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DEPARTMENT OF
WATER RESOURCES

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

IN THE MATTER OF WATER RIGHT 95-
16447

**REPLY BRIEF IN SUPPORT OF
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 submit this Reply Brief in
*Support of their Motion To Find Carl Lowry and Caitlyne Coman in Default and for an
Order Declaring Water Right 95-16447 Forfeited.*

STATEMENT OF FACTS

On April 20, 2026, Petitioners filed a Petition for Forfeiture of Water Right 95-16447 with accompanying Affidavits of Randall Smith and Curtis B. Carney In Support of Petition For Forfeiture of Water Right 95-16447.¹ Randall Smith and Curtis B. Carney testify in their affidavits that “[t]here is no water delivery system connecting the Lowry/Coman parcel” to the 12’ pipeline that delivers Chilco storage water for irrigation use and that “the holder(s) of water right 95-16448 has not diverted storage water from Chilco Reservoir for the irrigation of the place of use in more than 5 years.” Randall Smith Affidavit at ¶¶ 17 through 20; Curtis B. Carney Affidavit ¶¶ 13 through 16. Both Smith and Carney testified that they are “not aware of any request for delivery of storage water under water right 95-1447 for irrigation of the place of use in more than 30 years.” Randall Smith Affidavit at ¶¶ 21 and 22; Curtis B. Carney Affidavit at ¶ 17.¶

Carl Lowry and Caitlyne Coman were personally served a copy of the Petition for Forfeiture of water right 95-16447 by process server Shane King on May 9, 2026.² As of the filing of this motion neither Carl Lowry nor Caitlyne Coman have filed a response to the Petition for Forfeiture. As of the date of the filing of this Reply Brief neither Carl Lowry nor Caitlyne Coman has not filed a response to or affidavits contesting the allegations in the Petition for Forfeiture.

¹ 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

² 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.

Petitioners filed a *Motion To Find Carl Lowry and Caitlyne Coman in Default and for an Order Declaring Water Right 95-16447 Forfeited* (“*Motion for Entry of Default and Order of Forfeiture*”) pursuant to IDAPA 37.01.01.220 with IDWR on June 26, 2026. Petitioners served a copy of *Motion for Entry of Default and Order of Forfeiture* on Carl Lowry and Caitlyne Coman on June 26, 2026. As of the date of filing this Reply Brief, neither Carl Lowry nor Caitlyne Coman has responded to the *Motion for Entry of Default and Order of Forfeiture*.

ARGUMENT

IDAPA 37.01.01.220.02.b. provides a brief or affidavits responding to a motion “must be filed with the agency and served on the parties within fourteen (14) days of the filing of the motion.” Petitioners’ filed their *Motion for Entry of Default and Order of Forfeiture* on June 26, 2026. Pursuant to IDAPA 37.01.01.054 Carl Lowry and Caitlyne Coman were required to respond to Petitioners’ *Motion for Entry of Default and Order of Forfeiture* by July 10, 2026. Despite being served with the Petition for Forfeiture over sixty-two days ago, Carl Lowry and Caitlyne Coman have failed to respond to the Petition and failed to file a timely response to Petitioners’ *Motion for Entry of Default and Order of Forfeiture*. There is no just reason for Carl Lowry’s and Caitlyne Coman’s failure to respond to the Petition for Forfeiture and the *Motion for Entry of Default and Order of Forfeiture*. Therefore, Petitioners’ respectfully request that IDWR find Carl Lowry and Caitlyne Coman in default.

Further, Petitioners’ respectfully request that IDWR declare water right 95-16447 forfeited. The undisputed facts set forth in the Affidavits of Randall Smith and

there is no delivery system for conveying Chilco storage water to the place of use of water right 95-16447 and that the right has not been put to beneficial use in more than 30 years. These facts more than satisfy the statutory requirements of Idaho Code § 42-222(2) for forfeiture of water right 95-16447.

Carl Lowry's and Caitlyne Coman's failure to respond to the Petition for Forfeiture is prejudicial to the Petitioners. Petitioners are entitled to a determination that water right 95-16447 has been forfeited to resolve ongoing uncertainty regarding who is entitled to store and use storage water from Chilco Reservoir.

CONCLUSION

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

DATED this 13th day of July 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

CERTIFICATE OF SERVICE

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

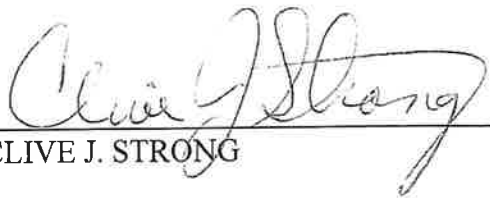
I certify that on the 13th day of July 2026, I served or caused to be served a copy of this **REPLY BRIEF IN SUPPORT OF MOTION TO FIND CARL LOWRY AND CAITLYNE COMAN IN DEFAULT AND FOR ENTRY OF AN ORDER DECLARING WATER RIGHT 95-16447 FORFEITED** to the parties by the following method(s):

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
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Please file this reply brief In the Matter of Water Right 95-16447.

Regards,

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