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DEPARTMENT OF
WATER RESOURCES

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Attorney for Idaho Forest Group, LLC., Curtis & Lana Carney, R&R Smith Properties LLC, Gary W. Creagle and Karen B. Creagle 1995 Trust, R&R Smith Family Trust; Gary Creagle and Ryan & Crystal Smith

**BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO**

IN THE MATTER OF WATER RIGHT 95-
16447

**MOTION TO FIND CARL LOWRY AND
CAITLYNE COMAN IN DEFAULT AND
FOR ENTRY OF AN ORDER
DECLARING WATER RIGHT 95-16447
FORFEITED**

INTRODUCTION

Idaho Forest Group, LLC., Curtis & Lana Carney, R&R Smith Properties LLC, Gary W. Creagle and Karen B. Creagle 1995 Trust, R&R Smith Family Trust; Gary Creagle and Ryan & Crystal Smith by and through their counsel of record, Clive J. Strong, pursuant to Idaho Code § 42-222(2) and IDAPA 37.01.01.220 hereby moves the Idaho Department of Water Resources (“IDWR”) to find Carl Lowry and Caitlyne Coman in default for failure to appear and respond to the Petition for Forfeiture of water right 95-16447. Petitioners further move IDWR for entry of an Order declaring water 95-16447 forfeited.

STATEMENT OF FACTS

The Coeur d' Alene/ Spokane River Basin Court issued Jameson Mortgage Company a partial decree for Water Right 95-16447 on December 1, 2020, which authorizes the storage of 5.20 acre-feet per year in Chilco Reservoir for irrigation storage and irrigation from storage. Attachment 2 to the Affidavit of Randall Smith in Support of Petition for Forfeiture of Water Right 95-16447 and Attachment 2 to the Affidavit of Curtis B. Carney In Support of Petition for Forfeiture of Water Right 95-16447.¹ The place of use of the water right is 4 acres in the SESE of Section 7 in T52N, R03W. *Id.*

The State of Idaho Office of Secretary of State records show that Jameson Mortgage Co. no longer exists. Attachment 3 to the Affidavit of Randall Smith in Support of Petition for Forfeiture of Water Right 95-16447 and Attachment 3 to the Affidavit of Curtis B. Carney In Support of Petition for Forfeiture of Water Right 95-16447.² The Kootenai County Assessor's records list Carl Lowry and Caitlyne Coman as the current owner of parcel no. 52N03W079100, which is the place of use of water right 95-16447. Attachment 4 to the Affidavit of Randall Smith in Support of Petition for Forfeiture of Water Right 95-16447 and Attachment 4 to the Affidavit of Curtis B. Carney In Support of Petition for Forfeiture of Water Right 95-16447. IDWR sent a letter to Carl Lowry on October 16, 2024, asking him to file a change of ownership form if he claimed ownership

¹ Petitioners request that the Idaho Department of Water Resources take judicial notice of all documents in its 95-16447 water right file, including but not limited to CSRBA partial decree 95-16447 pursuant to IDAPA 37.01.01.062.

² Petitioners request that the Idaho Department of Water Resources take judicial notice of the State of Idaho Secretary of States Certificate of Existence/Filing dated March 24, 2026, Verification #: 039048531 as permitted by IDAPA 37.01.01.602.

of the right. Attachment 5 to the Affidavit of Clive J. Strong.³ There is no change of ownership form from Lowry or any other prior owner in IDWR's 95-16447 water right file.

On April 9, 2026, Petitioners filed a Petition for Forfeiture of Water Right 95-16447 with IDWR. The Petition and accompanying affidavits set forth a prima facie case for forfeiture of water right 95-16447.

Carl Lowry and Caitlyne Coman were personally served a copy of the Petition for Forfeiture of water right 95-16448 by process server Shane King on May 9, 2026.⁴ As of the filing of this motion neither Carl Lowry or Caitlyne Coman have filed a response to the Petition for Forfeiture.

ARGUMENT

Idaho Code § 42-222(2) provides that "rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated." See also *State v. Hagerman Water Right Owners, Inc.* 130 Idaho 736, 743, 947 P.2d 409, 416 (1997)("Section 42-222(2) of the Idaho Code provides for the loss of a water right for non-application to beneficial use."). "The party asserting that a water right has been forfeited has the burden of proving the forfeiture by clear and convincing evidence." Idaho Code § 42-222(2). As alleged in the Petition for Forfeiture there is no delivery system for conveying storage water to the place of use of water right 95-16447 nor has the right been

³ Petitioners request that the Idaho Department of Water Resources take judicial notice of the letter from Craig L. Saxton, Adjudication Section Manager to Carl Lowry dated October 16, 2024.

⁴ Petitioners request that the Idaho Department of Water Resources take judicial notice of the Affidavit of Service by Shane King in water right file 95-16447.

exercised in more than 30 years. Petition for Forfeiture and accompanying Affidavits are incorporated herein by reference. The facts alleged in the Petition and Affidavits establish a prima facie case that water right 95-16447 has been forfeited.

Despite being served with the Petition for Forfeiture over forty-five days ago, neither Carl Lowry nor Caitlyne Coman have filed a respond to the Petition. There is no just reason for their failure to respond to the Petition for Forfeiture.

Carl Lowry's and Caitlyne Coman's failure to respond to the Petition for Forfeiture is prejudicial to the Petitioners. As IDWR's records show there is a long history of controversy surrounding Chilco storage rights.⁵ Indeed, the total volume of the decreed storage rights exceeds the physical storage capacity of Chilco Reservoir. A prompt resolution of the Petition for Forfeiture will resolve in part the ongoing controversy regarding who is entitled to store and use storage water from Chilco Reservoir.

CONCLUSION

Therefore, Petitioners respectfully request that IDWR find Carl Lowry and Caitlyne Coman in default and enter an order declaring water right 95-16447 forfeited.

DATED this 26th day of June 2026.



CLIVE J. STRONG
ATTORNEY FOR IDAHO FOREST GROUP, LLC,
GARY CREAGLE, GARY W. AND KAREN B.
CREAGLE 1995 TRUST, CURTIS AND LANA
CARNEY, R&R PROPERTIES, LLC, R&R SMITH
TRUST, AND RYAN AND CRYSTAL SMITH

⁵ Petitioners request that the Idaho Department of Water Resources take judicial notice of documents in its files related to water rights 95-2036, 95-2036A, 95-2036B, 95-2036C, 95-16447, 95-16448, 95-16449, 95-16450, 95-16451, 95-16452, 95-16453 and 95-18274 pursuant to IDAPA 37.01.01.602

CERTIFICATE OF SERVICE

I certify that on the 26th day of June 2026, I served or caused to be served a copy of this **MOTION TO FIND CARL LOWRY AND CAITLYNE COMAN IN DEFAULT AND FOR ENTRY OF AN ORDER DECLARING WATER RIGHT 95-16447 FORFEITED** to the parties by the following method(s):

Idaho Department of Water Resources
322 E. Front St Ste 648
P.O. Box 83720
Boise, ID 83720-2707

email file@idwr.idaho.gov

Carl Lowry and Caitlyne Coman
22128 N. Pope Rd.
Athol, ID 83801

USPS Mail (postage paid) or Certified
Mail/Return Receipt Requested


CLIVE J. STRONG

Hersley, Jean

From: clivejstrong@gmail.com
Sent: Friday, June 26, 2026 6:06 PM
To: IDWR File
Subject: In the Matter of Water Right 95-16447
Attachments: Motion for Default and Forfeiture of 95-16447.pdf

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Attached is Petitioners' Motion for fining Carl Lowry and Caitlyne Coman in default and entry of Order declaring water right 95-16447 forfeited to be filed In the Matter of Water Right 95-16447.

Regards,

Clive J Strong

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