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*Attorneys for Lower Snake River Aquifer
Recharge District and the Thomas M. O'Gara
Family Trust*

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

IN THE MATTER OF APPLICATION FOR
PERMIT NOS. 37-22682 & 37-22852 in the
name of Innovative Mitigation Solutions, LLC

**AFFIDAVIT OF PAUL L.
ARRINGTON**

STATE OF IDAHO)
) ss.
County of Twin Falls)

I, PAUL L. ARRINGTON, being first duly sworn upon oath, deposes and states:

1. I am a duly licensed attorney in the State of Idaho and an associate at the firm Barker Rosholt & Simpson LLP, attorneys for the Lower Snake River Aquifer Recharge District and the Thomas M. O'Gara Family Trust. I am over the age of 18 and have personal knowledge of the documents and legal proceedings pertinent to this matter.

2. Attached hereto, as Exhibit A, is a true and correct copy of the *Order issued In the Matter of Designating the Big Wood River Ground Water Management Area*, dated June 28, 1991, from the website of the Idaho Department of Water Resources ("IDWR").

3. Attached hereto, as Exhibit B, is a true and correct copy of excerpts from the Applicant's *Responses to Protestants' First Discovery Requests*, dated January 30, 2015.

4. Attached hereto, as Exhibit C, is a true and correct copy of the *Hiawatha Canal Lease*, dated February 1, 2012, provided by the Applicants.

5. Attached hereto, as Exhibit D, is a true and correct copy of the *Place of Use Lease Between Walker Sane & Gravel, Landlord (Lessor) and Innovative Mitigation Solutions, LLC, Lessee (Tenant)*, dated August 21, 2013, provided by the Applicants.

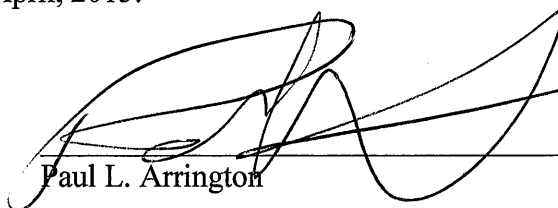
6. Attached hereto, as Exhibit E, are true and correct copies of the Partial Decrees for water rights 37-577B, 37-22630, 37-22631, 37-22632 & 37-22633, issued by the Snake River Basin Adjudication.

7. Attached hereto, as Exhibit F, is a true and correct copy of the By Laws for the Hiawatha Canal Water Users' Association of Lateral or Laterals.

8. Attached hereto, as Exhibit G, is a true and correct copy of the January 29, 2015 Memo RE: Preliminary technical comments pertaining to use of groundwater model for Applications for Permit 37-22682 and 37-22852.

9. I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 16th day of April, 2015.



Paul L. Arrington

Attorneys for Lower Snake River Aquifer Recharge District, et al.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of April, 2015, I served a true and correct copy of the foregoing, via email to the following:

Idaho Department of Water Resources
650 Addison Ave. W., Ste. 500
Twin Falls, Idaho 83301

Innovative Mitigation Solutions
2918 N. El Rancho Pl.
Boise, Idaho 83704

Frank Erwin
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Hagerman, Idaho 83332

Idaho Rivers United
Kevin Lewis, Conservation Director
P.O. Box 633
Boise, Idaho 83701

Peter Trust, LP
Thomas A. Thomas, General Partner
P.O. Box 642
Sun Valley, Idaho 83353

Eccles Flying Hat Ranch, LLC
Eccles Window Rock Ranch, LLC
Attn: Spencer Eccles
P.O. Box 3028
Salt Lake City, UT 84110

Trout Unlimited, Inc.
Peter R. Anderson
910 W. Main St., Suite 342
Boise, Idaho 83702

Harry S. Rinker
P.O. Box 7250
Newport Beach, CA 92658

Bureau of Land Management
Idaho State Office
Attn: Fred Price
1387 South Vinnell Way
Boise, Idaho 83709-1657

Michael Lawrence
Givens Pursley LLP
Representative for Redstone Partners, LP
P.O. Box 2720
Boise, Idaho 83701-2720

Peter L. Sturdivant
P.O. Box 968
Hailey, Idaho 83333

Valley Club Owners Association
Jack Levin, President
P.O. Box 6733
Ketchum, Idaho 83340

Idaho Conservation League
c/o Bryan Hulbutt, attorney
Advocates for the West
P.O. Box 1612
Boise, Idaho 83701

Board of Blaine County Commissioners
Lawrence Schoen, Commissioner
206 First Ave. South, Suite 300
Hailey, Idaho 83333

Lane Ranch Homeowners Association
c/o Sun Country Management
Marc E. Reinemann
P.O. Box 1675
Sun Valley, Idaho 83353

Heart Rock Ranch, LLC
Harry R. Hagey, Trustee of Member Trust
P.O. Box 3724
Hailey, Idaho 83333

Idaho Power Company
c/o Barker Rosholt & Simpson
Attn: John K. Simpson
P.O. Box 2139
Boise, Idaho 83701-2139

Redstone Partners LP
1188 Eagle Vista Ct.
Reno, Nevada 89511

The Valley Club, Inc.
c/o Givens Pursley, LLP
Attn: Michael Creamer
P.O. Box 2720
Boise, Idaho 83701-2720

Wood River Land Trust
Attn: Patti Lousen
119 E. Bullion St.
Hailey, Idaho 83333

USDA Forest Service
Attn: Steve Spencer
1805 Hwy 16, Rm 5
Emmett, Idaho 83617

Western Watersheds Project
Jon Marvel, Executive Director
P.O. Box 1770
Hailey, Idaho 83333

Brad Walker
Walker Sand & Gravel, Ltd. Co.
P.O. Box 400
Bellevue, Idaho 83313

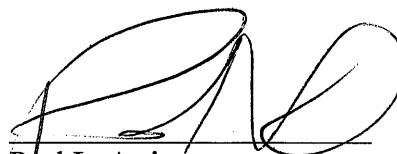
Idaho Dept. of Fish & Game
Magic Valley Region
324 S. 417 E., Ste. 1
Jerome, Idaho 83338

Big Wood Canal Company
c/o Craig Hobdey
P.O. Box 176
Gooding, Idaho 83330

Brockway Engineering
2016 N. Washington St., Ste. 4
Twin Falls, Idaho 83301

City of Hailey
c/o Givens Pursley LLP
Attn: Michael Creamer
P.O. Box 2720
Boise, Idaho 83701-2720

Harriet Hensley
Office of Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010



Paul L. Arrington

Exhibit A

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

IN THE MATTER OF DESIGNATING)
THE BIG WOOD RIVER GROUND)
WATER MANAGEMENT AREA)

ORDER

This matter having come before the Director of the Idaho Department of Water Resources as a result of concern over the relationship between ground water pumping and the flow of surface streams in the Big Wood River drainage, the Director Finds, Concludes and Orders as follows:

FINDINGS OF FACT

1. The Director of the Department of Water Resources has the responsibility to administer the use of ground water in the state of Idaho to protect prior rights and yet allow full economic development of the resource.

2. The surface and ground waters of the Big Wood River drainage are interconnected. Diversion of ground water from wells can deplete the surface water flow in streams and rivers. New ground water uses can also deplete available supplies for other users and affect basin underflow which presently accumulates in the Magic Reservoir.

3. There are a number of Applications for Permit to Appropriate Water pending before the department which propose additional consumptive uses of ground water within the Big Wood River drainage.

4. Injury could occur to prior surface and ground water rights including the storage right in Magic Reservoir if the flows of streams, rivers and ground water underflow in the Big Wood River Basin are intercepted by junior priority ground water diversions.

CONCLUSIONS OF LAW

1. Section 42-226, Idaho Code, declares all ground waters to be the property of the state, whose duty it is to supervise the appropriation and allotment of the same. One of the goals is to assure that early appropriations of ground water are protected in the maintenance of reasonable ground water pumping levels.

2. In order to determine whether withdrawals from the existing and proposed wells will have an adverse impact on prior water rights diverted from surface water and/or ground water, the

construction and use of additional wells in the area must be monitored and controlled.

3. Section 42-233b, Idaho Code, authorizes the Director of the Idaho Department of Water Resources to designate "ground water management areas" to allow increased management of the ground water resources.

4. The director of the department of water resources should designate a ground water management area for a portion of the Big Wood River basin upstream from Magic Reservoir and from which ground water pumping can have an effect on flows of streams and rivers in the basin.


ORDER

NOW, THEREFORE IT IS HEREBY ORDERED that the following described area be included within and designated as the "Big Wood River Ground Water Management Area" pursuant to the provisions of Section 42-233b, Idaho Code:

Beginning at Magic Dam on Big Wood River and continuing eastward approximately one mile to the drainage divide at Rattlesnake Butte, which separates tributaries of the Big Wood River above Magic Dam from those below the dam, thence northward approximately three miles and eastward approximately fourteen miles along the divide to a point where the divide crosses the north-south section line common to sections 28, 29, 32 and 33, T1S, R20E, BM, which is near the NE corner of Section 32, T1S, R20E, BM., thence east approximately five miles to the divide separating Silver Creek tributaries from the upper Little Wood River basin, thence continuing in a counterclockwise direction along the entire topographic boundary of the upper Silver Creek and Big Wood River basins, including Camas Creek returning to the point of beginning at Magic Dam.

Attached to this order is a map identified as Attachment 1. which graphically shows the boundaries of the management area.

DATED this 28TH day of JUNE, 1991.


R. KEITH HIGGINSON
Director

MANAGEMENT POLICY

FOR

THE BIG WOOD RIVER GROUND WATER MANAGEMENT AREA

I. GENERAL

A. Introduction

The Big Wood River drainage basin is located in southcentral Idaho within Blaine, Camas, Lincoln and Gooding Counties. In the approximate center of this basin is Magic Reservoir with a water storage capacity of 191,000 acre feet. This reservoir generally divides the basin into two distinct areas. The area upstream from the reservoir is herein referred to as the upper Big Wood River Basin.

The headwaters of Silver Creek are located east of the Big Wood River in the Bellevue Triangle. Silver Creek provides water to users who divert from the creek and from the Little Wood River to which it is tributary.

The upper Big Wood River Basin (including Silver Creek), particularly in Blaine County, is an area of continued economic growth and development. Water resource development to support some of this growth has occurred through transfers of existing water rights and new water appropriations.

B. Geohydrologic Characteristics of the Big Wood River Basin

The surface and ground water system in the upper Big Wood River Basin is interconnected. Diversion and use of water from a tributary stream or well will impact the total water supply available in the system. Downstream from Magic Reservoir, the river and ground water system are not as directly connected and there are other sources of water supply including canals bringing water from the Snake River and the Snake Plain ground water system. Magic Reservoir collects much of the water which moves through the upper Big Wood River Basin and which is not diverted and used upstream from that point. Except during periods of high runoff when Magic Reservoir fills and spills, the available water supply, both surface and ground water, upstream from Magic Reservoir is fully appropriated. Camas Creek and the Big Wood River are the major surface water tributaries upstream from Magic Reservoir.

Silver Creek is fed by numerous springs whose flows depend partly on percolating seepage resulting from Big Wood River irrigation diversion and use upstream in the Bellevue area. Ground water inflow contributes to the surface flow of Silver Creek and its tributaries from the headwaters to

a point approximately two miles upstream of Picabo, where Silver Creek ceases to be a gaining stream.

Diversions of ground water in the Bellevue Triangle, and generally in locations hydrologically upstream from Picabo, will deplete the surface flow of Silver Creek. Prior water right holders who divert from the Little Wood River also depend on surface water flow from Silver Creek. Depletion of Silver Creek flow will injure these earlier-in-time right holders. Many of the Little Wood River right holders also receive storage water from Magic Reservoir.

C. Present and Proposed Uses

Approximately 73 applications for permit to appropriate ground water upstream from Magic Reservoir and in the upper Silver Creek area are pending before the Department of Water Resources. Protests have been filed with the department against some of these applications. Complaints have also been lodged that continued granting of permits to develop new ground water uses in the upper Big Wood River Basin is interfering with prior surface water rights.

D. Recent Declines

The water years 1987 to the present have been below average within the basin. As a result, Magic Reservoir has not filled to its capacity within that time period. It has been suggested that this has been caused, in part, by the diversion of water within the basin under water rights with priority dates later in time than the Magic Reservoir rights.

Many natural flow rights have been cut off because of insufficient surface water flows. Since the water supply of the basin is finite, any withdrawal and consumption of water which would otherwise contribute water to a surface water source, when the source is fully appropriated, will injure another water user.

Various estimates have been made of the quantity of water within the basin. The studies have not all agreed on the total quantity of water but all have generally agreed that the surface and ground waters of the area are interconnected and that withdrawal and use of water from either source will impact the total supply.

E. Past Department Designation

In 1980, the Director of the Department of Water Resources issued a policy memorandum by which he declared that the surface water of the Big Wood River upstream from Magic Reservoir was fully appropriated. Since that date, no new permits for consumptive purposes have been issued for the use of the river or any of its tributaries. The department has continued, however, to issue permits for the use of ground water within the watershed. It now appears

that this policy must be changed with respect to new consumptive uses of ground water.

II. STATUTORY REQUIREMENTS AND AUTHORITIES

- A. Section 42-226, Idaho Code, declares all ground water to be the property of the state, and charges the state with supervising the appropriation and allotment of the same. One of the purposes of this is to assure that early appropriators of ground water are protected in the maintenance of reasonable ground water pumping levels.
- B. Section 42-233b., Idaho Code, authorizes the Director of the Department of Water Resources to designate a "Ground water Management Area" when the water supply in the area may be approaching conditions which could lead to designation as a critical ground water area.
- C. Section 42-237 a.g., Idaho Code, empowers the Director to prohibit or limit the withdrawal of water from any well during the period that he determines that water to fill any water right is not available.
- D. Policy 1F of the State Water Plan adopted by the Idaho Water Resource Board provides that "It is the policy of Idaho that where evidence of hydrologic connection exists between ground and surface water, they be managed as a single resource."

III. MANAGEMENT POLICY

Management policies which could be used in connection with future use of water in the upper Big Wood River Basin include the designation of all or a portion of the drainage as a groundwater management area, a critical ground water area or to issue a moratorium on additional permits for development.

The designation of a ground water management area for the upper Big Wood River Basin is the preferred management policy. Under this policy, additional approvals of ground water for consumptive uses can be granted upon a showing by an applicant and a determination by the department that the water supply is adequate and other water rights will not be injured. After the water rights of the basin are determined in the Snake River Basin Adjudication, and a method for the co-regulation of surface and ground water rights has been determined, the Director may require record keeping and reporting and may also issue orders if needed to reduce or stop ground water diversions.

This management policy allows the processing of all pending filings. Most consumptive use applications will be denied unless the applicants can demonstrate there will be no injury or can provide acceptable mitigation to prior rights.

The department will continue to consider the approval of applications for permit which propose non-consumptive uses, municipal uses, stockwater and domestic uses as defined in Section 42-111, Idaho Code. Domestic uses meeting the definition of Section 42-111, Idaho Code, are not subject to the application for permit filing requirements of Section 42-229, Idaho Code.

Section 42-111, Idaho Code, defines "domestic uses" as

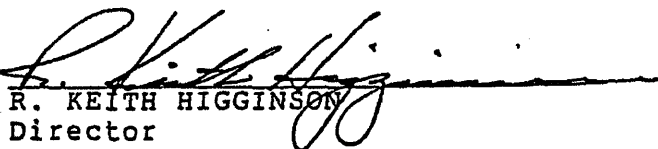
- A. The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or
- B. Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

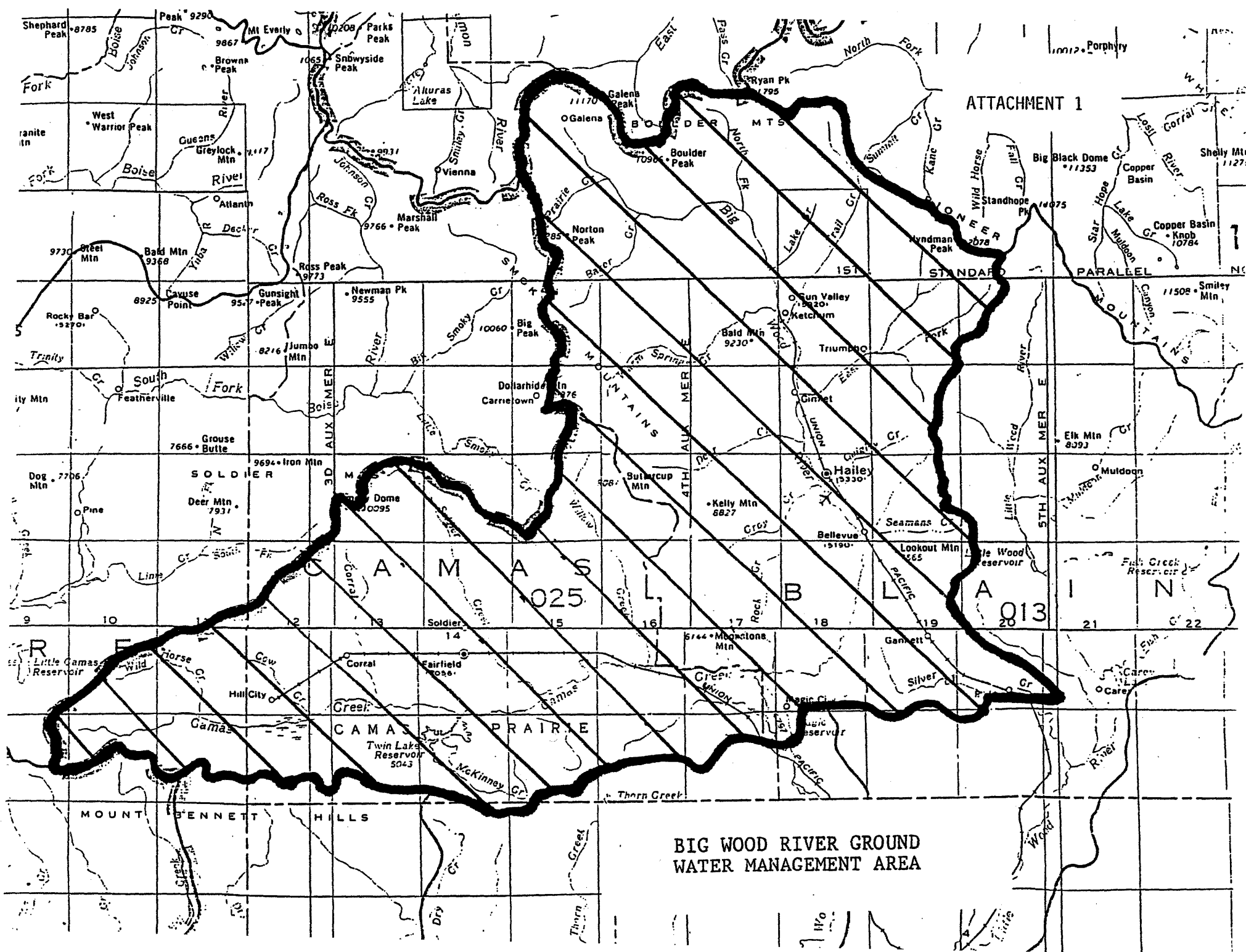
For purposes of this management policy, applications for ground water permits seeking water for multiple ownership subdivisions or mobile home parks will be considered provided each unit satisfies the definition for the exception of need to file an application for permit as described above.

While an incorporated city has wide latitude under state law to beneficially use its water rights for municipal purposes, any new large consumptive use within the municipal limits, such as irrigation of lands not associated with a dwelling, or irrigation of more than one-half acre associated with a dwelling, must be mitigated by the municipality.

The department will continue to accept and process new applications for permit and applications seeking amendment or transfer of existing water rights. Applications for amendment or applications for transfer which propose a change in the point of diversion from outside the ground water management area to within the area which would directly or indirectly result in the irrigation of new land will be treated as a proposed new appropriation of water.

Dated this 28TH day of JUNE, 1991.


R. KEITH HIGGINSON
Director



OD-5816
WR5816NP
SELECTION FILE: JIMGW

IDAHO DEPARTMENT OF WATER RESOURCES
SOURCE SUMMARY REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 09/12/95
TIME: 17:06:02
PAGE: 1

WATER RIGHT NUMBER	OWNER NAME	O C	PRIORITY DATE	STG	POINT OF DIVERSION	POD FLAG	TOTAL DIVERSION	TOTAL ACRES	WATER USES
=====									
WATER SOURCE: GROUNDWATER									
37-08195	CITY OF KETCHUM	C	10/05/1984	A	04N 17E 1	SWSE	2.750 CFS	40.0	01,40,43
37-08204	SUN VALLEY LAND AND MINERAL INC.	C	03/12/1985	A	03N 17E 27	SWSE	4.380 CFS	38.0	01,04,10,43,46
37-08268	RINKER CO.	C	03/24/1986	A	03N 18E 18	NESWNE	2.620 CFS	131.0	01
37-08294	GARDNER, ROBERT E.	C	05/01/1987	A	01N 19E 18	SESESE	6.000 CFS	300.0	01
37-08354	ALMA, H. WILLEM	C	07/07/1988	A	02N 19E 31	SWSW	0.175 CFS	6.0	01
37-08459	MC MAHAN, KATHRYN	C	09/22/1988	A	01N 18E 1	SWNWNW	0.100 CFS	5.1	43,01
37-08439	STARWEATHER SUBDIVISION PROPERTY	C	10/25/1988	A	03N 18E 20	NWNWNW	0.960 CFS	30.0	43,01,49
37-08552	REESE, JANET S.	C	09/11/1989	A	02N 18E 30	SWSWSW	0.200 CFS	3.0	01,43,52
37-08580	FARNES, DORLA	C	10/26/1989	A	02S 17E 11	NWNWNW	0.200 CFS	1.0	10,01,43
37-08598	HERMANN, RANDALL	C	03/01/1990	A	05N 17E 10	SENWSE	0.120 CFS	4.0	01
37-08656	JOHN BROWN INC.	C	06/04/1990	A	01N 18E 14	SWSW	4.000 CFS	349.0	01
37-08645	BALDWIN, PHYLLIS	C	07/11/1990	A	01S 19E 11	NWSW	1.240 CFS	60.0	01,43
37-08672	RAMM, PAUL C.	C	08/16/1990	A	01N 19E 18	SWNW	0.060 CFS	3.0	01
37-08671	RAMM, PAUL C.	C	08/16/1990	A	01N 19E 18	SWNW	0.100 CFS	5.0	01
37-08674	NEW DEER CREEK RANCH INC.	C	09/07/1990	A	03N 18E 30	SESE	0.090 CFS	3.0	01
37-08681	PUCHNER, PHILIP F.	C	09/14/1990	A	01N 18E 28	NESWNW	0.130 CFS	3.0	43,01
37-08680	PUCHNER, PHILIP F.	C	09/14/1990	A	01N 18E 28	SWSWNW	0.130 CFS	3.0	43,01,04
37-08682	PUCHNER, PHILIP F.	C	09/14/1990	A	01N 18E 28	SWNESW	1.200 CFS	60.0	01
37-08686	HEATHERLANDS HOMEOWNERS ASSN INC	C	09/28/1990	A	03N 18E 17	NESESW	0.860 CFS	6.5	49,43,01
37-08698	HARRIS, TIMOTHY H.	C	10/16/1990	A	04N 17E 1	SWSWSW	0.130 CFS	3.0	01,43,50,55
37-08708	MC STAY, G.M.	C	02/13/1991	A	02N 18E 10	SWSESE	0.130 CFS	3.0	43,01
37-08737	REMBER, CRAIG	C	02/19/1991	A	01N 18E 23	NENW	1.600 CFS	80.0	01
37-08711	HOBBS, JIM	C	02/19/1991	A	03N 18E 33	NESESW	0.070 CFS	1.0	43,01
37-08738	IRELAND, IAN DAVID	C	02/26/1991	A	01S 14E 11	SWSWSW	0.090 CFS	3.0	01
37-08714	CROPPER, LINDA C.	C	02/27/1991	A	02N 19E 31	SENWSW	0.130 CFS	3.0	01,43
37-08725	MC ATEE, KENT	C	03/08/1991	A	02N 17E 35	NWNENE	2.000 CFS	222.0	01
37-08709	GARDNER, ROBERT	C	03/08/1991	A	01S 19E 13	SENENE	10.200 CFS	511.0	01
37-08723	GMMK-B	C	05/06/1991	A	01S 19E 10	NWNENE	0.240 CFS	1.8	01,43
37-08727	ROSE, DONNA	C	05/16/1991	A	04N 18E 25	SESW	0.060 CFS	2.0	01,50
37-08728	KENDALL, CHUCK	C	05/21/1991	A	04N 18E 19	SESENW	0.130 CFS	3.0	01,43
37-08731	WOOD, SYLVIA	C	06/14/1991	A	01N 18E 36	SWSENE	0.090 CFS	3.0	01
37-08762	NORTH STAR FUNDING INC	C	06/21/1991	A	01N 18E 1	SENESE	0.500 CFS	25.0	01
37-08763	RYAN, RONALD D	C	07/12/1991	A	05N 17E 26	SENE	0.130 CFS	3.0	01,43
37-08749	HEAD, JOSEPHINE	C	07/18/1991	A	02N 18E 36	SENE	0.360 CFS	18.0	01
37-08765	WOODS, JR, WARD W	C	08/28/1991	A	03N 18E 32	SENESE	0.180 CFS	4.0	01,43
37-08761	BASABE, SUSAN A	C	09/24/1991	A	01S 11E 35	SESESW	4.760 CFS	238.0	01
37-08768	LIMES, JAMES L	C	11/29/1991	A	01N 19E 18	SWNESW	0.090 CFS	10.0	01
37-08817	NEILL, STEVEN	C	08/02/1993	A	02N 19E 31	NWNESW	0.060 CFS	3.5	01
37-08848	CITY OF BELLEVUE	C	06/06/1995	A	02N 18E 25	SWSWSW	3.350 CFS	40	

WATER SOURCE: SPRING

37-08552	REESE, JANET S.	C	09/11/1989	A	02N 18E 30	SWSWSW	4	0.200 CFS	3.0	01,43,52
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Exhibit B

David R. Tuthill, Jr.
Manager, Innovative Mitigation Solutions, LLC
2918 N. El Rancho Pl.
Boise, ID 83704

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT) RESPONSES TO PROTESTANTS'
NOS. 37-22682 AND 37-22852 IN THE NAME OF) FIRST DISCOVERY REQUESTS
INNOVATIVE MITIGATION SOLUTIONS, LLC)

Innovative Mitigation Solutions, LLC provides these responses to Protestants' First Discovery Requests dated December 31, 2014. This document is correct and accurate to the best of the ability of the preparer. As described below, most of the documents requested are already part of the public record in this matter and are available at the website hosted by the Idaho Department of Water Resources. Additional documents have been added as Attachments to this document. These responses were prepared by David R. Tuthill, Jr. in his duties as Manager of Innovative Mitigation Solutions, LLC.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify yourself (the person responding to these discovery requests) and state your relationship with the Applicant.


RESPONSE NO 1: David R. Tuthill, Jr., Manager of Innovative Mitigation Solutions, LLC.

INTERROGATORY NO. 2: Please identify each and every person with whom you consulted in preparing these responses.

RESPONSE NO. 2: I prepared these responses by myself.

INTERROGATORY NO. 3: Please identify each and every witness the Applicant intends to call (or may call) at the hearing in this matter. With respect to each of the witnesses so identified, please identify the person as a fact or expert witness, and state the subject matter and general substance of the facts and opinions to which he or she is expected to testify.

Dated this 30th day of January, 2015

A handwritten signature in black ink, appearing to read "David R. Tuthill, Jr.", with a stylized flourish at the end.

David R. Tuthill, Jr.

Manager, Innovative Mitigation Solutions, LLC

Attachments

Attachment A: PowerPoint presentation shown to Blaine County Commissioners on February 23, 2010

Attachment B: PowerPoint presentation shown to Blaine County Commissioners on October 22, 2013

Attachment C: Report from Dr. James Bartolino et al on Water Resources in the Wood River Valley,
USGS Report No. 2007-5258

Attachment D: Rules for Conjunctive Management of Surface and Ground Water Resources

Attachment E: Approved Permit for Snake River Valley Irrigation District

Attachment F: Approved Permit for Peoples Canal and Irrigation Company

Attachment G: Proposed Conditions of Approval

Attachment H: Draft Report from Idaho Department of Fish and Game

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Financial statements will be made available confidentially to the Hearing Officer at the time of hearing.

REQUEST FOR PRODUCTION NO. 7: Please produce all documents including any communications between you and any person or entity concerning potential mitigation and mitigation credits that may result from the use of water under applications for permit no. 37-22682 and 37-22852.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: The Applicant has discussed this issue frequently with many users within the Wood River Valley. No contracts have yet been drafted or signed.

REQUEST FOR PRODUCTION NO. 8: Please produce all insurance policies you have acquired to cover any property damage caused by the use of water under applications for permit no. 37-22682 and 37-22852.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: None. The Applicant has never heard of an insurance policy acquired for a protested application for permit.

REQUEST FOR PRODUCTION NO. 9: Please produce all agreements with servient landowners under the Hiawatha Canal that allow you to convey and use the water under applications for permit no. 37-22682 and 37-22852.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: The only such agreement obtained thus far is the lease which is already part of the record.

REQUEST FOR PRODUCTION NO. 10: Please produce all agreements with servient landowners that allow you to convey water from the Big Wood River to the Walker Sand & Gravel property and use the water under applications for permit no. 37-22682 and 37-22852.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: The only agreement obtained thus far is the lease which is already part of the record.

REQUEST FOR PRODUCTION NO. 11: Please produce all agreements with the Big Wood Canal Company that relate in any way to applications for permit no. 37-22682 and 37-22852.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: The Applicant does not have an agreement with the Big Wood Canal Company.

REQUEST FOR PRODUCTION NO. 12: Please produce all documents, communications, and agreements with between the Applicant and any person or entity that is interested in or who may benefit in any way from your intended use of water under applications for permit no. 37-22682 and 37-22852.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: No such agreements exist.

Exhibit C

HIAWATHA CANAL LEASE

THIS Hiawatha Canal Lease ("**Lease**") is entered into as of the first day of February, 2012, ("**Effective Date**") by and between Hiawatha Canal Water Users Association of Lateral or Laterals, an Idaho Company ("**Landlord**") and Wood River Mitigation Solutions, LLC, an Idaho limited liability company ("**Tenant**").

RECITALS

WHEREAS Landlord owns and operates certain waterworks, lateral ditches, headgates and related improvements in Blaine County, Idaho commonly known as the Hiawatha Canal ("**Hiawatha Canal**");

WHEREAS the Hiawatha Canal is used by Landlord to convey water from the Big Wood River and/or its tributaries to lands served by the Hiawatha Canal;

WHEREAS Tenant desires to lease from Landlord the Hiawatha Canal for the purpose of conducting ground water recharge operations and related activities, including but not limited to, the acquisition of ground water recharge credits ("**Credits**") issued by the Idaho Department of Water Resources ("**Tenant's Use**"); and

WHEREAS Landlord desires to lease to Tenant the Hiawatha Canal for Tenant's Use and no other.

NOW THEREFOR, Landlord and Tenant, for good and valuable consideration, agree as follows:

1. Lease and Term.

1.1 Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Hiawatha Canal for a primary term commencing on the Effective Date and terminating five (5) years thereafter.

1.2 By giving Landlord at least ninety (90) days written notice before the expiration of the primary term, Tenant may extend the term of this Lease for five (5) periods of one (1) year each on the same terms and conditions, except length of term, as the primary term.

2. Rent.

2.1 From and after the Effective Date, Tenant shall pay Landlord annual rent ("**Rent**") in the following manner based upon the following formula: Tenant shall convey and transfer to Landlord one-half (1/2) of all Credits acquired and issued to Tenant during the prior calendar year arising from Tenant's Use of the Recharge via Hiawatha Canal.

2.2 The Rent shall be delivered to Landlord within thirty (30) days after the anniversary of the Effective Date.

2.3 Tenant shall deliver the Rent to the Landlord at Landlord's address set forth in Article 8.

3. Restrictions on Tenant's Use. Tenant may employ the Hiawatha Canal for Tenant's Use only at times convenient to Landlord. So long as such activities do not interfere with Landlord's use of the Hiawatha Canal during the irrigation season ("**Landlord's Use**"), upon fifteen (15) days written notice to Landlord ("**Tenant's Notice of Use**"), Tenant may propose activities related to Tenant's Use of the Recharge via Hiawatha Canal. Landlord shall have the sole and absolute determination of whether the timing and nature of Tenant's proposed activities shall interfere with Landlord's Use. If Landlord determines Tenant's proposed activities interfere with Landlord's Use, Landlord shall notify Tenant of such determination within ten (10) days after receiving Tenant's Notice of Use. In that event Tenant shall not conduct its proposed activities.

4. Management, Operation and Maintenance of Recharge via Hiawatha Canal. Landlord shall manage, operate, maintain and repair Hiawatha Canal during the Term on this Lease. Subject to the restrictions in Article 3, Landlord shall operate the Hiawatha Canal as necessary to complete the activities of Tenant's Use at such times as Tenant so desires.

5. Title.

5.1 Landlord covenants that Landlord is the owner of the Hiawatha Canal and has full right and authority to enter into this Lease.

5.2 Nothing in this Lease shall be deemed to require either party to perform any labor or furnish any materials for any construction, rebuilding, alteration or repair of or to the Hiawatha Canal or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials, which might in any way give rise to the right to file any lien against Landlord's interest in the Recharge via Hiawatha Canal.

6. Alterations.

6.1 Tenant shall not make any alterations in or additions to the Hiawatha Canal without the written permission of Landlord.

6.2 Landlord shall not be required to make any alterations in or additions to the Hiawatha Canal by reason of this Lease or Tenant's Use.

7. Subletting or Assignment. Tenant shall not transfer, assign or convey this Lease or any interest under it, or sublet the Hiawatha Canal or any part thereof, or permit the use of the Hiawatha Canal by anyone other than Tenant.

8. Notices. All notices given pursuant to this Lease shall be in writing and shall be given by United States mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, addressed to the appropriate party at the address set forth as

follows:

Landlord:

Tenant:

Wood River Mitigation Solutions, LLC
2918 N. El Rancho Rd.
Boise, Idaho 83704.

The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other party. The term "receipt" shall mean any of the following: (a) the date of delivery of the notice or other document as shown on the return receipt, (b) the date of receipt of the notice or other document by the person or entity specified, or (c) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (i) the date of the attempted delivery or refusal to accept delivery, (ii) the date of the postmark on the return receipt, or (iii) the date of receipt of notice of refusal or notice of nondelivery by the sending party.

9. General.

9.1 The parties hereto agree that this is the entire agreement between the parties hereto and there are no oral or written agreements to the contrary and this is the final, integrated document.

9.2 The Article headings are for convenience only and do not define, limit or construe the contents of the Article.

9.3 Neither this Lease nor memorandum of this Lease shall be recorded by either party.

9.4 The terms and conditions hereof shall be bound upon and inure to the benefit of the respective parties, their administrators, executors, successors and assigns.

9.5 Each covenant, agreement and provision of this Lease shall be construed to be a separate covenant, agreement and provision. If any covenant, agreement or provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such covenant, agreement or provision to any person or circumstances other than those as to which such covenant, agreement or provision is invalid or unenforceable, shall not be affected thereby and each covenant, agreement and provision of this Lease shall be valid and enforceable to the extent permitted by law. **This agreement is subject to approval at the 2012 annual meeting of the Hiawatha Canal Water Users Association of Lateral or Laterals.**

9.6 In the event the Landlord and/or Tenant shall be a corporation or other legal entity, the person executing this Lease on behalf of such legal entity hereby covenants and warrants that such legal entity is a duly qualified legal entity and all steps have been taken prior to the date hereof to qualify such legal entity to do business in the state of Idaho; all franchise and corporate taxes have been paid to date; and future forms, reports, fees and other documents necessary to comply with applicable laws will be filed when due.


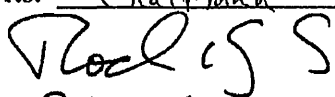
9.7 The laws of the State of Idaho shall govern the validity, performance and enforcement of this Lease.

9.8 Although the printed provisions of this Lease were drawn by Tenant, this Lease shall be construed not for or against Landlord or Tenant, but this Lease shall be interpreted in accordance with the general tenor of the language in an effort to reach an equitable result.

EXECUTED as of the day and year first above written.

Landlord:

Hiawatha Canal Company


By: David L. Cropper
Its: Chairman

ROD KEGLEY

Tenant:

Wood River Mitigation Solutions, LLC

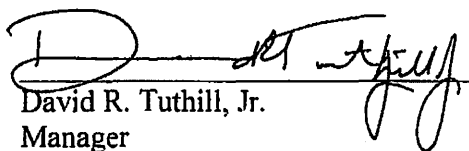

David R. Tuthill, Jr.
Manager

Exhibit D

**Place of Use Lease Between
Walker Sand and Gravel, Landlord (Lessor) and
Innovative Mitigation Solutions, LLC, Lessee (Tenant)**

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4.	Management, Operation and Maintenance of Recharge Area.....	3
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7.	Subletting or Assignment.....	3
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PLACE OF USE LEASE

THIS Place of Use Lease ("Lease") is entered into as of the 21st day of Aug, 2013, ("Effective Date") by and between Walker Sand and Gravel ("Landlord") and Innovative Mitigation Solutions, LLC, an Idaho limited liability company ("Tenant").

RECITALS

WHEREAS Landlord owns land near the Big Wood River in Blaine County, Idaho commonly known as the ("Place of Use");

WHEREAS Tenant desires to lease from Landlord the Place of Use for the purpose of conducting ground water recharge operations and related activities, including but not limited to, the acquisition of ground water recharge credits ("Credits") issued by the Idaho Department of Water Resources ("Tenant's Use"); and

WHEREAS Landlord desires to lease to Tenant the Place of Use for Tenant's Use and no other.

NOW THEREFOR, Landlord and Tenant, for good and valuable consideration, agree as follows:

1. Lease and Term.

1.1 Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Place of Use for a primary term commencing on the Effective Date and terminating five (5) years thereafter.

1.2 By giving Landlord at least ninety (90) days written notice before the expiration of the primary term, Tenant may extend the term of this Lease for five (5) periods of one (1) year each on the same terms and conditions, except length of term, as the primary term.

2. Rent.

2.1 From and after the Effective Date, Tenant shall pay Landlord annual rent ("Rent") in the following manner based upon the following formula: Tenant shall convey and transfer to Landlord fifty-five percent (55%) of all Credits acquired and issued to Tenant during the prior calendar year arising from Tenant's Use of the Place of Use.

2.2 The Rent shall be delivered to Landlord within thirty (30) days after the anniversary of the Effective Date.

2.3 Tenant shall deliver the Rent to the Landlord at Landlord's address set forth in Article 8.

3. Restrictions on Tenant's Use. Tenant may employ the Place of Use for Tenant's Use only at times convenient to Landlord. So long as such activities do not interfere with Landlord's use of the Place of Use during the irrigation season ("**Landlord's Use**"), upon fifteen (15) days written notice to Landlord ("**Tenant's Notice of Use**"), Tenant may propose activities related to Tenant's Use of the Place of Use. Landlord shall have the sole and absolute determination of whether the timing and nature of Tenant's proposed activities shall interfere with Landlord's Use. If Landlord determines Tenant's proposed activities interfere with Landlord's Use, Landlord shall notify Tenant of such determination within ten (10) after receiving Tenant's Notice of Use. In that event Tenant shall not conduct its proposed activities.

4. Management, Operation and Maintenance of Place of Use. Landlord shall construct, manage, operate, maintain and repair all Place of Use during the Term on this Lease. Landlord shall operate the Place of Use as necessary to complete the activities of Tenant's Use at such times as Tenant so desires.

5. Title.

5.1 Landlord covenants that Landlord is the owner of the Place of Use and has full right and authority to enter into this Lease.

5.2 Nothing in this Lease shall be deemed to require either party to perform any labor or furnish any materials for any construction, rebuilding, alteration or repair of or to the Place of Use or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials, which might in any way give rise to the right to file any lien against Landlord's interest in the Place of Use.

6. Alterations.

6.1 Tenant shall not make any alterations in or additions to the Place of Use.

6.2 Landlord shall not be required to make any alterations in or additions to the Place of Use by reason of this Lease or Tenant's Use.

7. Subletting or Assignment. Tenant shall not transfer, assign or convey this Lease or any interest under it, or sublet the Place of Use or any part thereof, or permit the use of the Place of Use or any part thereof by anyone other than Tenant.

8. Notices. All notices given pursuant to this Lease shall be in writing and shall be given by United States mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, addressed to the appropriate party at the address set forth as follows:

Landlord: Walker Sand and Gravel
100 Walker Dr.
Bellevue, ID 83313

Tenant: Innovative Mitigations Solutions, LLC
2918 N. El Rancho Rd.
Boise, Idaho 83704.

The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other party. The term "receipt" shall mean any of the following: (a) the date of delivery of the notice or other document as shown on the return receipt, (b) the date of receipt of the notice or other document by the person or entity specified, or (c) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (i) the date of the attempted delivery or refusal to accept delivery, (ii) the date of the postmark on the return receipt, or (iii) the date of receipt of notice of refusal or notice of nondelivery by the sending party.

9. General.

9.1 The parties hereto agree that this is the entire agreement between the parties hereto and there are no oral or written agreements to the contrary and this is the final, integrated document.

9.2 The Article headings are for convenience only and do not define, limit or construe the contents of the Article.

9.3 Neither this Lease nor memorandum of this Lease shall be recorded by either party.

9.4 The terms and conditions hereof shall be bound upon and inure to the benefit of the respective parties, their administrators, executors, successors and assigns.

9.5 Each covenant, agreement and provision of this Lease shall be construed to be a separate covenant, agreement and provision. If any covenant, agreement or provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such covenant, agreement or provision to any person or circumstances other than those as to which such covenant, agreement or provision is invalid or unenforceable, shall not be affected thereby and each covenant, agreement and provision of this Lease shall be valid and enforceable to the extent permitted by law.

9.6 In the event the Landlord and/or Tenant shall be a corporation or other legal entity, the person executing this Lease on behalf of such legal entity hereby covenants and warrants that such legal entity is a duly qualified legal entity and all steps have been taken prior

to the date hereof to qualify such legal entity to do business in the state of Idaho; all franchise and corporate taxes have been paid to date; and future forms, reports, fees and other documents necessary to comply with applicable laws will be filed when due.

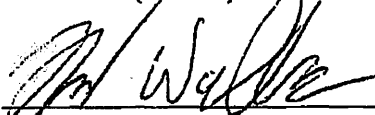
9.7 The laws of the State of Idaho shall govern the validity, performance and enforcement of this Lease.

9.8 Although the printed provisions of this Lease were drawn by Tenant, this Lease shall be construed not for or against Landlord or Tenant, but this Lease shall be interpreted in accordance with the general tenor of the language in an effort to reach an equitable result.

EXECUTED as of the day and year first above written.

Landlord (Lessor): Walker Sand and Gravel

Date:

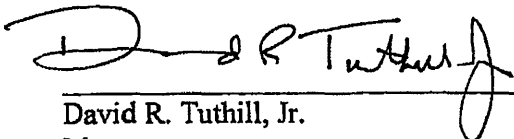


Brad Walker

8/24/13

Tenant:
Innovative Mitigation Solutions, LLC

Date:



David R. Tuthill, Jr.
Manager

8/21/2013

Exhibit E

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54 (b) FOR
Case No. 39576)
)
) Water Right 37-00577B

NAME AND ADDRESS: HIAWATHA CANAL WATER USERS
 ASSOCIATION OF LATERAL OR
 LATERALS
 PO BOX 669
 HAILEY, ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 2.74 CFS

PRIORITY DATE: 03/24/1883

PLACE OF USE:

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

RULE 54 (b) CERTIFICATE

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 37-22630

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 29 2012	
By _____	Clerk
_____	Deputy Clerk

NAME AND ADDRESS: HIAWATHA CANAL WATER USERS
ASSOCIATION OF LATERAL OR
LATERALS
PO BOX 669
HAILEY, ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 1.467 CFS

The watermaster shall deliver this right into the Hiawatha Canal
where it shall not be rediverted.

PRIORITY DATE: 03/24/1883

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	04-15 TO 10-31	1.467 CFS

This right is limited to conveyance loss associated with delivery
of water by the Hiawatha Canal Water Users Association of Lateral
or Laterals through its canal and lateral system.

PLACE OF USE:

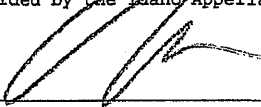
Place of use does not include federal public lands.
Place of use for this right is limited to the canal and lateral
system served by the Hiawatha Canal Water Users Association of
Lateral or Laterals to the point at which its canal and lateral
systems terminate.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

In Re SRBA

Case No. 39576

Water Right 37-22631

NAME AND ADDRESS: HIAWATHA CANAL WATER USERS
 ASSOCIATION OF LATERAL OR
 LATERALS
 PO BOX 669
 HAILEY, ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

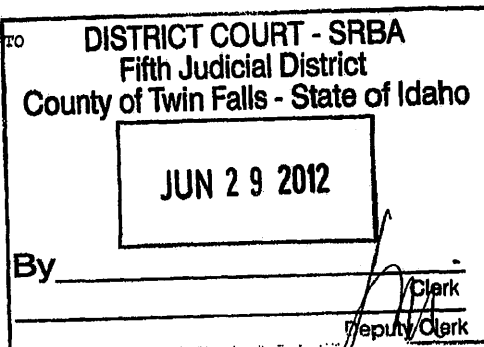
QUANTITY: 3.372 CFS

PAGE 1
May-02-2012

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-22632



NAME AND ADDRESS: HIAWATHA CANAL WATER USERS
ASSOCIATION OF LATERAL OR
LATERALS
PO BOX 669
HAILEY, ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.60 CFS

The watermaster shall deliver this right into the Hiawatha Canal
where it shall be be rediverted.

PRIORITY DATE: 08/01/1902

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	04-15 TO 10-31	0.60 CFS

This right is limited to conveyance loss associated with delivery
of water by the Hiawatha Canal Water Users Association of Lateral
or Laterals through its canal and lateral system.

PLACE OF USE:

Place of use does not include federal public lands.
Place of use for this right is limited to the canal and lateral
system served by the Hiawatha Canal Water Users Association of
Lateral or Laterals to the point at which its canal and lateral
systems terminate.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

In Re SRBA

Case No. 39576

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 29 2012

By _____ Clerk

Deputy Clerk

The watermaster shall deliver this right into the Hiawatha Canal where it shall be be rediverted.

PRIORITY DATE: 04/01/1940

POINT OF DIVERSION: T03N R18E S20 SWNW Within Blaine County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mitigation	04-15 TO 10-31	0.36 CFS

This right is limited to conveyance loss associated with delivery of water by the Hiawatha Canal Water Users Association of Lateral or Laterals through its canal and lateral system.

PLACE OF USE:

Place of use does not include federal public lands.
Place of use for this right is limited to the canal and lateral system served by the Hiawatha Canal Water Users Association of Lateral or Laterals to the point at which its canal and lateral systems terminate.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54 (b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

Exhibit F

**BY-LAWS OF HIAWATHA CANAL WATER USERS'
ASSOCIATION OF LATERAL OR LATERALS**

ARTICLE I.

Organizational Status

The "Hiawatha Canal Water Users' Association of Lateral or Laterals" is an entity organized under Idaho Code Title 42, Chapter 13. The Association is also organized under the Unincorporated Nonprofit Association Act, pursuant to Idaho Code Title 53, Chapter 7.

ARTICLE II.

Definitions

1. **Association.** "Association" refers to the Hiawatha Canal Users' Association of Lateral or Laterals.
2. **Canal.** "Canal" refers to the Hiawatha Canal.
3. **IDWR.** "IDWR" refers to the Idaho Department of Water Resources.
4. **Member.** "Member" is defined as any person or entity having a share, or fractional share, of a water right delivered and/or conveyed through the Canal, and for purposes of exercising any right hereinafter described, must be listed as the owner of the particular water right with the IDWR as of March 1st, preceding the annual meeting of the Association.
5. **Share.** "Share" is defined as one (1) miner's inch of water delivered and/or conveyed through the Hiawatha Canal. One (1) miner's inch of water equates to one (1.0) cubic feet per second (cfs) of water.

ARTICLE III.

Office and Officers

The principal place of business of the Association in the State of Idaho shall be located in Hailey, Idaho. The Association may have such other offices, either within or without the State of Idaho, as the Board of Directors may designate or as the business of the Association may require

from time to time; however, the Association shall, at a minimum, have a Chairman, Vice-Chairman and a Secretary-Treasurer.

ARTICLE IV.

Members

Section 1. Annual Meeting. The annual meeting of the Members shall be held on the third Tuesday of March of each year, beginning with the year 2004, at the hour of 6:00 p.m., or at such other time on such other day within such month as shall be fixed by the Board of Directors, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Idaho, such meeting shall be held on the next succeeding business day. If the election of Directors shall not be held on the day designated herein for any annual meeting of the Members, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Members as soon thereafter as conveniently may be.

Section 2. Special Meetings. Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Chairman or by the Board of Directors, and shall be called by the Chairman at the request of the holders of not less than one-tenth (1/10) of all outstanding shares of the Association entitled to vote at the meeting.

Section 3. Place of Meeting. The Board of Directors may designate any place, either within or without the State of Idaho, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. A waiver of notice signed by all Members entitled to vote at a meeting may designate any place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Association in the State of Idaho.

Section 4. Notice of Meeting. Written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, by mail, or at the direction of the Chairman, or the Secretary, or the Officer or other persons calling the meeting, to each Member of record entitled to vote at such

meeting. Such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his or her address as it appears on the books of the Association, or at such other last known address of which the Association may have notice, with postage thereon prepaid.

Section 5. Closing of Transfer Books or Fixing of Record Date. For the purpose of determining a Member entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Board of Directors of the Association may keep a list of water rights delivered through the Hiawatha Canal.

Section 6. Voting Record. The Officer or agent having charge of the books of the Association shall make a complete record of the Members entitled to vote at each meeting of Members or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Member during the whole time of the meeting for the purposes thereof.

Section 7. Quorum. A majority of the Members of the Association entitled to vote, whose shares represent one-tenth ($1/10^{\text{th}}$) of shares delivered out of the Canal, shall constitute a quorum at a meeting of Members. If a quorum is present at a meeting, a majority of the shares so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 8. Proxies. At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by his or her duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting.

Section 9. Voting of Shares. Each Member shall be entitled to one (1) vote in person, for each share, and a fractional vote for each fraction of a share, of water that such water user is entitled to receive from the Canal.

Section 10. Voting of Shares by Certain Holders. Shares standing in the name of another Association may be voted by such officer, agent or proxy as the by-laws of such Association may prescribe or, in the absence of such provision, as the Board of Directors of such other Association may determine.

Shares held by an administrator, executor, guardian or conservator may be voted by him or her, either in person or by proxy, without a transfer of such shares into his or her name. Shares standing in the name of a trustee may be voted by him or her, either in person or by proxy, but no trustee shall be entitled to vote shares held by him or her without a transfer of such shares into his or her name.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his or her name if authority so to do be contained in an appropriate order of the Court by which such receiver was appointed.

A Member whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

Shares held by the Association shall not be voted at any meeting or counted in determining the total number of outstanding shares at any given time for purposes of any meeting.

Section 11. Informal Action by Members. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

Section 12. Cumulative Voting. At each election for directors every Member entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him or her for as many persons as there are directors to be elected and for whose election he or she has a right to vote, or to cumulate his or her votes by giving one candidate as many votes as the number of such Directors multiplied by the number of his or her shares shall equal, or by distributing such votes on the same principle among any number of such candidates.

Section 13. Officers. The Chairman of the Association shall preside at all meetings of the Members. In his or her absence, the Vice-Chairman shall preside. In the absence of all of these Officers, any Member, or the duly appointed proxy of any Member, may call the meeting to order and a Chairman shall be elected from among the members present. The Secretary of the Association shall act as Secretary at all meetings of the Members, but in his or her absence, the presiding Officer may appoint any person to act as Secretary of the meeting.

Section 14. Order of Business. At all meetings of Members, the following order of business may be observed, as far as consistent with the purpose of the meeting:

1. Calling the roll to determine the share represented at the meeting;
2. Reading of notice and proof of call of meeting;
3. Reading and correction of minutes of previous meeting;
4. Reports of Officers;
5. Reports of Committees;
6. Unfinished Business;
7. Election of Directors and Lateral Manger;
8. New Business;
9. Designation of a registered agent; and
10. Miscellaneous Business.

Section 15. Delinquent Members. Any member who has not paid an assessment when due shall not be entitled to vote, be a member of the Board, or be an Officer.

ARTICLE V.

Board of Directors - Officers

Section 1. General Powers. The Board of Directors shall manage the property, business and affairs of the Association.

Section 2. Number, Tenure and Qualifications. The Officers of the Association shall be a Chairman, a Vice-Chairman, and a Secretary-Treasurer, and such officers shall also constitute the Board of Directors. Each Officer shall hold office until the next annual meeting of Members or until his or her successor shall have been elected and qualified, whichever is later.

Section 3. Chairman. The Chairman shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. The Chairman shall, when present, preside at all meetings of the Members and of the Board of Directors and may sign, with the Secretary or any other proper Officer of the Association thereunto authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of Chairman and such other duties as may be prescribed by the Board of Directors from time to time.

Section 4. The Vice-Chairman. In the absence of the Chairman or in the event of his or her death, inability or refusal to act, the Vice Chairman shall perform the duties of the Chairman, and when so acting, shall have all the powers of the Chairman, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman. Any Vice Chairman may perform such other duties as from time to time may be assigned to him or her by the Chairman or by the Board of Directors.

Section 5. The Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records; (d) keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member; (e) have general charge of the share books of the Association; and (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the Chairman or by the Board of Directors.

Section 6. The Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies or other depositaries as shall be selected in

accordance with the provisions of Article V of these By-Laws; and (c) in general, perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the Chairman of the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Directors shall determine.

Section 7. Regular Meetings. A regular meeting of the Board of Directors may be held without other notice than this By-Law immediately after, and at the same place as, the annual meeting of Members. The Board of Directors may provide, by resolution, the time and place, either within or without the State of Idaho, for the holding of additional regular meetings without other notice than such resolution.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chairman or any two Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Idaho, as the place for holding any special meeting of the Board of Directors called by them.

Section 9. Notice. Notice of any special meeting shall be given at least forty-eight (48) hours previously thereto by written notice delivered personally or mailed to each Director at his or her business address, by telegram, or facsimile. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail, so addressed, with postage thereon prepaid. If notice be given by facsimile, such notice shall be deemed to be delivered when the facsimile is delivered to the telegraph company. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 10. Quorum. A majority of the number of Directors fixed by Section 2 of this Article III shall constitute a quorum for the transaction of business at any meeting of the Board of Directors but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 11. Manner of Acting. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 12. Action Without a Meeting. Any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

Section 13. Vacancies. A vacancy in the Board of Directors shall exist upon the death, resignation or removal of any Director. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors. A Director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office. Any directorship to be filled by reason of an increase in the number of Directors may be filled by election by the Board of Directors for a term of office continuing only until the next election of Directors by the Members.

Section 14. Compensation. By resolution of the Board of Directors, each Director may be paid his or her expenses, if any, of attendance at each meeting of the Board of Directors, and may be paid a stated salary as Director or a fixed sum for attendance at each meeting of the Board of Directors or both. No such payment shall preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

Section 15. Presumption of Assent. A Director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 16. Removal of Directors. Any Director or the entire Board of Directors may be removed, with or without cause, by a vote of the holders of the majority of the shares then entitled to vote at an election of directors. If less than the entire board is to be removed, no one (1) of the Directors may be removed if the votes cast against his or her removal would be sufficient to elect him or her if then cumulatively voted at an election of the entire Board of Directors.

ARTICLE VI.

Officers

Section 1. Number. The Members shall elect and fix the compensation of a "Lateral Manager" and such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. In the event a Lateral Manager is not elected at each annual meeting, then the Lateral Manager may be elected and the compensation fixed by the Board of Directors. Any two or more offices may be held by the same person except the offices of Chairman and Secretary-Treasurer.

Section 2. Duties of Lateral Manager. The Lateral Manager ("Manager") shall have all duties outlined by Idaho Law under Idaho Code Section 42-1301 through 1309, and Section 42-907 and 42-910.

Section 3. Election and Term of Office. Other Officers of the Association shall be elected and/or appointed annually by the Board of Directors at the first meeting of the Board of Directors held during or after each annual meeting of the Members. If the election of Officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each Officer shall hold office until his or her successor shall have been duly elected and shall have qualified or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided.

Section 4. Removal. Any officer or agent may be removed by the Board of Directors whenever, in its judgment, the best interests of the Association will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 6. Secretaries and Assistant Treasurers. The assistant treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant secretaries and

assistant treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the Chairman or the Association.

Section 7. Salaries. The salaries of the Officers shall be fixed from time to time by the Board of Directors and no Officer shall be prevented from receiving such salary by reason of the fact that he or she is also a Director of the Association.

Section 8. Bonds of Officers. The Directors may, by resolution, require any or all of the Officers of the Association to give bond with sufficient surety, conditioned for the faithful performance of the duties of their respective offices.

ARTICLE VII.

Improvements, Repair, and Maintenance of Canal

Section 1. As determined by the Board of Directors

A. Assessment Amounts. Before each annual meeting, the directors shall examine the canal, and make an estimated budget of the costs necessary for repairs, improvements, and maintenance of the Canal for the succeeding season. The budget shall then be presented to the members at each annual meeting, and the members shall vote to approve of the budget. There shall be no compensation for Board Members or Officers. Such costs shall be assessed on a pro rata basis to each Member in accordance with the water that the member is entitled to receive from the Canal. The improvement, repair, or maintenance shall be made under the direction of the directors. Regardless of shares actually owed, the minimum assessment shall be no less than Fifty and 00/100 Dollars (\$50.00).

B. Assessment Notice and Delinquency. On or before the 15th of each April, or some other time designated by the Board of Directors, the secretary shall notify each Member of the amount assessed against him for that year, and the same amount shall be due and payable on the 1st of each May of said year, or at some other time period designated by the Board of Directors. If the amount is not paid by the 15th of June of that year, then a penalty of 10% shall be added, and the amount shall then draw interest at the rate of 10% per annum from the 15th of June of such year until paid, or at some other time period designated by the Board of Directors.

C. Delinquent Members Not Entitled to Water. No member is entitled to receive water when an assessment to that member is due and unpaid. Any assessment not paid for a prior year will result in the member not being entitled to water from year-to-year until the delinquency is paid in full. The Lateral Manager shall not deliver any water to such delinquent Member. However, the Board of Directors shall have the authority to cause water to be delivered to any delinquent Member, provided the member gives such security for payment by him as shall be required by the Board of Directors. In the alternative, any delinquency may be forgiven, due to hardship reasons, by a majority vote of those present at each annual meeting.

D. Collection of Assessment and Disbursements of Funds. The Lateral Manager shall insure that all assessments and payments are made directly to the Treasurer. The Treasurer shall keep the funds of the Association in the name of the Association and shall draw warrants or checks from same to pay the costs and expenses of the management of the Canal.

Section 2. As Determined By Lateral Manager

A. Lateral Manager's Authority to Make Assessments. The Lateral Manager shall have power to require of any Member, in relation to the Member's proportionate share of water delivered out of the Hiawatha Canal to: perform labor, or to provide material or money reasonably necessary for the proper repair and maintenance of the Canal; and to require measuring weirs, head-gates and checks to be installed for distributing the water among Members. Upon demand, each Member of the Association shall then furnish his proportion of such labor, material or money upon three (3) day's notice.

B. Failure of Member to Perform. If the member fails to perform or provide material or money, then the Lateral Manager may, after advice and consent of the Board of Directors, employ other labor in his place, or furnish the material or money necessary, and such Member shall pay to the Association the reasonable value of such material or labor so. The Lateral Manager shall then notify the Board of the failure of the member to perform for consideration of further action by the Association, as set forth in Section 3 of this Article.

Section 3. Collection of Assessments.

A. Association's Right to Sue. In case any assessment is due and unpaid, the Association, upon approval of the Board, may sue to collect, in the name of the Secretary-Treasurer

and the name of the Association as such, in any court of competent jurisdiction, and in addition to the amount due, the Association may collect its reasonable attorney's fees and costs.

B. Optional Action by Association in Lieu of Direct Legal Action. In lieu of taking immediate legal action, the Lateral Manger may notify the Association of the Member's failure to perform as previously set forth. Upon receipt of such notice the Association may, if it chooses to do: proceed to furnish all labor, material and money necessary for the proper repair and maintenance of such lateral and for the furnishing and installation of measuring weirs, head-gates and checks; or proceed to repair and maintain said laterals and furnish and install such measuring weirs, head-gates and checks as it shall deem necessary or proper for the distribution of water among the members of the Association. The cost of such repair maintenance and the cost of furnishing and installing such measuring devices, head-gates, and checks shall be apportioned among the several Members on the basis of benefits derived therefrom by said Members. The Association furnishing said funds or doing the aforesaid things or any of them shall within thirty (30) days after completion thereof give each such Members written notice of the amount or amounts to be paid by him or her and demand payment thereof. Should the Members or any of them desire to contest the assessment and apportionment made by the Association, appeal may be taken from such assessment and apportionment to the district court in the county where the principal office of said Association or corporation is located within ten (10) days after receipt of said notice and demand for payment, in the same manner as in the case of appeals from the boards of county commissioners. In case of appeal, any sum or sums determined by said district court to be due, or in the event no appeal is taken, then any sum or sums determined by the Association to be due from any Member, shall be paid by the Member within ninety (90) days and the Association may refuse to deliver any water to any such water user until the amount due shall have been paid in full. If the Association prevails, then the Association shall be entitled to all attorney's fees and costs.

ARTICLE VIII.

Contracts, Loans, Checks and Deposits

Section 1. Contracts. The Board of Directors may authorize any Officer or Officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. Loans. The Association may borrow money from any private or governmental source, to be repaid over a period of years, and to levy assessments over such period of years for the purpose of repaying said loan, and the Association is authorized and empowered to mortgage and/or pledge any of the assets of said Association as security for said loan; providing, however, that before any money can be borrowed or any mortgage or pledge can be made and entered into, all members of the Association shall be notified of an election by two (2) weekly publications in a legally authorized newspaper, as defined in section 60-106, Idaho Code, within Blaine County. The notice shall provide that an election is being called to determine whether or not the Association shall be authorized to borrow money and mortgage and/or pledge its assets, and shall also state the date, time and place of said election, which shall be held within ten (10) days after the date of the last publication of said notice. If a majority of the total outstanding shares shall vote at said election in favor of borrowing said money and mortgaging and/or pledging said assets, then the Association, through its Chairman and Secretary-Treasurer, shall be authorized to borrow said money and mortgage and/or pledge its assets. Any quorum requirements outlined in these By-Laws shall not apply to duly authorized and noticed meetings under this Section.

Section 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositaries as the Board of Directors may select.

ARTICLE IX.

Water Rights

Section 1. Water Rights. Water rights, as represented by shares, shall be determined from the records of ownership held by the IDWR. All water right interests may be conveyed and transferred as allowed by Idaho law. Any individual Member or the Board of Directors may protest any water right transfer pursuant to Idaho law. Otherwise, the Association shall not determine the extent or ownership of any water right.

ARTICLE X.

Books and Records

The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Members and Board of Directors and shall keep at its registered office or principal place of business or at the office of its transfer agent or registrar, a record of its Members, giving the names and addresses of all Members and the number and class of the shares held by each. Any books, records and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.

ARTICLE XI.

Fiscal Year

The fiscal year of the Association shall begin on the third Tuesday of March and end on the same day of the following calendar year.

ARTICLE XII.

Waiver of Notice

Whenever any notice is required to be given to any Member or Director of the Association under the provisions of these By-Laws, a waiver thereof in writing signed by the persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIII.

Amendment to By-Laws

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted, subject to repeal or change by action of a majority of a quorum of Members appearing at any regular or special meeting, or by action of the Board of Directors.

ARTICLE XIV.

Severability

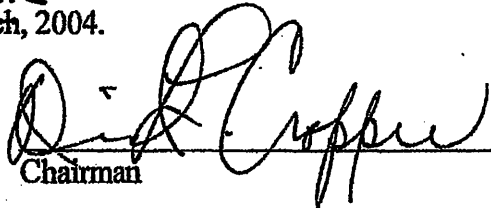
If any provision of these By-Laws is declared to be null and void, then the remaining provisions shall remain in effect.

ARTICLE XV.

Statutory Provisions

If any provision herein is not consistent with Idaho statutes, and the statute does not give the Association the right to control its operations through by-laws, then the provisions of the statute shall control.

EXECUTED this 22nd APRIL day of ~~March~~, 2004.


Chairman

ATTEST:



Secretary

Exhibit G

MEMO

Date: January 29, 2015

From: Charles G. Brockway, Ph.D., P.E. *CVB*
Brockway Engineering, PLLC

To: All interested parties

Re: Preliminary technical comments pertaining to use of groundwater model for
Applications for Permit 37-22682 and 37-22852

The applicant has requested that the protestants demonstrate how the forthcoming USGS/IDWR model would assist IDWR in evaluating these permit applications. The protestants do not bear this burden statutorily, but I offer the following technical comments on behalf of those interested parties represented by Brockway Engineering.

It is my understanding that the applicant believes that as long as water is only being injected into the aquifer, without an accompanying withdrawal, the activity should be automatically considered entirely beneficial and no groundwater modeling should be considered. However, the nature of the Big Wood aquifer/river system is such that the recharge activity by itself would alter the hydrology of the aquifer in significant ways that could affect other water users and which could only be accurately predicted by a groundwater model. A few such scenarios are described below.

Example 1. Recharge above Hailey, e.g. in the Hiawatha Canal or adjacent to the canal.

The Big Wood River is a gaining reach from the Hiawatha at least downstream to Bellevue. The numerical and analytical modeling performed by Brockway Engineering on a number of projects indicates that water recharged here will return to the river within the same season, and in some instances within a few weeks to a few months. Use of the USGS model will assist IDWR in evaluating whether the proposed recharge would truly constitute a beneficial use if it simply returns to the river within the same season. More importantly, the return of the recharge water to the river will occur gradually and may extend into the "tail" of the irrigation season, thereby augmenting and extending the water supply for surface water rights. This additional water will likely be diverted and used consumptively and therefore the net effect of the recharge alone could be an increase in consumptive use in contravention of the moratorium. The groundwater model would be able to predict the timing and magnitude of this effect.

Example 2. Recharge in the Comstock Ditch above East Fork. The same analysis can be made as for Example 1. The river at this location is a gaining reach, and evidence from studies by Brockway Engineering and others demonstrates that all of the water recharged in the Comstock Ditch would return to the river above the "narrows" south of Golden Eagle, likely within weeks or months in the same season.

Example 3. Recharge in the vicinity of the gravel pits south of Bellevue. This location is near the north end of the groundwater divide separating the Big Wood from the Silver Creek

systems, and is also near the northern limit of the clay layer which produces the confined aquifer from which numerous artesian wells discharge. Recharge water entering the aquifer here has the potential to alter the groundwater / surface water hydrology in three ways:

1. If any recharge water flows east of the divide, it would represent a physical transfer of water from the Big Wood basin to the Silver Creek basin, which could potentially reduce the water supply available for early-priority users on the Big Wood, while augmenting Silver Creek flows.
2. As in Examples 1 and 2, recharged water would likely return to surface streams in the same season, but later in time and in an attenuated fashion. Since the recharge area is near the northern end of the groundwater divide, the return flow could occur on the Big Wood side, the Silver Creek side, or both. In any case, late-season consumptive use could increase since the water supply for decreed rights would be augmented.
3. To the extent the recharge causes a "mound" in the aquifer (which is the stated goal of the applicant – to store water in the aquifer), this would increase the head in the aquifer and cause a greater percentage of the groundwater discharge to enter the confined system beneath the clay layer (the aquifer splits into upper unconfined and lower confined systems near the gravel pits). The effect could be to reduce spring flows from the upper system entering Willow Creek, Black Slough, Spring Creek, and others.

The hydrologic mechanisms described above are not conjectures. The general behavior of the aquifer is fairly well-understood and there is enough knowledge of the aquifer to plausibly describe them as potential effects of a particular stress on the system. All of the effects would be a result of an alteration of the hydrologic system caused by the recharge activity by itself, without any extractions from the aquifer. What is not available at this time is a tool which would allow these effects to be thoroughly evaluated and expressed quantitatively so that IDWR can assess the potential benefits and potential injuries from a recharge plan.

The applicant indicates that groundwater modeling was not required for two recharge permits recently approved in the Eastern Snake Plain aquifer, and therefore it would be "unprecedented" to rely on modeling in this case. Unlike the ESPA, the Big Wood aquifer responds very quickly and there is an intimate and rapid interconnection with surface water, with responses generally in the same season. There is also very little carryover storage in the aquifer. The ESPA is not hydrologically comparable to the Big Wood aquifer in these regards.

For the above reasons, my judgment is that use of the best available science – a calibrated groundwater / surface water model – would be of significant benefit in assessing the efficacy of the proposed recharge activities alone. It would not, in my opinion, be of no value in evaluating these applications as the applicant has stated.

The applicant indicated that it would be desirable to recharge some water in 2015. The minimum threshold for this to occur would be a fill and spill of Magic Reservoir. Looking at runoff volume at Stanton Crossing vs. Magic Reservoir fill, the April – July runoff in 2015 will need to equal or exceed approximately 222,000 ac-ft in order for the reservoir to fill. Today, the Northwest River Forecast Center is forecasting a runoff of 207,200 ac-ft at the 50% exceedance level, i.e. there is about a 50% chance that Magic will fill this year. It is difficult to justify sacrificing the best available science in the interest of obtaining one year of possible recharge having a 50% probability of occurring. This probability can and will change as the winter proceeds, but that is where the statistics stand at the moment.