

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

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JAN 30 2026

By _____


Deputy Clerk

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

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

IN RE CSRBA

Case No. 49576

Subcase No. 95-18274

**IRRIGATORS' REPLY TO
KOOTENAI PROPERTIES, INC.'S
RESPONSE TO IRRIGATORS'
MOTION FOR SUMMARY
JUDGMENT**

Idaho Forest Group, LLC, Curtis & Lana Carney, R&R Smith Properties LLC,
Gary W. Creagle and Karen B. Creagle 1995 Trust, R&R Smith Trust, Gary Creagle
and Ryan & Crystal Smith (collectively "Irrigators") by and through their counsel of
record, Clive J. Strong, hereby submit this memorandum in reply to Kootenai
Properties, LLC's ("KPI") Response to Irrigators' Motion for Summary Judgment.

I. INTRODUCTION

For reasons stated in Irrigators' Response to Kootenai Properties LLC's Motion for
Summary Judgment, Irrigators hereby withdraw that portion of their Motion for Summary
Judgment seeking a right to refill space for the purpose of obtaining a complete first fill of

the partially decreed storage rights. Irrigators agree with KPI that an expansion right of 90 acre-feet for replacement of seepage and evaporation losses is appropriate.

II. ARGUMENT

I. Irrigators Withdraw That Portion of Their Motion for Summary Judgment Seeking Water To Refill Storage Space To Achieve A Complete Fill Of Each Partial Decree.

As stated in Irrigators' Response to KPI's Motion for Summary Judgment, they now concur that the partial decrees allow a complete fill of each right. Therefore, Irrigators withdraw that portion of their motion for summary judgment seeking a volume in excess of 99 acre-feet.

II. The Court Should Decree An Expansion Right For Seepage and Evaporation Losses.

No one disputes that seepage and evaporation losses have occurred over time. See, *Report Preliminary Engineering Report Chilco Lake Reservoir March 1973*, 706 Report Exhibit 8 at 2 ("Chilco Lake Dam, rock & mortar dam that is leaking & in a bad state of repair."); *Narrative Report Chilco Lake Repair (November 1, 1956)*, Exhibit 9, 706 Report at Appendix B ("Weathering action over the years has weakened the mortar joints to the point where considerable leaking is occurring and the dam is in an unsafe condition.").

Ryan Fobes was commissioned by Idaho Forest Group to examine seepage losses from the reservoir. Fobes observed seepage losses are "continually evident, down gradient from the dam, emergency overflow, and the southern dike at Chilco Lake." Fobes Second Declaration at ¶ 6.

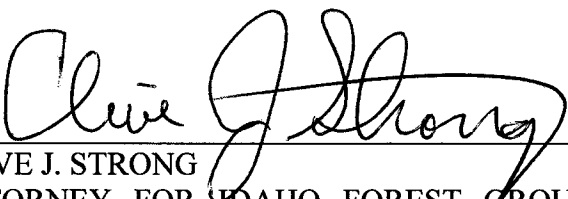
Fobes estimated the amount of seepage and irrigation losses using the Idaho Department of Water Resources Pond Loss Calculation Spreadsheet. *Id.* at ¶¶ 7-8. Fobes concluded that total estimated seepage losses of 99 acre-feet “is similar to losses observed when comparing the difference in Chilco Reservoir Dam gauge-volume estimates with master meter data, since the meter was installed.”

Irrigators assert the record establishes beneficial use of 99 acre-feet to replace seepage and evaporation losses, and therefore, respectfully request that the Court decree Late Claim 95-18274 in the amount 99 acre-feet for replacement of seepage and storage losses as recommended by the Director with a condition recognizing that the right does not alter or amend the CSRBA partial decrees. Alternatively, the Irrigators assert the seepage and storage losses could be decreed as an enlargement right.

III. CONCLUSION

For the above stated reasons irrigators respectfully withdraw their motion for summary judgment as to that portion of Late Claim 95-18274 in excess of 99 acre-feet and request that the Court decree the seepage and evaporation of component of Late Claim as recommended by IDWR with a condition stating that the right does not alter or amend the CSRBA Chilco partial decrees.

DATED this 27th day of January 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 FAMILY
TRUST, AND RYAN AND CRYSTAL SMITH

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27th day of January 2026, a true and correct copy of the foregoing document to be served by U.S. Mail postage prepaid addressed to the following individuals and email where noted:

ORIGINAL:

Clerk of the Court
Coeur d'Alene-Spokane River Basin
Adjudication Court
P.O. Box 2707
Twin Falls, ID 83303-2707

COPIES:

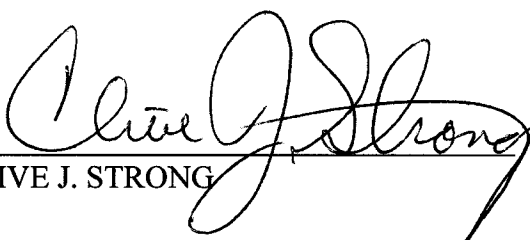
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