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Department of Water Resources
Adjudication Bureau

OFFICE OF THE
ATTORNEY GENERAL

12-14
36-3A et al
Claimants:

Hagerman Water Right Owners, Inc.
(Claimants in the attached subcases)

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 Nos. See Attached Exhibit A
)
)

Case No. 39576

) MOTION TO STAY SUBCASES
)
)
)

* * * * *

COME NOW Hagerman Water Right Owners, Inc., and each individual member, as claimants in the subcases identified in Exhibit A, and move the court to stay proceedings in each of those subcases (including settlement conferences).

This motion is made on the grounds that on December 5, 1995, HWRO filed a "Motion to Designate Basin Wide Issue Nos. 10 and 11," which asks the court to decide whether the concept of partial forfeiture is Idaho law, and whether the reduction of a water right through such a concept constitutes a taking of property for which compensation is due.

1 As the affidavit of counsel filed with the motions to designate states, while those legal issues
2 remain unresolved, it is unlikely that any of the particular subcases will be settled. Idaho
3 Department of Water Resources, (who is the sole entity involved other than the claimants
4 in many of the subcases), and the claimants are in disagreement about those two
5 fundamental concepts. Consequently, initial disclosures, settlement conferences, and other
6 pretrial exchanges would be wasteful given pendency of those largely dispositive issues.
7 More particularly, if partial forfeiture is not recognized in Idaho, initial disclosures may be
8 far more limited than if the concept is recognized. In one instance, it may be necessary to
9 document the full use of the water right from year to year, and, in the other, all that would
10 be necessary is presentation of a decree or license under which IDWR has confirmed partial
11 use. In sum, the motion is made because it is more expeditious and economical to resolve
12 the issues by proceeding with the designation of Basin Wide Issues. Further, it is unjust to
13 require any party to proceed until the legal framework has been decided.

14 The stay sought would apply to all proceedings in the subcases, except for the
15 matter of whether to allow and proceed upon permissive appeal of the Special Master's
16 Order Denying Motions to Strike Affidavits and Order Granting Motions and Amended
17 Motions to File Late Responses dated December 12, 1995, in subcase nos. 36-00021B (36-
18 00021), 36-00039D, 36-00048A, 36-00049, 36-00051A, 36-02169, 36-04260B, 36-10283A
19 and 36-15168.

1 Oral argument is requested on the motion at a time convenient for the court.

2 Dated this 14 day of December, 1995.

3 HEPWORTH, LEZAMIZ & HOHNHORST,
4 CHARTERED

5 By: 

6 Patrick D. Brown

7 Attorneys for Hagerman Water Right
8 Owners, Inc.

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CERTIFICATE OF MAILING

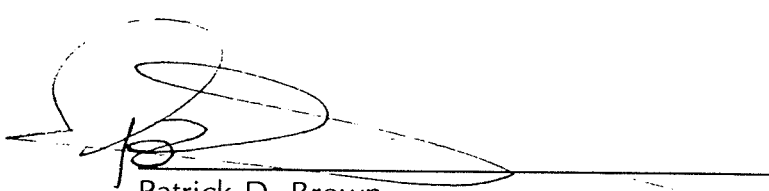
The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303-0389, and one of the attorneys for the claimants in this matter, certifies that he caused to be mailed a copy of the above and foregoing MOTION TO STAY PROCEEDINGS on the 9 day of December, 1995, to:

Chief, Natural Resources Division
Office of Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

The United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Jeffrey C. Fereday
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Boise, ID 83701-2720

Josephine P. Beeman
Dillion, Bosch, Daw & Bock, Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
Boise, ID 83702


Patrick D. Brown

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EXHIBIT "A"

36-00003A	36-00066B	36-02009
36-00003B	36-00067	36-02038
36-00003C	36-00068	36-02046
36-00003E	36-00069	36-02166
36-00003F	36-00070	36-02169
36-00003J	36-00071A	36-02178
36-00004	36-00075	36-02588
36-00006	36-00077C	36-04071
36-00007	36-00079	36-04091
36-00008	36-00084	36-04260B
36-00011A	36-00085A	36-07071
36-00021B	36-00085B	36-07081
36-00022	36-00086C	36-07089
36-00023	36-00089A	36-07142
36-00029B	36-00089C	36-07172
36-00033D	36-00090D	36-07229
36-00033E	36-00090E	36-07233
36-00034B	36-00090F	36-07298
36-00039C	36-00092	36-07323
36-00039D	36-00094A	36-07369B
36-00039E	36-00096A	36-08099
36-00039F	36-00097	36-10033
36-00039J	36-00099	36-10035
36-00039M	36-00100	36-10141
36-00039N	36-00101	36-10168
36-00039P	36-00103F	36-10169
36-00041A	36-00104A	36-10223
36-00041C	36-00106	36-10283A
36-00042A	36-00108B	36-10283B
36-00048A	36-00110A	36-10409
36-00048C	36-00110B	36-10446
36-00049	36-00111A	36-10588
36-00050D	36-00111B	36-10706
36-00051A	36-00112A	36-10815
36-00051C	36-00112B	36-10906
36-00051D	36-00113H	36-15094
36-00051E	36-00123A	36-15157
36-00054A	36-00134C	36-15166
36-00055AD	36-00135C	36-15168
36-00055AF	36-00136A	36-15176
36-00061	36-00136B	36-15184
36-00062	36-00194	36-15461
36-00063	36-00198A	36-15463
36-00064B	36-02002	
36-00065	36-02008	