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DEPARTMENT OF
WATER RESOURCES

Attorneys for Rocky Sherbine

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. 37-2561, 37-2582,
) 37-2682 & 37-115D
)

) **CLAIMANT'S MOTION FOR**
) **PARTIAL SUMMARY**
) **JUDGMENT (Rocky Sherbine)**
)
)

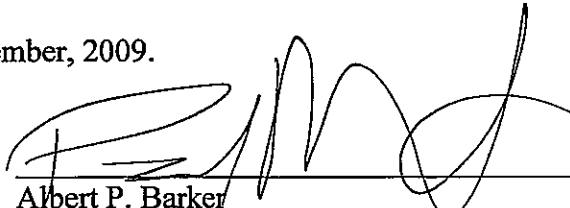
COMES NOW, the Claimant, Rocky Sherbine, by and through his attorneys of record, Barker Rosholt & Simpson, LLP, and pursuant to Rule 56(c) of the Idaho Rules of Civil Procedure and Rule 6(4)(f) of this Court's Administrative Order 1 ("AO1"), and hereby moves this Court for an Order granting partial summary judgment in the above-entitled matter. The Claimant submits that there are no genuine issues of material fact and that he is entitled to judgment as a matter of law.

It is undisputed that certain elements of the above water rights were determined or confirmed through licensing or transfer proceedings before the Idaho Department of Water Resources. In the SRBA, parties are prohibited from collaterally attacking licenses or transfers. *See, e.g., Order on Motion to Dismiss Objections & Request for Attorney Fees*, Subcase Nos. 37-494, *et al* (The Valley Club) (Oct. 10, 2008). As such, the Objections filed by Newfoundland

Partners and Sinclair Oil Corporation dba Sun Valley Co. to the elements of these water rights that were determined through a license or transfer should be dismissed.

This motion is supported by the *Memorandum in Support of Claimant's Motion for Partial Summary Judgment (Rocky Sherbine)* and the *Affidavit of Paul L. Arrington (Rocky Sherbine)*, filed concurrently herewith.

DATED this 1st day of September, 2009.



Albert P. Barker
Paul L. Arrington

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 1st day of September, 2009, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to each of the following:

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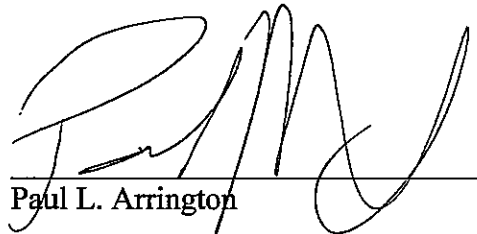
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