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RECEIVED
JUN 26 2009
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 Nos. **Attachment 1**
)

) **CLAIMANTS' SECOND JOINT**
) **MOTION FOR SUMMARY**
) **JUDGMENT**
)
)
)

COME NOW, A&B Irrigation District, American Falls Reservoir District #2, Burley
Irrigation District, Falls Irrigation District, Milner Irrigation District, Minidoka Irrigation

District, North Side Canal Company and Twin Falls Canal Company, Claimants in the above-referenced subcases (hereinafter collectively referred to as “Claimants” or “SWC”), by and through counsel of record, and pursuant to Idaho Rule of Civil Procedure 56 hereby jointly move for summary judgment in the above-entitled subcases. The Claimants submit there are no genuine issues of material fact and that the objections filed by the Ground Water Districts¹, the Mud Lake Users² and Fremont-Madison Objectors³ should be dismissed as a matter of law.

SWC further submits that the City of Pocatello, Blackfoot Irrigation Company, United Canal Company, and Fremont-Irrigation District, as parties to the *Eagle Decree* are barred as matter of law pursuant to the doctrine of *Res Judicata* from challenging the SWC water rights in the SRBA. In addition, those objectors, or their predecessors that had notice of the *Eagle Decree* proceedings are similarly barred from challenging the SWC water rights now in the SRBA.

SWC submits the Court should recommend that the season of use of 3/15 to 11/15 (and 4/1 to 10/31 for water right 1-13) be decreed as a matter of law and that the priority date element for the following unobjected to water rights be decreed as a matter of law as well: 1-4, 1-5, 1-6, 1-16, 1-17, 1-209, 1-210, 1-211A, 1-211B, 1-212, 1-213, 1-214A, 1-214B, 1-219, 1-2061, 1-10034, 1-10225, 1-10237, 1-10238, 1-10239, 1-10240, 1-10241, 1-10482. SWC also submits that the priority date for Milner Irrigation District’s water right 1-2050 should be decree as October 25, 1939 as previously license by IDWR.

Finally, the requested remarks and conditions submitted with GWD’s objections are unnecessary and not supported by the facts or law and therefore should be dismissed.

¹ Abderdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey-Valley Ground Water District, Jefferson Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District.

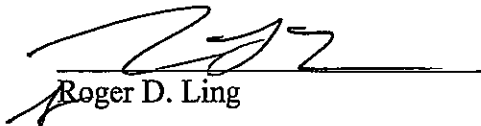
² Montevue Canal Company, Producers Irrigation Company, Independent Water Users of Mud Lake, Jefferson Irrigation District, and Mud Lake Water Users, Inc.

³ Fremont-Madison Irrigation District, Blackfoot Irrigation Company, and United Canal Company.

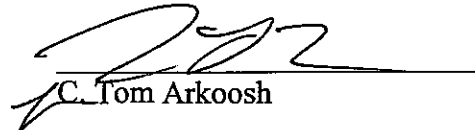
This motion is supported by the *Second Affidavit of Travis L. Thompson* and the *Memorandum in Support of Claimants' Second Joint Motion for Summary Judgment* filed together herewith. The Claimants will call up their motions for hearing at the SRBA District Court, located at 253 Third Ave. North, Twin Falls, Idaho, on **Thursday August 27, 2009 at 10:00 a.m.**

DATED this 25th day of June, 2009.

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Twin Falls Canal Company*

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 2009, I served a true and correct copy of the foregoing *Claimants' Second Joint Motion for Summary Judgment* on the following by the method indicated:

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Attorney General's Office
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Boise, Idaho 83711-4449

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Travis L. Thompson

Attachment 1

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1-209
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