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DEPARTMENT OF
WATER RESOURCES

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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. 3-7034 and 3-10198
	)	(City of Weiser)
Case No. 39576	)	
	)	
_____	)	MOTION TO SET ASIDE PARTIAL DECREES FOR CITY OF WEISER WATER RIGHT NOS. 3-7034 AND 3-10198 and MOTION FOR EXPEDITED HEARING

The City of Weiser respectfully submits this *Motion to Set Aside Partial Decrees for City of Weiser Water Right Nos. 3-7034 and 3-10198*. As governed by SRBA Administrative Order 1,¹ this *Motion* is being submitted pursuant to I.R.C.P. 60(a) which provides that "clerical mistakes and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party."

Water Right Nos. 3-7034 and 3-10198 are two of the City of Weiser's ten SRBA claims which involve the lower Snake River (Basin 03) and the Weiser River drainage (ground water and surface water in Basin 67).² The City has already filed a *Motion to Consolidate* the proceedings on all ten of its SRBA claims, and the hearing is set for August 30, 2007 at

¹ Administrative Order 1, Rule 1.a provides: "[t]he litigation of the SRBA will be governed by the Idaho Rules of Civil Procedure (I.R.C.P.), Idaho Rules of Evidence (I.R.E.), and the Idaho Appellate Rules (I.A.R.)." Rule 1.b provides that "[t]hese procedures supplement the I.R.C.P., I.R.E., I.A.R. and any other applicable laws or orders of this court only to the extent necessary to allow for the fair and expeditious resolution of all claims or issues in the SRBA." Rule 14.d provides that "[p]arties seeking to modify a partial decree shall comply with I.R.C.P. 60(a) or 60(b)."

² The Basin 03 claims for the City of Weiser are: 3-7009, 3-10010, 3-7034, and 3-10198. The Basin 67 claims for the City of Weiser are: 67-2320, 67-4291, 67-4412, 67-10971, 67-10975, and 67-14129.

11:30 a.m. before Special Master Dolan. The City's *Motion for Reconsideration of Partial Decree 3-7009* will be heard at the same time.³ Weiser's Basin 67 claims are still subject to an August 22, 2007 objection deadline and an October 22, 2007 response deadline at the SRBA court.

In its *Motion to Consolidate*, the City stated it would file appropriate motions to include water right nos. 3-7034 and 3-10198 in this consolidation process.

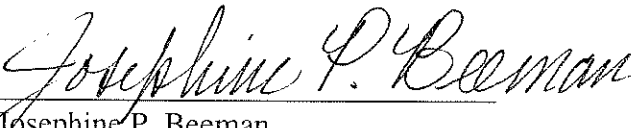
The City of Weiser respectfully requests that this Court withdraw entry of judgment and delay entry of judgment for 3-7034 and 3-10198. Granting this *Motion* will ensure the consolidation of the City's ten overlapping water rights in Basins 03 and 67, and will facilitate appropriate documentation and remarks regarding the interrelated and combined use of Weiser's surface and ground water rights.

MOTION FOR EXPEDITED HEARING

The City requests oral argument on the Motion, and if possible, requests that the hearing be scheduled to be heard with the City's *Motion to Consolidate* and *Motion for Reconsideration* on August 30, 2007. A brief in support accompanies this Motion.

Respectfully submitted this 15th day of August 2007.

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

By 
Josephine P. Beeman

³ The City of Weiser's claim for 3-10010 was disallowed and recommended as 3-7009. The City objected to the disallowal of 3-10010 and is asking that 3-7009 be considered with all of the City's related water rights. Also, since 3-10010 was disallowed and recommended as 3-7009, any change from the disallowal of 3-10010 would impact 3-7009.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of August 2007, I caused a true copy of the foregoing **MOTION TO SET ASIDE PARTIAL DECREES FOR CITY OF WEISER WATER RIGHT NOS. 3-7034 AND 3-10198** to be deposited in an official U.S. Post Office box with First Class postage affixed, addressed to the following:

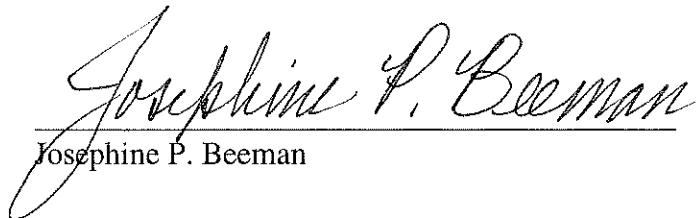
UNITED STATES OF AMERICA
REPRESENTED BY:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NAT'L RESOURCES
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REPRESENTED BY:
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ALL PARTIES ON THE SRBA'S EXPEDITED
MAILING LIST


Josephine P. Beeman

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