☐ Telecopy (Fax)
Boise, ID 83711-4449

Josephine P. Beeman ☒ U.S. Mail
Dillion, Bosch, Daw & Bock, Chtd. ☐ Hand Delivered
Fidelity Building ☐ Overnight Mail
242 N. 8th Street, Suite 200 ☐ Telecopy (Fax)
Boise, ID 83702


John C. Hepworth

(WATER\600021.MTN)