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Attorney for Brian Sopatyk

RECEIVED  
JUL 06 2009  
DEPARTMENT OF  
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

|                |   |                                  |
|----------------|---|----------------------------------|
| In Re: SRBA,   | ) | Subcase Nos. 75-13716, 75-13717, |
|                | ) | & 75-13718                       |
|                | ) |                                  |
|                | ) | MOTION TO VACATE                 |
| Case No. 39576 | ) | TRIAL SET FOR JULY 14, 2009      |
| _____          | ) |                                  |

COMES NOW, the Brian Sopatyk by and through his counsel Bruce M. Smith of Moore Smith Buxton & Turcke, Chartered, and moves this Court to vacate the trial set for July 14, 2009, in the above matter. The basis for the motion is that undersigned counsel has just been retained to represent Mr. Sopatyk. Counsel cannot prepare for a trial by July 14, 2009, nor can he attend trial due to previously scheduled commitments. Further, the parties have an agreement to have a consultant review the site for possible solutions that would resolve claims and objections.

Respectfully submitted this 2 day of July, 2009.

MOORE SMITH BUXTON & TURCKE,  
CHARTERED

  
\_\_\_\_\_  
BRUCE M. SMITH  
Attorney for Brian Sopatyk

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2 day of July, 2009, I caused to be served a true and correct copy of the foregoing Motion via prepaid, U.S. Mail, to the following:

1. Original to:

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

2. Copies to:

IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
PO Box 44449  
Boise, ID 83711-4449

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

Bob Rowe  
Cathleen R. Bigelow  
Doug & Brenda Gupton  
Gibbonsville Improvement Assn  
Ira D. Taylor  
Janet Bloemeke  
Jordan J. Stover  
Jordan Stover  
Julia Randolph  
Julia Randoplh  
Kim E. Hammitt  
Randolph, Julie  
Toby A. Friedman  
Wanda Sue Usher

**Represented by:**

Jerry R. Rigby  
25 N. 2<sup>nd</sup> E.  
P.O. Box 250  
Rexburg, ID 83440-0250

Maurice Usher  
3107 N. 93 Hwy  
Gibbonsville, ID 83463

Lorna L. Anderson  
4 South 635 West  
Blackfoot, ID 83221

A handwritten signature in black ink, appearing to read 'Bruce M. Smith', is written over a horizontal line.

BRUCE M. SMITH

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| In Re: SRBA,   | ) | Subcase Nos. 75-13716, 75-13717,  |
|                | ) | & 75-13718                        |
|                | ) |                                   |
|                | ) | <b>[PROPOSED] ORDER TO VACATE</b> |
| Case No. 39576 | ) | <b>TRIAL SET FOR</b>              |
|                | ) | <b>JULY 14, 2009</b>              |
| _____          | ) |                                   |

Pursuant to Claimant's Motion to Vacate Trial, and Claimant having shown good cause for such request, the Court hereby orders that the Trial currently scheduled for July 14, 2009, at 9:00 a.m. is hereby vacated and will be reset to a time convenient to the Court and counsel.

IT IS SO ORDERED.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Terrance A. Dolan  
Special Master  
Snake River Basin Adjudication

**CLERK'S CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the \_\_\_\_\_ day of July, 2009, I caused to be served a true and correct copy of the foregoing Order via prepaid, U.S. Mail, to the following:

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By \_\_\_\_\_  
Deputy Clerk