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DEPARTMENT OF
WATER RESOURCES

Julie Klein Fischer
WHITE PETERSON, P.A.
5700 East Franklin Road, Suite 200
Nampa, Idaho 83687-7901
Telephone: (208) 466-9272
Facsimile: (208) 466-4405
ISB Nos. 4601, 5850, 6559
jkf@whitepeterson.com

Judy L. Geier
EVANS KEANE, LP
PO Box 959
Boise, ID 83701-0959
Telephone: (208) 384-1800
Facsimile: (208) 345-3514
ISB No. 6559
jgeier@evanskeane.com

Attorneys for Owyhee Motorcycle Club, Inc.

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

In Re SRBA

Case No. 39576

) A. Subcase No. 63-18957
)
)
) **MOTION TO FILE LATE**
) **OBJECTION**

COMES NOW, Owyhee Motorcycle Club, Inc., ("OMC") by and through its undersigned
counsel of record, the law firm of White Peterson, P.A., and moves this Court for an Order allowing

COPY

the filing of a late objection for water right number 63-18957. This Motion is based on the following facts and is supported by the Verification of Julie Klein Fischer.

BACKGROUND

OMC is an Idaho non-profit corporation that owns water right 63-18957. OMC's beneficial use claim for water right 63-18957 asserts it is entitled to .270 cfs for domestic and commercial uses and a priority date of December 31, 1958.

The Department recommended a lower quantity of .16 cfs and a later priority date of March 1, 1963. At that time, the OMC Board believed the Department's recommendation was sound.

Two objections were filed to the recommendation for water right 63-18957. The first was filed by The Terteling Co. Inc., through its counsel, Charles L. Honsinger. Terteling objected to the quantity, priority and point of diversion for the OMC right. The second objection was filed by Edwards Family LLC, through its counsel, Dana Hoffstetter. The Edwards objection relates to source and quantity.

On December 6, 2007, a status conference was held related to the objections. At that time, OMC and Edwards Family LLC discussed resolution of the Edwards objection and it appears that can occur through acknowledgement that the OMC water is not geothermal. The parties also notified the Special Master on that date that OMC intended to file a late objection as it has newly discovered evidence related to the priority date of its water right. The parties agreed to work toward resolution of the objections, and second status conference was set for May 6, 2007.

STANDARD

A motion to file a late objection may be granted upon a showing of good cause pursuant to Idaho Rule of Civil Procedure 55(c). *Order on Motion to Set Aside Partial Decrees and File Late Objections*, Subcases 65-7267 *et al* (January 31, 2001).

GOOD CAUSE EXISTS TO ALLOW OMC'S LATE OBJECTION

Owyhee Motorcycle Club submits the following as good cause in support of this Motion.

Owyhee Motorcycle Club seeks to object to the recommended quantity and priority date for its water right no. 63-18957. As stated above, the Board in place at the time the priority date and quantity of water were recommended, accepted that recommendation. However, upon further research by the OMC Board and Club members, it was determined that the recommended priority date and quantity were not accurate. With respect to the priority date, it was learned that a former OMC member may have evidence of an earlier priority date. Accordingly, current OMC President, Bob Henning, attempted to locate, and ultimately made contact with, Guy James a gentleman who was involved in building the OMC club house in 1958. Subsequently, an affidavit was obtained by Mr. James to aid in establishing the earlier priority date. OMC did not have sufficient evidence on which to base an objection until locating Mr. James.

Next, as referenced above, OMC's water right no. 63-18957 is subject to two pending objections which remain unresolved. An order granting this motion will not disrupt those proceedings or prejudice the parties because pending objections are not yet resolved. This objection, if allowed, will simply be resolved or heard in conjunction with the other objections.

PERTINENT DOCUMENTS ATTACHED

1. Affidavit of Guy James in support of establishing priority date is attached as Exhibit 1.
2. A fully completed Standard Form 1 Objection is attached hereto as Exhibit 2.

CONCLUSION

For the foregoing reasons, OMC respectfully requests the Court allow the late objection to be filed, late, in the on-going Snake River Basin Adjudication.

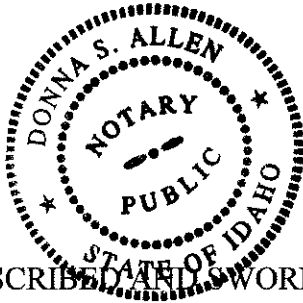
VERIFICATION

STATE OF IDAHO)
 :SS.
County of Canyon)

I, JULIE KLEIN FISCHER, being first duly sworn, upon oath, depose and say:

1. That I am the attorney for the parties filing this objection, and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.
2. That I certify that the Motion to File Late Objection in the above-referenced sub-case is well-grounded, and not filed for any proper purpose.
3. That I have read SRBA Administrative Order 1, Rules of Procedure, as amended September 30, 1996.

WHITE PETERSON, P.A.



By: 
Julie Klein Fischer
Owyhee Motorcycle Club, Inc.

SUBSCRIBED AND SWORN to before me this 6 day of February, 2007.


Notary Public for Idaho
Commission expire: 07/19/09

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 6 day of February, 2007, a true and correct copy of the above and foregoing document was served upon the following by:

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Boise, ID 83720-0098

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Chief, Natural Resources Division
Office of the Attorney general
State of Idaho
PO Box 44449
Boise, ID 83711-4449

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US Mail
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Facsimile

Edwards Family LLC
c/o Dana Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702

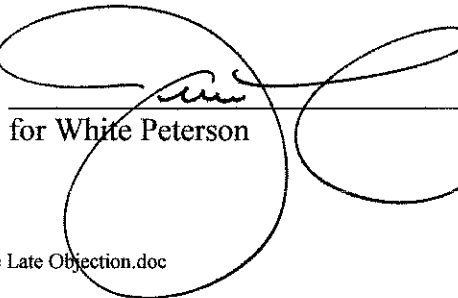
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US Mail
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Facsimile

The Terteling Co. Inc.
c/o Charles L. Honsinger
Ringert Clark Chartered
PO Box 2773
Boise, ID 83701

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Facsimile



for White Peterson

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EXHIBIT 1

Julie Klein Fischer
WHITE PETERSON, P.A.
5700 East Franklin Road, Suite 200
Nampa, Idaho 83687-7901
Telephone: (208) 466-9272
Facsimile: (208) 466-4405
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Attorneys for Owyhee Motorcycle Club, Inc.

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

_____	)	A. Subcase No. 63-18957
In Re SRBA	)	
	)	
Case No. 39576	)	AFFIDAVIT OF GUY JAMES
_____	)	

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

GUY JAMES, Being first duly sworn deposes and says:

1. This affidavit is being submitted as evidence of priority for Water Right No. 63-18957, Owyhee Motorcycle Club, Inc.

2. The facts contained herein are based on my own personal knowledge.

3. I have been a Boise resident for 70 years.

4. I held many offices of the Owyhee Motorcycle Club. These offices included Treasurer from 1957 to 1958; Vice President from 1959 to 1964; 1968 Club President; and 1969 to 1979 Club Referee.

5. In 1958 we built the clubhouse for Owyhee Motorcycle Club.

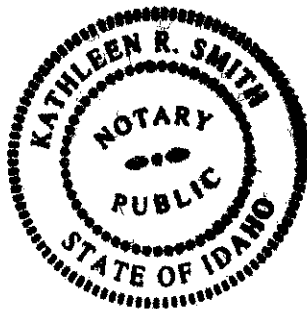
6. We used the new well located just behind and to the north to get the water needed to mix the concrete used to pour the floor for the clubhouse.

FURTHER YOU AFFIANT SAYETH NAUGHT.

DATED this 15th day of December, 2006.

Guy James
GUY JAMES

SUBSCRIBED AND SWORN TO Before this 15th day of December, 2006.



Kathleen R. Smith
NOTARY PUBLIC FOR IDAHO
My commission expires: 6/28/08

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 6 day of February, 2006, a true and correct copy of the above and foregoing document was served upon the following by:

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Office of the Attorney general
State of Idaho
PO Box 44449
Boise, ID 83711-4449

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Edwards Family LLC
c/o Dana Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702

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c/o Charles L. Honsinger
Ringert Clark Chartered
PO Box 2773
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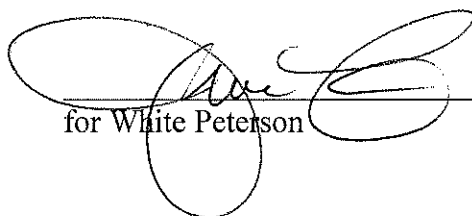

for White Peterson

EXHIBIT 2

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)
_____)

A. Subcase 63-18957

(insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Owyhee Motorcycle Club, Inc.

Address: 9100 W. Halstead Dr.

Boise, ID 83704

Daytime Phone: 208-466-9272

Name & Address of Attorney, if any:

Julie Klein Fischer, White Peterson, P.A.

5700 E. Franklin Road, #200

Nampa, ID 83687

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Owyhee Motorcycle Club, Inc.

Address: Julie Klein Fischer, White Peterson, P.A.

5700 E. Franklin Rd., #200, Nampa, ID 83687

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: 1958
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
 - ☐ This water right Should not exist.
 - ☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): See attached Motion to File Late Objection.

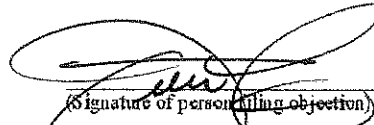
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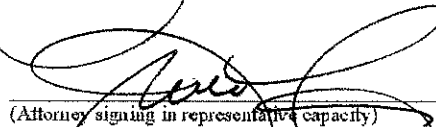
VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Canyon)

Julie Klein Fischer, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

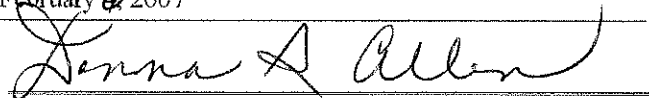
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objection)


(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

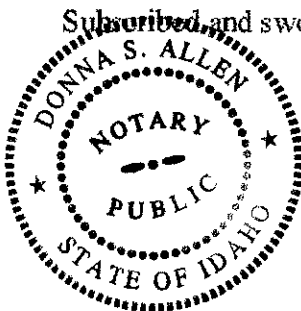
February 6, 2007



Notary Public for Idaho

Residing at: Nampa

My Commission Expires: 7/19/09



INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on February 4, 200 7, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Owyhee Motorcycle Club, Inc.

Address: 9100 W. Halstead Dr.

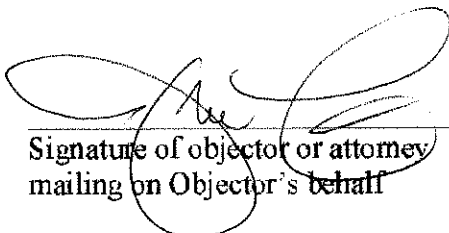
Boise, ID 83701

3. Copies to:

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United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf