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DEPARTMENT OF
WATER RESOURCES

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Shelly Tlucek, Byron Tlucek, Rebekah Tlucek,
Kevin Tlucek and DBSI Tiegs 979, LLC

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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

Case No. 39576

Subcase Nos. 63-02529 63-03163
63-03274 63-03323
63-03324 63-09109
63-10435

**JOINT STIPULATION AND MOTION FOR
ORDER GOVERNING CONSOLIDATED
PROCEEDINGS; JOINT MOTION FOR
STATUS CONFERENCE**

COME NOW water right claimants/objectors Pioneer Irrigation District, Jerry L. Tlucek, Mary Lou Tlucek, Shelly Tlucek, Byron Tlucek, Rebekah Tlucek, Kevin Tlucek, and DBSI Tiegs 979, LLC (collectively, the "Claimants") and the respondent State of Idaho, hereinafter referred to collectively as "Parties," by and through their counsel of record, and hereby stipulate pursuant to Idaho Rule of Civil Procedure 6(e)(3) that:

**JOINT STIPULATION AND MOTION FOR ORDER GOVERNING CONSOLIDATED
PROCEEDINGS; JOINT MOTION FOR STATUS CONFERENCE - 1**

Client:987339.1

1. Each of the Claimants has filed a claim in the SRBA for adjudication of a previously licensed water right, wherein the respective licenses describe the quantity element of each water right only in terms of cubic feet per second. The Idaho Department of Water Resources ("IDWR") subsequently issued Director's Reports recommending the inclusion of annual diversion volume ("ADV") limitations on each of these licensed water rights. In each of the above-captioned subcases, the Claimant has filed an objection to IDWR's recommendation on the grounds that IDWR lacks authority to include ADV limitations in SRBA recommendations for previously licensed water rights. The State of Idaho has filed responses in each of these subcases. Because these subcases all have this issue in common, the Parties agree this issue can be resolved most efficiently by consolidating these subcases pursuant to Idaho Rule of Civil Procedure 42(a) and Administrative Order 1, Rule 11.

2. The issue to be addressed in this proposed consolidated subcase was also raised in summary judgment briefing by Jerry L. Tlucek and Mary Lou Tlucek in Subcase Number 63-03174. However, that subcase settled before the Court could issue a decision on the merits. Prior to settlement, the Tluceks took depositions of the following IDWR representatives:

- Donald V. Shaff (October 25, 2007)
- Jan Grover Shurte (November 26, 2007)
- David R. Tuthill, Jr. (November 26 and December 7, 2007)

These deposition transcripts include extensive testimony by the IDWR representatives regarding the basis for IDWR's inclusion of new ADV limitations in SRBA recommendations for previously licensed water rights. The Parties agree that the use of these deposition transcripts in the proposed consolidated proceeding will be more efficient than re-deposing each of the named deponents. Therefore, in the interests of saving time and expense

for the Parties and to avoid further inconvenience for the potential deponents, the Parties stipulate pursuant to Idaho Rule of Civil Procedure 29 to the admissibility and use of the enumerated deposition transcripts in this proposed consolidated proceeding. However, this Stipulation does not preclude any of the Parties from pursuing additional discovery in this consolidated proceeding, in accordance with the Idaho Rules of Civil Procedure.

3. The Parties agree that if summary judgment proceedings do not completely resolve the issue to be addressed in this consolidated proceeding, then the remaining issues to be resolved will likely be factual issues that are specific to each of the individual water rights. Therefore, in the event that summary judgment proceedings do not completely resolve the issue to be addressed, the Parties agree these subcases should then proceed individually, rather than on a consolidated basis, unless the Parties agree otherwise after the Court issues its decision on summary judgment. The Parties further agree that additional discovery shall be allowed in each of the individual subcases if this issue is not resolved on summary judgment.

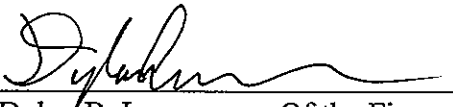
4. The Parties respectfully move this Court to issue an Order approving this Stipulation. However, pursuant to Rule 6(e)(3), this Stipulation is not binding upon this Court. Therefore, the parties respectfully request that this Court approve this Stipulation with such modifications as the Court deems appropriate.

5. The Parties further move this Court for an order setting a status conference, during which the Parties and the Court can establish mutually agreeable dates and

deadlines for the completion of discovery, summary judgment briefing, and a summary judgment hearing. Since the Court has already set the date of October 28, 2008 at 11:00 a.m. for a status conference for subcase nos. 63-02529 and 63-09109, the Parties respectfully request the hearing notice for this status conference be amended to address the consolidation of the above stated subcases and the litigation schedule for these subcases.

DATED this 15th day of ~~September~~ ^{October}, 2008.

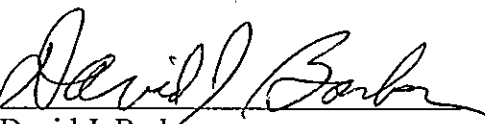
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By 
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Attorneys for Claimants Pioneer
Irrigation District, Jerry L. Tlucek, Mary
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Tlucek, Rebekah Tlucek, Kevin Tlucek
and DBSI Tiegs 979, LLC

DATED this 17th day of September, 2008.

LAWRENCE G. WASDEN
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Deputy Attorney General
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By 
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Attorneys for the State of Idaho

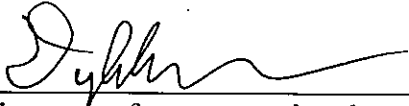
CERTIFICATE OF MAILING

I certify that on this 15th day of ~~September~~ October 2008, I caused to be served the original and copies of the JOINT STIPULATION AND MOTION FOR ORDER GOVERNING CONSOLIDATED PROCEEDINGS; JOINT MOTION FOR STATUS CONFERENCE on the following persons by the indicated method:

1. Original to: Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
253 Third Avenue North
Twin Falls, Idaho 83303-2707
U. S. MAIL
first class postage prepaid
2. The following persons were served by United States Mail, first class postage prepaid, addressed as follows:

David J. Barber
Deputy Attorney General
Office of the Attorney General
700 West State St. - 2nd Floor
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Boise ID 83711-4449

IDWR Document Depository
PO Box 83720
Boise, ID 83724



Signature of person serving document