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Attorney for Farm Development Corporation

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATIONS TO
LEASE WATER RIGHT. 63-33384 INTO THE
WATER SUPPLY BANK FOR THE 2022 TO
2026 SEASONS

**FDC'S WITNESS AND DOCUMENT
LIST**

Farm Development Corporation ("FDC") provides this Witness and Document List in compliance with the Order dated October 2, 2023.

The name of witnesses FDC intends to call and a summary of the testimony the witness will provide.

1. Craig Castagneto
Applicant Representative

Testimony Summary:

- FDC purchased right 63-33384 when it became available in 2007. The ownership of the right was separated from the ownership of the appurtenant ground, which was held by a developer who intended to subdivide the 25 acres into one-acre lots.
- After the right was decreed in 2009, FDC analyzed what it could do with the right. One option was to sell portions of the right to owners of the subdivided lots. Meanwhile, FDC submitted its change of ownership for the right in 2010 that resulted in the reduction of the volume of the right from 4.5 AF per acre to 1.2 AF per acre.

- Given the real estate market collapse in 2009 and following, the owner of the ground elected not to proceed with development or with resumption of the irrigation on the parcel, so in 2013 FDC reviewed what it could do with the right. At that time, FDC determined that the volume had been reduced. Because FDC determined that this was likely an error, we had our attorney draft a letter asking for a reversal of the volume reduction that was submitted in the Spring of 2013.
- While IDWR reviewed the letter, FDC determined that it could not beneficially use the right for irrigation at 1.2 AF per acre, and any administrative application for the right, either a transfer or a water bank application, would not be processed until the administrative review of the volume issue was determined. Moreover, FDC did not want to inadvertently ratify the volume error.
- After the Department corrected the diversion volume in the fall 2014, FDC placed the right into the water bank.

2. Terry Scanlan
HDR Inc.
Applicant Expert Witness

Testimony Summary:

- An irrigation water right that is limited to 1.2 AF per acre in the Dry Lake area of Idaho cannot be beneficially used because no crop can be grown using that volume of water. Diverting and using that volume of water would be a waste of the water resource.

Documents FDC May Rely Upon

FDC does not intend to create or produce any new documents that are not already included in the IDWR file for right 63-33384, its parent right 63-3599B and its progeny. FDC intends to introduce all of these documents into the record and intends to rely on all of them.

Dated this 1st day of November, 2023.

JOHN MARSHALL LAW PLLC

A handwritten signature in blue ink, appearing to read "John M. Marshall", is written above a horizontal line.

John M. Marshall

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of August, 2023, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

Original to: IDAHO DEPARTMENT OF WATER RESOURCES 322 E FRONT ST STE 648 PO BOX 83720 BOISE ID 83720-0098 file@idwr.idaho.gov	☐ U.S. Mail, Certified, postage prepaid ☐ U.S. Mail, postage prepaid ☐ Overnight Mail ☐ Facsimile ☒ Email
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