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Attorneys for Ground Water Districts

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AUG 25 2008
DEPARTMENT OF
WATER RESOURCES

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

Subcase Numbers: See attached
Exhibit A

**GROUND WATER DISTRICTS'
MOTION FOR SUMMARY
JUDGMENT**

COME NOW, ABERDEEN AMERICAN FALLS GROUNDWATER DISTRICT,
BINGHAM GROUNDWATER DISTRICT, BONNEVILLE JEFFERSON GROUNDWATER
DISTRICT, CAREY VALLEY GROUNDWATER DISTRICT, JEFFERSON CLARK
GROUNDWATER DISTRICT, MADISON GROUNDWATER DISTRICT, MAGIC VALLEY
GROUNDWATER DISTRICT, AND NORTH SNAKE GROUNDWATER DISTRICT,
(collectively referred to herein as "Groundwater Districts") by and through counsel of record and

pursuant to Rule 56 of the Idaho Rules of Civil Procedure and moves for Summary Judgment on the following issues:

1. Claim Nos. 1-10034 and 1-10482 claimed by the United States Bureau of Reclamation, Claim Nos. 1-10225, 1-10237, 1-10238, 1-10239, 1-10240, 1-10241 claimed by A & B Irrigation District and Claim No. 1-10483 claimed by The Amalgamated Sugar Co. should be disallowed because no water has ever been delivered under these water rights.
2. All remaining water rights listed on Attachment A are high water rights and only have water delivered during high runoff and snow melt during spring and early summer. They do not receive water for beneficial use during the entire irrigation season. Therefore, a condition limiting the season of use, and clarifying these water rights is necessary.
3. The primary source of supply for all of these high water rights (or flood rights) listed on Attachment A consist primarily of snow melt and spring runoff. Therefore, a condition clarifying the source of supply and that these water rights are not entitled to make a delivery call against junior priority ground water rights is necessary.

The grounds supporting this motion is based upon the supporting affidavits of Candice M. McHugh, Anthony Olenichak and Ronald D. Carlson together with the Memorandum in Support of Summary Judgment filed herewith.

A hearing date is currently scheduled for October 16, 2008 for argument on summary judgment.

DATED this 22nd day of August 2008.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED


CANDICE M. McHUGH

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of August, 2008, the above and foregoing document(s), was served by email to those with email addresses and by placing a copy in the U.S. Mail, postage prepaid and addressed to the following:


Candice M. McHugh

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ATTACHMENT A
SUBCASE LIST

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1-14
1-16
1-17
1-211A
1-211B
1-212
1-213
1-214A
1-214B
1-219
1-2050
1-2061
1-10034
1-10225
1-10237
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