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Society, Inc.

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

|                           |   |                                      |
|---------------------------|---|--------------------------------------|
| <b>In Re SRBA</b>         | ) | <b>Subcase Numbers: 63-05376 and</b> |
|                           | ) | <b>63-05377</b>                      |
| <b>Case Number: 39576</b> | ) |                                      |
|                           | ) | <b>STIPULATION TO RESOLVE</b>        |
|                           | ) | <b>SUBCASES</b>                      |
|                           | ) |                                      |

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The United States of America, acting through the United States Department of Agriculture, Forest Service ("United States") and Atlanta Historical Society, Inc. ("Society"), agree and stipulate to resolve the United States' objections to water right claim numbers 63-05376 and 63-05377 as follows:

## **RECITALS**

WHEREAS, members of the Society, citizens of Atlanta, and the general public use the Atlanta and Chattanooga Hot Springs (collectively, "Hot Springs") for recreation and bathing. Their historic uses of the Hot Springs have included constructing impoundments by placing rocks in or near the Hot Springs, thereby creating small pools for bathing and recreation and excavating a large swimming pond. The Society and citizens of Atlanta also have historically cleaned, maintained and protected the Hot Springs, including removing trash from the Hot Springs, taking steps to keep vehicles (especially off-road vehicles) away from the Hot Springs and preventing the construction of structures at the Hot Springs; and

WHEREAS, the Society filed claim numbers 63-05376 and 63-05377 ("Water Right Claims") for recreational use of the Hot Springs; and

WHEREAS, the Hot Springs are located on National Forest System land; and

WHEREAS, the United States and the Society share the goal of providing for recreational use of the Hot Springs and preserving, as much as possible, within Forest Service land management guidelines and legal requirements, the historic uses of the hot springs; and

WHEREAS, the United States has objected to the Water Right Claims; and

WHEREAS, the United States and the Society wish to resolve the objections of the United States without further litigation, expense and delay.

## **STIPULATION**

THEREFORE, the United States and the Society stipulate and agree as follows:

1. The Water Right Claims should be decreed to the United States.

2. The United States and the Society agree that the purpose of use of the Water Right Claims is recreational use by the public, including members of the Society. The water right decrees should include the following language:

THE POINT OF DIVERSION AND PLACE OF USE FOR THIS WATER RIGHT ARE ON NATIONAL FOREST SYSTEM LAND. THIS WATER RIGHT IS FOR RECREATIONAL USE BY THE PUBLIC, INCLUDING THE CITIZENS OF THE TOWN OF ATLANTA, AT [ATLANTA/CHATTANOOGA] HOT SPRING.

3. This Stipulation was reached through negotiation for the purpose of resolving legal disputes, including pending litigation. All parties agree that no offers and/or compromises made in the course of the negotiations shall be construed as admissions against interest or be used in any legal proceeding.

4. All parties agree to bear their own costs and attorney fees in connection with this matter.

5. This Stipulation was entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

**FOR THE CLAIMANT  
ATLANTA HISTORICAL SOCIETY, INC.**

Michael C. Orr  
Michael C. Orr  
Givens, Pursley L.L.P.

2-10-04  
Date

**FOR THE OBJECTOR  
UNITED STATES OF AMERICA**

David L. Negri  
David L. Negri  
United States Department of Justice

2/12/04  
Date

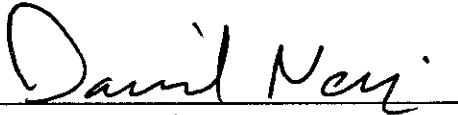
**Certificate of Service**

I certify that on February 12, 2004, I caused to be served a true and correct copy of the **STIPULATION TO RESOLVE SUBCASE NUMBERS 63-05376 and 63-05377** to the addresses listed below, by U.S. mail, postage prepaid:

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