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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 No. 67-04450
	)	
	)	MOTION TO SET ASIDE FINAL ORDER
	)	
Case No. 39576	)	MOTION TO FILE LATE OBJECTION
	)	
	)	
	)	

The Idaho Department of Fish and Game (IDFG), by and through the undersigned deputy attorney general, hereby moves the Court for an order setting aside the Final Order Disallowing Water Right Claims ("Final Order") entered in the above-entitled subcase and granting IDFG leave to file the attached late objection.

The grounds for these motions are as follows:

1. On December 22, 2006, the Idaho Department of Water Resources filed its Director's Report, Irrigation & Other Claims, Basin 67 ("Director's Report"), recommending

that the above-entitled water right be disallowed.

2. Due to mistake, inadvertence, and/or excusable neglect, claimant failed to file an objection to the Director's Report for the above-entitled water right within the prescribed time period.

3. On October 23, 2008, the SRBA District Court entered its Final Order, disallowing the above-entitled water right.

4. Idaho Rule of Civil Procedure 60(b) provides that a final judgment may be set aside due to mistake, inadvertence, and/or excusable neglect.

5. It is in the best interest of justice that the Final Order be set aside and that the IDFG be granted leave to file its attached late objection.

Attached hereto is the IDFG's late objection for the Court's consideration.

These motions are supported by the Affidavit of David I. Stanish and the Affidavit of Walt C. Poole filed concurrent herewith.

IDFG reserves the right to file a memorandum in support of these motions consistent with the Idaho Rules of Civil Procedure.

Oral argument is requested on these matters.

PRAYER FOR RELIEF

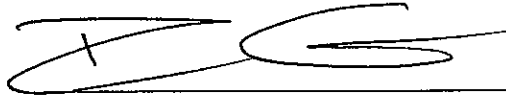
1. That the Court enter an order setting aside the Final Order;
2. That the Court enter an order granting IDFG leave to file the attached late objection; and
3. That the Court grant such other and further relief as the Court deems just and proper.

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DATED this April 22, 2009.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

A handwritten signature in black ink, appearing to read 'D. I. Stanish', written over a horizontal line.

DAVID I. STANISH
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on this April 22, 2009, I caused to be served the original and/or copy of this MOTION TO SET ASIDE FINAL ORDER and MOTION TO FILE LATE OBJECTION on each of the following persons by the indicated methods:

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

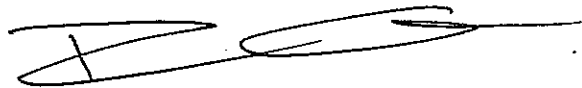
2. Copies to

United States Department of Justice
Environment and Natural Resource
Division
550 West Fort Street, MSC 033
Boise, ID 83724

- ☒ U.S. Mail, postage prepaid
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