

COPY

RECEIVED

Claimants:

MAY 3 1 1996

Keith L. Fuell and Jolene Fuell

Department of Water Resources
Adjudication Bureau

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. 36-00086C

)

Case No. 39576

) **MOTION FOR SUMMARY JUDGMENT**

)

)

* * * * *

Come now claimants through their attorney of record, Patrick D. Brown of the law firm of Hepworth, Lezamiz & Hohnhorst, Chartered, and pursuant to I.R.C.P. 56 move the Court to grant summary judgment in whole or in part for each element enumerated in I.C. §42-1411(2), according to the description in the attachment to the affidavit in support of summary judgment.

The grounds for this motion are that there are no genuine issues of material fact and judgment may be entered as a matter of law.

In support of this motion, claimants submit the New International Mortgage decree which confirms the establishment of the right and defines the elements except annual

MOTION FOR SUMMARY JUDGMENT - 1

HLH
Chartered
Hepworth,
Lezamiz &

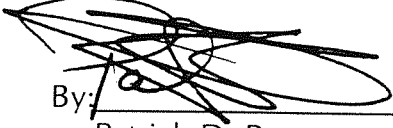
1 volume of consumptive use; the affidavits submitted in support of this motion, including the
2 affidavit of claimant, which establishes that the claimants' predecessors in interest
3 established a water right and had it confirmed by decree and that there has been no
4 abandonment or forfeiture since that time; the affidavits concerning crop production in the
5 Hagerman Valley and the affidavit of Charles E. Brockway, Ph.D. regarding annual volume
6 of consumptive use; and the affidavit of Patrick D. Brown and attachments.

7 The claimants request oral argument on this motion. Also, because this is a
8 one party case, that party being the claimants who are objecting to IDWR's
9 recommendation, the claimants request the opportunity to provide further written briefing
10 concerning legal issues or application of the law to the facts of the subcase in order to
11 thoroughly address any concerns or questions the court may have in that regard.

12 This motion is further supported by the brief submitted contemporaneously
13 with this motion.

14 Dated this 31th day of May, 1996.

15 HEPWORTH, LEZAMIZ & HOHNHORST,
16 CHARTERED

17 By: 

18 Patrick D. Brown
19 Attorneys for Claimants
20
21
22
23