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DEPARTMENT OF
WATER RESOURCES

September 16, 2008

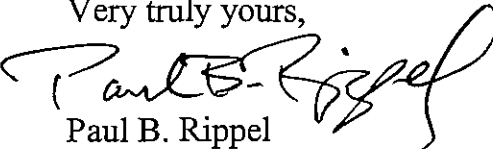
TO: SBRA Clerk, Julie Murphy
FAX: 208-736-2121
FROM: Paul B. Rippel
RE: Motion to Set Aside Partial Decrees and Consolidate Issues
In Re SRBA Case No. 39576; Sub Case No. 23-00020

Total pages (including this one): 5

Dear Ms. Murphy:

Herewith for filing is the above-referenced motion. I understand from our conversation that it may get referred to Special Master Bilyeu for hearing, and that I will be informed of the same. If a telephone conference would be helpful, I would welcome the same. Thank you.

Very truly yours,


Paul B. Rippel

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cc: Persons served with Motion
by
mail

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Attorney's for Claimant, Glen Bills

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	)	Sub Case No. 23-00020
	)	
Case No. 39576	)	MOTION TO SET ASIDE PARTIAL DECREES
	)	AND CONSOLIDATE ISSUES
	)	
_____	)	

COMES NOW Claimant, Glen Bills, by and through his attorney of record, and hereby moves the Court pursuant to the Rules of Procedure of the Snake River Basin Adjudication and the Idaho Rules of Civil Procedure for an Order to Consolidate Issues that includes the setting aside of partial decrees as described herein:

1. Claimant filed a Late Notice of Claim on July 2, 2004 related to portions of the water right represented by Water Right No. 23-00020.
2. Related to that Notice of Claim, Claimant filed with the SRBA Court, briefs, affidavits, and historical documents substantiating Claimant's right to use a portion of Water Right No. 23-00020.
3. *Rule of Procedure* 11 permits the Special Master to consolidate "any matter at issue in any proceeding" upon motion of a party.
4. The Partial Decrees and/or Children Rights associated with Water Right No. 23-00020 are "matter[s] at issue" because Claimant has been informed by the

Idaho Department of Water Resources that his rights regarding Water Right No. 23-00020 cannot be adjudicated unless these Partial Decrees and/or Children Rights are set aside.

5. The Partial Decrees and/or Children Rights are further “matter[s] at issue” as it is asserted that a ruling considering all the facts relating to Claimant’s Late Notice of Claim would create a conflict with the water rights partially decreed, and thus grounds for setting aside the Partial Decrees and/or Children Rights under I.R.C.P. 60(b)(5) as it would be unjust for the partial decrees to continue to have prospective application.

6. Claimant, essentially, requests that clerical errors in designating priority dates associated with Rainey Creek be corrected and water allocated accordingly. The correction affects Water Right Claim Nos. 23-00019A & B, 23-00020, and 23-00021. Each of these Water Right Claim Numbers represents a water right diverting from Rainey Creek and each is affected by the various points of diversion along Rainey Creek. Claimant has previously submitted affidavits, maps, and other documents describing the clerical errors and their effect on Claimant’s water rights.

7. As described in the Claimant’s previous briefs and motions, adjudication of the Claimant’s claims on the merits is warranted and necessary.

8. As property and water rights have been transferred and split, the list of rights that are potentially affected by a correction to the clerical errors has grown to include the following Water Right Nos.: 23-00020; 23-11263; 22-11261; 23-11257; 23-11259; 23-11264; 23-11260; 23-11262; 23-11558; 23-93-B; 23-47D; 23-19D; 23-20B. Attached as “Exhibit A” is a chart showing ownership of these rights and describing the

relationship between these Water Right Nos. and the Claimant's. These rights, it should be noted, all utilize water from Rainey Creek in the Swan Valley area of Bonneville County, Idaho and are all affected by the same Points of Diversion from the creek. Also, the described rights have only three owners total, with several of the rights being combined or dependent rights as described on the attached chart.

WHEREFORE, Claimant requests the Court grant his motion as follows:

1. That the Court consolidate the issues affecting the volume and priority of Rainey Creek, and the water rights thereto, which, on information and belief, would consist of consolidating the adjudication of Water Right Nos. 23-00020; 23-11263; 22-11261; 23-11257; 23-11259; 23-11264; 23-11260; 23-11262; 23-11558; 23-93-B; 23-47D; 23-19D; 23-20B. The described rights have only three owners total, with several of them being combined or dependent rights as described on the attached chart.

2. That the Court set aside the existing partial decrees concerning the volume and priority to Rainey Creek water as listed hereinabove, and proceed with the Claimant's case and the consolidated issues as one proceeding.

DATED this 16th day of September, 2008.

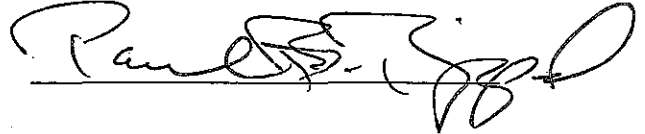
HOPKINS RODEN CROCKETT
HANSEN & HOOPES, PLLC

By Paul B. Rippel
Paul B. Rippel, Esq.
Attorneys for Glen Bills

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon the persons named below, by mail, hand delivery or fax.

DATED this 16th day of September, 2000.



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	Decree Date	Water Right No.	Priority Date	Split From:	Combined right with	
Glen Bill's right began as 23-00020; rights split from 23-00020 are children rights to his parent right.						
Glen H. Bills		23-11329	6/20/1889	23-20		
Que. S. Hansen's right split from 23-00020A and has 3 other combined rights.						
Que. S Hansen	1/31/2005	23-11259	6/20/1889	23-00020A	23-11257; 23-11259; 23-11261; 23-11263	
Que. S Hansen	1/31/2005	23-11263	1/22/1916	23-0093A	23-11257; 23-11259; 23-11261; 23-11263	
Que. S Hansen	1/31/2005	23-11261	5/15/1896	23-00047C	23-11257; 23-11259; 23-11261; 23-11263	
Que. S Hansen	1/31/2005	23-11257	4/15/1889	23-00019C	23-11257; 23-11259; 23-11261; 23-11263	
Thomas M. Walsh's has 2 rights split from 23-00020A and 2 other combined Rights						
Thomas M. Walsh	1/31/2005	23-11260	6/20/1889	23-00020A	23-11258; 23-11260; 23-11262; 23-11264	
Thomas M. Walsh	1/31/2005	23-11262	5/15/1896	23-00020A	23-11258; 23-11260; 23-11262; 23-11264	
Thomas M. Walsh	1/31/2005	23-11264	1/22/1916	23-00093A	23-11258; 23-11260; 23-11262; 23-11264	
Thomas M. Walsh	1/31/2005	23-11258	4/15/1889	23-00019C	23-11258; 23-11260; 23-11262; 23-11264	
Stephen J. McGrath holds 23-00020B and 3 other dependent rights.						
Stephen J. McGrath	1/31/2005	23-20B	6/20/1889		23-00019D; 23-00020B; 23-00047D; 23-00093B	
Stephen J. McGrath	1/31/2005	23-93B	1/22/1916		23-00019D; 23-00020B; 23-00047D; 23-00093B	
Stephen J. McGrath	1/31/2005	23-47D	5/15/1896		23-00019D; 23-00020B; 23-00047D; 23-00093B	
Stephen J. McGrath	1/31/2005	23-19D	4/15/1889		23-00019D; 23-00020B; 23-00047D; 23-00093B	