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Attorneys for State Agency Ground Water Users  
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ORIGINAL

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

IN THE MATTER OF DISTRIBUTION OF ) STATE AGENCY GROUND  
WATER TO WATER RIGHTS NOS. 36-02356A, ) WATER USERS' RESPONSE TO  
36-07210, AND 36-07427 ) SCHEDULING ORDER  
\_\_\_\_\_ )

The Idaho Department of Juvenile Corrections, the Idaho Department of Fish & Game, the Idaho Department of Health & Welfare, the Idaho Department of Lands, and the Idaho Transportation Department, who are called the State Agency Ground Water Users, by and through their counsel of record, Michael S. Gilmore, Deputy Attorney General, file this Response to Scheduling Order. This Response is based upon the following State Agency Water Users' water rights.

**Affected Water Rights**

(1) The Idaho Department of Lands, with lienholder Faulkner Land & Livestock Co., Inc., holds permitted ground water right No. 37-7372 for IRRIGATION and STOCKWATERING described in IDWR records as:

**Priority date:** 06/30/1999

**Use:** IRRIGATION right from March 15 through November 15 for 6.4 cfs and STOCKWATERING right from January 1 through December 31 for 0.14 cfs, for a total of 6.54 cfs.

**Location of Use:** T 7S R 15E Section 5 in Gooding County, as further described by quarter-quarter sections in the State Agency Water Users' earlier filings.

(2) The Idaho Transportation Department holds decreed ground water right No. 37-7457 described as follows:

**Priority date:** 10/01/1975

**Use:** DOMESTIC RIGHT from 01/01 through 12/31 for 0.05 CFS and 8.6 AFA for the Carey Maintenance Shed

**Location of Use:** T 1S R 21E Section 22 SWSE ¼¼ in Blaine County (no acres listed).

(3) The Idaho Department of Lands and Sawtooth Sheep Co., Inc., hold decreed ground water right No. 37-8005D described in the decree and in IDWR's records as:

**Priority date:** 03/26/1982

**Use:** IRRIGATION right from 04/01 through 10/31 for 0.41 CFS and 124 AFY

**Location of Use:** Gooding County, Section 5, T 6S, R 15E, and in Section 6, T 6S, R 15E, as further described by quarter-quarter sections in the State Agency Water Users' earlier filings.

(4) The Idaho Transportation Department holds decreed ground water right No. 37-20852 described as follows:

**Priority date:** 09/20/1974

**Use:** IRRIGATION from 04/01 through 11/01 for 0.09 CFS and 18.8 AFA

**Location of Use:** No place of use listed.

### **Response to Scheduling Order Timelines**

#### **1. Issues to be raised:**

(a) Are the irrigation and/or stockwatering rights listed as (1) and (3) subject to the Department's orders to curtail and/or mitigate, and, if so, are those water rights the beneficiaries of mitigation plans that will avoid curtailment?

(b) Is the domestic use right for a Department of Transportation maintenance shed listed as (2) above exempt from the Department's orders to curtail and/or mitigate, and, if not, is that water right the beneficiary of mitigation plans that will avoid curtailment?

(c) Is the irrigation right for the Department of Transportation listed as (4)

above exempt from the Department's orders to curtail and/or mitigate, and, if not, is that water right the beneficiary of mitigation plans that will avoid curtailment?

**2. Proposed Schedule:**

As a group with only four water rights so far identified, the SAGWU do not want to be the tail wagging the dog and will accept any schedule proposed by a consensus of the parties.

**3. Proposed Dates and Estimate Time for Hearing:**

The SAGWU will accept any dates and hearing times proposed by a consensus of the parties.

**4. Using Evidence in Related Proceedings:**

The SAGWU agree to allow the Department to use evidence in any of the three related Hagerman-Thousand Springs area calls.

**5. Unnecessary Proof/Cumulative Evidence:**

The SAGWU agree to allow the Department to simplify or streamline presentations.

**6. Other Matters:**

The SAGWU do not identify any other matters at this time.

DATED this 24<sup>th</sup> day of October, 2005.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
MICHAEL S. GILMORE  
Deputy Attorney General

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24<sup>th</sup> day of October, 2005, I caused to be served a true and correct copy of the foregoing via U.S. Mail to:

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