

Jul 13, 2026

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-
16448

**REPLY BRIEF IN SUPPORT OF
MOTION TO FIND LK ERICKSON
LIVING TRUST IN DEFAULT AND FOR
ENTRY OF AN ORDER DECLARING
WATER RIGHT 95-16448 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 LK Erickson Living Trust in Default and for an Order
Declaring Water Right 95-16448 Forfeited.*

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IN DEFAULT AND FOR AN ORDER DECLARING WATER RIGHT 95-16448
FORFEITED

STATEMENT OF UNDISPUTED FACTS

On April 20, 2026, Petitioners filed a Petition for Forfeiture of Water Right 95-16448 with accompanying Affidavits of Randall Smith and Curtis B. Carney In Support of Petition For Forfeiture of Water Right 95-16448.¹ Randall Smith and Curtis B. Carney testify in their affidavits that “[t]here is no water delivery system connecting the LK Erickson living Trust 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 ¶¶ 15, 16, 17 and 18; Curtis B. Carney Affidavit ¶¶ 12,13,14 and 15. Both Smith and Carney testified that they are “not aware of any request for delivery of storage water under water right 95-1448 for irrigation of the place of use in more than 30 years.” Randall Smith Affidavit at ¶¶ 19 and 20; Curtis B. Carney Affidavit at ¶¶16 and 17.¶

LK Erickson Living Trust was served a copy of the Petition for Forfeiture of water right 95-16448 by certified mail on April 22, 2026. Attachment 4 *Motion To Find LK Erickson Living Trust in Default and for an Order Declaring Water Right 95-16448 Forfeited*. As of the date of the filing of this Reply Brief LK Erickson Living Trust has not filed a response 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

Petitioners filed a *Motion To Find LK Erickson Living Trust in Default and for an Order Declaring Water Right 95-16448 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 LK Erickson Living Trust Erickson on June 26, 2026. As of the date of filing this Reply Brief, LK Erickson Living Trust has not 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 LK Erickson Living Trust was 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 eighty-two days ago, LK Erickson Living Trust has 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 LK Erickson Living Trust’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 LK Erickson Living Trust in default.

Further, Petitioners’ respectfully request that IDWR declare water right 95-16448 forfeited. The undisputed facts set forth in the Affidavits of Randall Smith and

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Curtis B. Carney in Support of the Petition for Forfeiture of Water Right 95-16448 show there is no delivery system for conveying Chilco storage water to the place of use of water right 95-16448 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 95-16448.

LK Erickson Living Trust's failure to respond to the Petition for Forfeiture is prejudicial to the Petitioners. Petitioners are entitled to a determination that water right 95-16448 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 LK Erickson Living Trust in default and declare water right 95-16448 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

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CERTIFICATE OF SERVICE

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 LK ERICKSON LIVING TRUST IN DEFAULT AND FOR ENTRY OF AN ORDER DECLARING WATER RIGHT 95-16448 FORFEITED** on 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

LK Erickson Living Trust
123 Montgomery Rd.
Gillette, WY 82716-9155

USPS (postage paid)


CLIVE J. STRONG

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Hersley, Jean

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Please file this Reply Brief In the Matter of Water Right 95-16448

Regards,

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