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DEPARTMENT OF  
WATER RESOURCES

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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     | ) | Subcase Nos. 63-02529, 63-03163, 63-03274, 63-03323 |
|                | ) | 63-03324, 63-09109, & 63-10435                      |
|                | ) |                                                     |
|                | ) | MOTION TO SEVER SUBCASE NOS. 63-03163 AND           |
| Case No. 39576 | ) | 63-03274 FROM CONSOLIDATED PROCEEDING               |
|                | ) | AND REQUEST FOR EXPEDITED CONSIDERATION             |
|                | ) |                                                     |
|                | ) |                                                     |

COMES NOW the State of Idaho (hereinafter the "State"), by and through the undersigned deputy attorney general, and moves the district court to sever subcase nos. 63-03163 and 63-03274 from the consolidated proceeding involving subcase nos. 63-02529, 63-03323, 63-03324, 63-09109, and 63-10435 and in accordance with Rule 6(f) of AO1 requests expedited consideration of this motion. The grounds for this motion are as follows:

COPY

1. The district court entered its *Summary Judgment Scheduling Order* on November 3, 2008. The district court set the date of February 16, 2009 for the completion of all Summary Judgment Discovery Served and Responses Completed.

2. The State served discovery on Claimant DBSI TIEGS 979 LLC on October 20, 2008. This discovery has not been answered.

3. Claimant DBSI TiegS 979 LLC filed a *Motion for Protective Order* and requests additional time for service of answers to this discovery.

4. The present summary judgment schedule does not provide the flexibility to provide an indefinite period of time for answers to this discovery.

5. The reasonable solution is to sever these two subcases from the consolidated proceeding and to establish a separate schedule to accommodate the uncertainties presented by the bankruptcy of associate businesses.

6. This motion is also supported by *Idaho's Response to Motion for Protective Order and Brief in Support of Motion to Sever*.

7. The State requests oral argument and an expedited hearing on this motion. Because of the nature of the present matter, the State has not served this *Motion to Sever Subcase Nos. 63-03163 and 63-03274 from Consolidated Proceeding and Request for Expedited Consideration* on the district court's Expedited Mailing List. If the district court desires such service, it will promptly do so.

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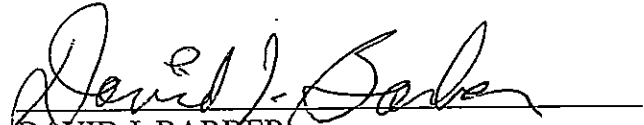
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DATED this 8<sup>th</sup> day of January 2009.

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

CLIVE J. STRONG  
DEPUTY ATTORNEY GENERAL  
STATE OF IDAHO

  
DAVID J. BARBER  
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on this 8<sup>th</sup> day of January 2009, I caused to be served the original and/or copy of this MOTION TO SEVER SUBCASE NOS. 63-03163 AND 63-03274 FROM CONSOLIDATED PROCEEDING AND REQUEST FOR EXPEDITED CONSIDERATION on each of the following persons by the indicated method:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707

- ☐ U.S. Mail, postage prepaid  
☒ Hand Delivery  
☐ Federal Express  
☐ Facsimile: (208) 736-2121  
☐ Statehouse Mail

2. Copies to the following persons:

Pioneer Irrigation District  
c/o Scott L. Campbell & Dylan B. Lawrence  
Moffat Thomas Barrett Rock & Fields, CHTD.  
101 S. Capitol Blvd., 10<sup>th</sup> Floor  
P.O. Box 829  
Boise, Idaho 83701-0829

- ☒ U.S. Mail, postage prepaid  
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United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort Street, MSC 033  
Boise, ID 83724

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Chief of Natural Resource Division  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-4449

Not Applicable

  
\_\_\_\_\_  
DAVID J. BARBER  
Deputy Attorney General