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DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO

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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     | ) | SUB-CASE NOS: *Listed Below    |
|                | ) |                                |
| Case No. 39576 | ) | JOINT MOTION BY IDWR AND OTHER |
|                | ) | PARTIES TO BIFURCATE AND       |
|                | ) | CONSOLIDATE OBJECTIONS         |
|                | ) | TO PAGES 1 THROUGH 17 OF       |
|                | ) | THE DIRECTOR'S REPORT FOR      |
|                | ) | REPORTING AREA 1 (BASIN 34)    |
|                | ) | AND NOTICE OF HEARING          |

\*Sub-Case Nos:

|                |                |                |
|----------------|----------------|----------------|
| 34-00017D-0001 | 34-00050B-0001 | 34-00052A-0001 |
| 34-00060-0001  | 34-00168F-0001 | 34-00168G-0001 |
| 34-00259F-0001 | 34-00315-0001  | 34-00354-0001  |
| 34-00378-0003  | 34-00384-0001  | 34-00508-0001  |
| 34-00556-0002  | 34-00559-0001  | 34-00646-0001  |
| 34-00647-0001  | 34-00654A-0001 | 34-00692D-0004 |
| 34-00738E-0001 | 34-00789-0002  | 34-00796-0001  |
| 34-00911-0001  | 34-00970-0001  | 34-02272A-0001 |
| 34-02277-0001  | 34-02277-0002  | 34-02308A-0001 |
| 34-02309-0001  | 34-02315-0001  | 34-02330A-0001 |
| 34-02330B-0001 | 34-02358A-0001 | 34-02358D-0001 |

JOINT MOTION BY IDWR AND OTHER PARTIES TO BIFURCATE AND CONSOLIDATE  
OBJECTIONS TO PAGES 1 THROUGH 17 OF THE DIRECTOR'S REPORT FOR  
REPORTING AREA 1 (BASIN 34), Page 1

|                |                |                |
|----------------|----------------|----------------|
| 34-02358E-0001 | 34-02358F-0001 | 34-02373-0002  |
| 34-02389-0001  | 34-02395-0001  | 34-02410-0001  |
| 34-02412A-0001 | 34-02412C-0001 | 34-02417A-0001 |
| 34-02417B-0001 | 34-02419A-0001 | 34-02426C-0001 |
| 34-02428-0004  | 34-02428-0005  | 34-02429A-0001 |
| 34-02429B-0001 | 34-02429B-0002 | 34-02472A-0001 |
| 34-02491E-0001 | 34-02491H-0001 | 34-02512-0001  |
| 34-07059B-0001 | 34-07059C-0001 | 34-07059D-0001 |
| 34-07075-0001  | 34-07077-0001  | 34-07079-0001  |
| 34-07120-0001  | 34-07122A-0001 | 34-07121B-0001 |
| 34-07122B-0001 | 34-07154-0001  | 34-07164-0002  |
| 34-07176-0001  | 34-07179-0001  | 34-07201-0001  |
| 34-07223-0004  | 34-10043-0001  | 34-10272-0001  |
| 34-10397-0001  | 34-10454-0001  | 34-10455-0003  |
| 34-10484-0002  | 34-10832-0001  | 34-10896-0001  |
| 34-10939-0001  | 34-12368-0001  | 34-12376-0001  |
| 34-12377-0001  | 34-12381-0001  | 34-12417-0002  |
| 34-12431-0001  | 34-12432-0001  | 34-12433-0001  |

#### DESCRIPTIVE SUMMARY

This document is a motion by IDWR and other parties to 1) bifurcate certain objection sub-cases, separating the portion of the objection that contests the description of an individual water right from the portion of the objection that contests other portions of the director's report, and 2) consolidate into one sub-case the portion of each those objections that contests other portions of the director's report.

#### MOTION

This motion is made by R. Keith Higginson, Director of the Idaho Department of Water Resources (IDWR); the Big Lost River Water Users Association (BLRWUA); Everett T. Acor, Jr.; Kurt P. Acor; Don A. Aikele; Herman Aikele; Juel Aikele; J-P Ranch, Inc.; P U Ranch; Mitchell D. Sorensen; Lloyd E. Jensen and Penny Hawkins; Lewis and Olive Rothwell; Susan and Jay F. Pearson; James S. and Colleen Babcock; Granite Trust Organization; Ann S.

JOINT MOTION BY IDWR AND OTHER PARTIES TO BIFURCATE AND CONSOLIDATE OBJECTIONS TO PAGES 1 THROUGH 17 OF THE DIRECTOR'S REPORT FOR REPORTING AREA 1 (BASIN 34), Page 2

and Larman D. Andersen; Ned R. and Reva W. Walker; and Sandra L. and Randal G. Damiana; by and through their undersigned counsel. This motion is made pursuant to SRBA Administrative Order No. 1 and I.R.C.P. 42(a) and (b). This motion asks the court to bifurcate the sub-cases listed below, separating the portion of the objection that contests the description of an individual water right from the portion of the objection that contests some portion of pages 1 through 17 (the "preamble") of the Director's Report for Reporting Area 1 (Basin 34). This motion further asks the court to consolidate into one sub-case all portions of those objections that contest some aspect of the preamble of the Director's Report for Reporting Area 1 (Basin 34).<sup>1</sup>

The BLRWUA filed 53 objections, listed below, to recommendations of claims by various parties. In addition, the objections object to general provisions 4.c.iv, 5, 6.a, 8.b, 8.c, and further object to the general provisions in that they do not define/recognize supplemental well use and do not "take into consideration or provide for any environmental water rights for wildlife, birds or wetlands."

E. Acor:

|               |                |                |
|---------------|----------------|----------------|
| 34-2330B-0001 | 34-02426C-0001 | 34-07121B-0001 |
| 34-07179-0001 | 34-07201-0001  | 34-10896-0001  |
| 34-12376-0001 |                |                |

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<sup>1</sup> Ralph S. Parkinson, the Sunset Trust Organization, Reuben H. and Marjorie J. Babcock, Gerald J. and Rella O. Stewart, and the United States are the only parties to these sub-cases who have not joined in this motion.

|                |                |                |
|----------------|----------------|----------------|
| K. Acor:       |                |                |
| 34-07077-0001  | 34-07120-0001  |                |
| D. Aikele:     |                |                |
| 34-00168G-0001 | 34-00315-0001  | 34-02272A-0001 |
| 34-02308A-0001 | 34-02358D-0001 | 34-02358E-0001 |
| 34-02417B-0001 | 34-07059C-0001 | 34-07059D-0001 |
| 34-07122B-0001 | 34-07154-0001  | 34-10832-0001  |
| 34-12381-0001  |                |                |
| H. Aikele:     |                |                |
| 34-0017D-0001  | 34-00168F-0001 | 34-00654A-0001 |
| 34-07164-0002  | 34-12417-0002  |                |
| J. Aikele:     |                |                |
| 34-02315-0001  | 34-02358A-0001 | 34-02417A-0001 |
| 34-02419A-0001 | 34-02429A-0001 | 34-02429B-0001 |
| 34-02429B-0002 | 34-02472A-0001 | 34-07122A-0001 |
| J-P Ranch:     |                |                |
| 34-02309-0001  | 34-02358F-0001 | 34-07059B-0001 |
| Parkinson:     |                |                |
| 34-07176-0001  | 34-12368-0001  |                |
| PU Ranch:      |                |                |
| 34-00556-0002  | 34-02512-0001  | 34-07079-0001  |
| Sorensen:      |                |                |
| 34-00692D-0004 | 34-02428-0004  | 34-02428-0005  |
| 34-07223-0004  |                |                |
| Sunset Trust:  |                |                |
| 34-00796-0001  | 34-02277-0002  | 34-02491E-0001 |
| 34-07075-0001  | 34-10484-0002  |                |

Five other objections, listed below, make the same objections to general provisions as the BLRWUA objections; the claimant also objects to the recommendation of the claimant's own water right.

|                 |               |               |
|-----------------|---------------|---------------|
| Jensen/Hawkins: |               |               |
| 34-10454-0001   | 34-10455-0003 |               |
| Rothwell:       |               |               |
| 34-00970-0001   | 34-02395-0001 | 34-10043-0001 |

Various claimants filed 26 objections, listed below, to IDWR's recommendations of their own claims. These objections also object to general provisions 3, 4.c.iv, 5, 6.a, 7, 8.b, 8.c, 17.a, and 18.c.ii, and to that portion of the preamble describing groundwater in Basin 34 (the "A-line").

|                |                |                |
|----------------|----------------|----------------|
| Pearson:       |                |                |
| 34-00646-0001  | 34-00647-0001  | 34-02412A-0001 |
| R. Babcock:    |                |                |
| 34-00354-0001  | 34-02330A-0001 | 34-10397-0001  |
| 34-12377-0001  |                |                |
| J. Babcock:    |                |                |
| 34-00050B-0001 | 34-00052A-0001 | 34-00384-0001  |
| L. Babcock:    |                |                |
| 34-00508-0001  | 34-00559-0001  | 34-00911-0001  |
| 34-10272-0001  | 34-10939-0001  | 34-12433-0001  |
| Anderson:      |                |                |
| 34-00060-0001  | 34-00259F-0001 | 34-00738E-0001 |
| 34-02412C-0001 |                |                |
| N. Walker:     |                |                |
| 34-00789-0002  | 34-02389-0001  | 34-02491H-0001 |
| Damiana:       |                |                |
| 34-00378-0003  | 34-02373-0002  | 34-02410-0001  |

The Sunset Trust Organization filed three objections to recommendations of its own water rights. No. 34-12432-0001 objects to IDWR's recommendation of disallowal, and in addition objects to general provision 4.b. No. 34-12431-0001 objects to IDWR's recommendation of disallowal, and in addition objects to general provision 8.c. No. 34-02277-0001 objects that the "A Line" should be moved above the claimant's well, but does not object to the description of the individual right.

I.R.C.P. 42(b) provides that a court may order a case bifurcated "when conducive to expedition and economy." I.R.C.P. 42(a) provides that the court may consolidate separate cases "involving common questions of law or fact." SRBA Administrative Order No. 1 further provides that consolidation is appropriate where resolution of common issues of law or fact "can be most expeditiously and effectively achieved through presentation to the Presiding Judge or special master in consolidated hearings."

JOINT MOTION BY IDWR AND OTHER PARTIES TO BIFURCATE AND CONSOLIDATE  
OBJECTIONS TO PAGES 1 THROUGH 17 OF THE DIRECTOR'S REPORT FOR  
REPORTING AREA 1 (BASIN 34), Page 5

Because this is the most effective and expeditious way to resolve these objection sub-cases, the parties to this motion respectfully ask the special master to bifurcate the objection sub-cases listed above, separating the objections to the preamble of the director's report from the remainder of the objections, and to consolidate the objections to the preamble in a single sub-case.<sup>2</sup>

DATED this 10<sup>th</sup> day of February, 1994.

LARRY ECHOHAWK  
Attorney General

CLIVE J. STRONG  
Deputy Attorney General

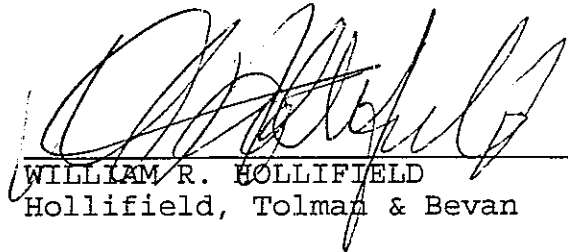
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Susan E. Hamlin  
SUSAN E. HAMLIN  
Deputy Attorney General

Kent W. Foster  
KENT W. FOSTER  
Holden, Kidwell, Hahn & Crapo

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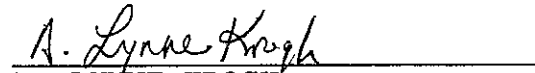
<sup>2</sup> This motion does not seek to bifurcate and consolidate sub-case no. 34-07013-0001, because the parties to this sub-case have stipulated to the withdrawal of this objection. This motion also does not seek to bifurcate and consolidate the United States' objections that contest the preamble of the report. IDWR and the United States are currently engaged in discussions to reach a consensus as to the most expeditious means to resolve the United States objections to the preamble of the director's report for Basins 34, 36, and 57.

  
WILLIAM R. HOLLIFIELD  
Hollifield, Tolman & Bevan

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED THAT hearing on the above motion has been set for March 9, 1994, at 10:00 p.m. or as soon thereafter as the parties may be heard, at the Arco Memorial Building, 326 West Grand, Arco Idaho, before Special Master Brigette Bilyeu.

DATED this 10<sup>th</sup> day of February, 1994.

  
A. LYNNE KROGH  
Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on the following date I served true and correct copies of the following document(s) on the person(s) listed below, by mailing in the U.S. Mail, first class, with the correct postage affixed thereto.

Mail Date: 02/<sup>10</sup>~~09~~/1994

Document(s) Served: JOINT MOTION BY IDWR AND OTHER PARTIES TO  
BIFURCATE AND CONSOLIDATE OBJECTIONS TO PAGES  
1 THROUGH 17 OF THE DIRECTOR'S REPORT FOR  
REPORTING AREA I (BASIN 34) AND NOTICE OF  
HEARING

Person(s) Served:

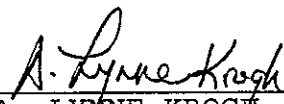
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