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Attorneys for City of Weiser

**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	)	Subcase Nos. 03-07009, 03-07034, 03-10010, 03-10198,
	)	67-02320, 67-04291, 67-04412, 67-10971, 67-10975, and
	)	67-14129
Case No. 39576	)	
	)	MOTION TO CONSOLIDATE CITY OF WEISER'S
	)	SUBCASES IN BASINS 03 AND 67

The City of Weiser, by and through its counsel, Beeman & Associates, P.C., moves this court to consolidate the City's SRBA subcases before one SRBA Special Master. The reasons for the requested consolidation are as follows:

The City of Weiser filed ten SRBA claims: 03-07009, 03-07034, 03-10010, 03-10198, 67-02320, 67-04291, 67-04412, 67-10971, 67-10975, and 67-14129. Four claims are in Basin 03 (lower Snake River) which is assigned to SRBA Special Master Dolan. Six claims are in Basin 67 (Weiser River drainage) which is assigned to SRBA Special Master Booth.

The City of Weiser operates the water plant for its surface water municipal delivery system with intake pipes from both the lower Snake River (Basin 03) and the Weiser River (Basin 67). The priority date for the Snake River intake (disallowed claim 03-10010; recommended claim 03-07009) and the priority date for the Weiser River intake (recommended

claim 67-14129) are both in question by the City of Weiser, and the history of the City's water plant is common to these priority date issues.¹ In addition, the City uses ground water from Basin 67 as the backup for this surface water supply system, and three of the City's five ground water claims in Basin 67 were disallowed (67-04412, 67-10971, and 67-10975).

The City of Weiser's four SRBA claims in Basin 03 were reported to the SRBA court on August 14, 2006. The City filed an Objection to the disallowal of 03-10010. This subcase is before Special Master Dolan, and trial is set for November 1, 2007. In addition, a July 23, 2007 *Motion For Reconsideration of Partial Decree for Water Right No. 3-7009* is pending before the SRBA court, and the City is requesting that it be heard on the same expedited calendar as this motion. The City will also file appropriate motions in advance of the expedited hearing to seek inclusion of 03-7034 and 03-10198 in the consolidation process.

The City's six claims in Basin 67 were reported to the SRBA court on December 21, 2006. Three of the City's Basin 67 SRBA claims were recommended (67-02320, 67-04291, and 67-14129), and three were disallowed (67-04412, 67-10971, and 67-10975). Based on the City's Notices of Error, the City will likely file objections to the disallowal of 67-04412 and 67-10971, and to the priority date for 67-14129. The objection period for Basin 67 ends August 22, 2007. The response deadline for Basin 67 is October 22, 2007. The Basin 67 subcases are assigned to SRBA Special Master Booth.

For these reasons, the City of Weiser respectfully requests that its Basin 03 and Basin 67 subcases be consolidated before one Special Master. This will enable consideration of the overlapping nature of these Basin 03 and Basin 67 water rights and facilitate appropriate

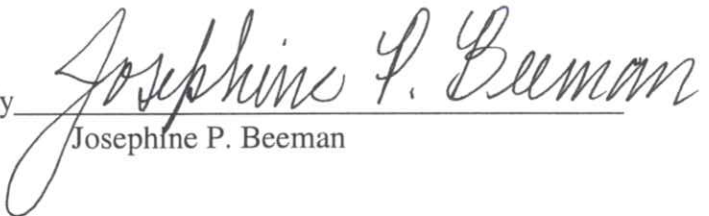
¹ The City's SRBA claim 03-10010 was disallowed and recommended as 03-07009. Claim 03-10010 has an 1887 priority date; claim 03-07009 has a 1972 priority date. The City's Notice of Error for claim 67-14129 states that a 1937 priority date should be recommended based on beneficial use. An objection to the recommendation for 67-14129 is likely. A motion to file late notice of claim for the earlier priority date is also likely.

documentation and remarks regarding the interrelated and combined use of these surface and ground water rights.

The City of Weiser is also filing a *Motion for Expedited Hearing* for this motion and the City of Weiser's July 23, 2007 *Motion For Reconsideration Of Partial Decree For Water Right No. 3-7009*. The *Motion for Expedited Hearing* accompanies this motion.

Respectfully submitted this 26th day of July 2007.

BEEMAN & ASSOCIATES, P.C.
Attorneys for the City of Weiser

By 
Josephine P. Beeman

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DEPARTMENT OF
WATER RESOURCES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of July 2007, I caused a true copy of the foregoing **MOTION TO CONSOLIDATE CITY OF WEISER'S SUBCASES IN BASINS 03 AND 67** be served by U.S. First Class Mail on:

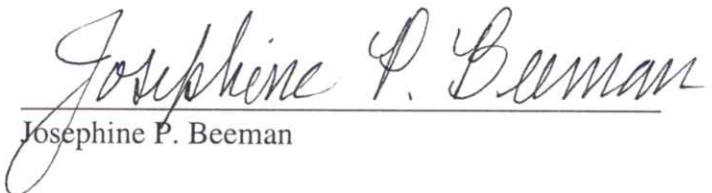
UNITED STATES OF AMERICA
REPRESENTED BY:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NAT'L RESOURCES
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