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DEPARTMENT OF
WATER RESOURCES

Attorneys for Applicant PTR, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

_____	)	
IN THE MATTER OF APPLICATION FOR	)	PTR, INC.'S POST-HEARING
EXCHANGE OF WATER RIGHT NOS.	)	REPLY BRIEF
65-3222 AND 65-8290 IN THE NAME OF	)	
PTR. INC.	)	
_____	)	

COMES NOW PTR, Inc., by and through its attorneys of record, Ringert Clark Chartered, and hereby submits this Post-Hearing Reply Brief concerning the above-referenced Application for Exchange. This Reply Brief is in response to Protestant Weimer's Post Hearing Brief submitted on or about February 16, 2005.

At the outset it should be pointed out that PTR, Inc. submitted a Post-Hearing Brief on February 15, 2005 which explained the Application for Exchange in detail, addressed the issues raised by Weimer and provided a detailed analysis as to why the Application will not injure Weimer or result in an enlargement. Weimer's Post Hearing Brief does not raise any new issues which were not previously addressed by PTR, and he continues to raise issues which have no bearing on this Application and are not before the Department, including issues relating to maintenance, enforcement of a rotation and ownership of the water right. However, PTR is submitting this Reply

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Brief in order to reiterate PTR's position and to once again explain that the Application for Exchange will not have any adverse impacts to Weimer or cause any injury to the water rights which are appurtenant to his property.

I. ARGUMENT.

Weimer argues that the ditch is poorly maintained and that if this Application is approved there will be less incentive for PTR to maintain the ditch. First, there is no evidence that the ditch is poorly maintained. To the contrary, the evidence presented was that PTR, within reasonable budget constraints, has maintained the ditch and has actually improved the ditch over the past several years. Mr. Kane testified that the reason that the ditch does not have sufficient capacity to deliver all of the water rights to all of the property, including River Ranch, was not because the ditch is improperly maintained, but rather because three ditches which previously delivered water to the property were at some point combined into one ditch. Second, it is absurd to suggest that PTR's incentive to maintain the ditch would be diminished if this Application were approved. If the Application is approved, PTR will continue to divert 1.59 cfs through the ditch that delivers irrigation water to the Weimer, Kane and Granciri property. There is simply no evidence to support Weimer's suggestion that the maintenance would decrease if the Application were approved.

Weimer also argues that the Application will result in an enlargement of the historic use. As PTR previously explained, PTR's water rights were decreed in March of 2003 and the water rights have not been forfeited, nor are they subject to forfeiture for five years until the date of the decree. The Application for Exchange proposes to continue to deliver the decreed water rights to the same lands which the water rights are appurtenant. PTR is simply proposing to change the source of the water delivered to River Ranch from Scriver Creek to the Middle Fork of the Payette River. There

simply is no enlargement.

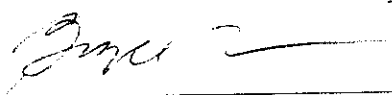
Weimer continues to assert that he individually owns the portion of the water appurtenant to his property without providing any argument as to how the ownership of the water rights has any bearing or relevance to this Application for Exchange.¹ Nevertheless, as PTR previously explained in its initial Post-Hearing Brief, the issue of whether Weimer owns an interest in the water rights is: (1) irrelevant to this Application because regardless of whether Weimer individually owned a portion of the water rights or not, those rights will continue to be delivered through the ditch and continue to be appurtenant to only 6.2 acres of his property; and (2) these proceedings involving the Application for Exchange are not the appropriate forum for Weimer to claim an ownership interest in the water rights.

II. CONCLUSION.

Once again, Weimer has not provided a valid reason that the Application will cause injury to the water rights appurtenant to his land, or a reason why the Application should not be approved. Weimer continues to raise irrelevant issues which are not before IDWR and which do not have any bearing on the pending Application. Accordingly, PTR's Application should be approved.

DATED this 22nd day of February, 2005.

RINGERT CLARK, CHARTERED



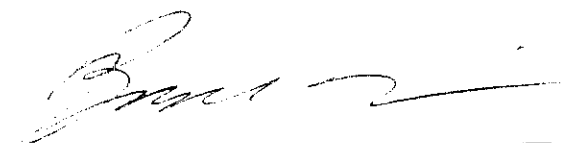
S. Bryce Farris

¹ Interestingly, Weimer confirms in his Post Hearing Brief that he did previously vote to approve this Application for Exchange and the only reason he changed his mind is because he mistakenly believes he owns a individual ownership interest in the water rights.

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing document was mailed, postage pre-paid, to the following on this 22nd day of February, 2005:

George G. Hicks
Hoagland Dominick & Hicks, PLLC
1471 Shoreline Drive, Ste. 100
Boise, Idaho 83702

A handwritten signature in black ink, appearing to read "S. Bryce Farris", is written over a horizontal line.

S. Bryce Farris