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DEPARTMENT OF
WATER RESOURCES

ROBERT E. WILLIAMS
IDAHO STATE BAR NO. 1693
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Jerome, Idaho 83338
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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. 37-22398
Case No. 39576	MOTION TO FILE LATE OBJECTION

COMES NOW, Rock Creek, LLC, ("Claimant") by and through its attorney of record, Robert E. Williams, of the law firm Williams, Meservy & Lothspeich, LLP, and moves this court for an Order Allowing the Claimant to File a Late Objection to the Idaho Department of Water Resource's Report of Late Claim, dated 6/10/09. This Motion is made pursuant to I.R.C.P. 55(c). The proposed late Objection is copied and attached hereto as **EXHIBIT A**. In support of this Motion to File Late Objection, the Claimant shows that:

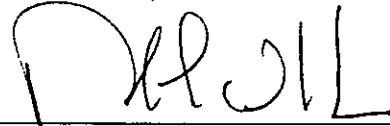
1. On February 18th, 2009, the court entered an Order Granting Claimant's Motion to File a Late Notice of Claim. The Notice of Director's Report of Late Claim was filed June 10th, 2009, with the requirement that objections be filed no later than August 10th, 2009.
2. Williams, Meservy & Lothspeich, LLP, physically received the Notice of Director's Report of Late Claim but it was inadvertently mis-filed and counsel was not aware that the Director's Report had actually been received until September 30th, 2009.

3. The proposed Objection addresses the rate of diversion. The rate of diversion was recommended at .02 cfs per acre, but per the Excess Flow Analysis prepared by Charles G. Brockway, Jr., a copy of which is on file with IDWR, a diversion rate of .0419 cfs per acre, or a total of 1.84 cfs is indicated. The proposed Objection seeks the higher rate of diversion.
4. The Claimant does not object to the other elements of the right recommended in the Director's Report of Late Claim.

WHEREFORE, the Claimant respectfully requests that the court enter an order allowing it to file its late objection.

Dated this 9th day of October, 2009.

WILLIAMS, MESERVY & LOTHSPREICH, LLP

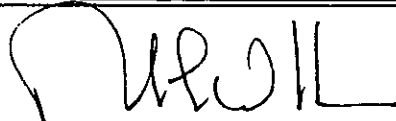


ROBERT E. WILLIAMS

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 9th day of October, 2009, I caused to be served the foregoing document as follows:

Clerk of the District Court Snake River Basin Adjudication 253 Third Avenue North P.O. Box 2707 Twin Falls, ID 83303-2707	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☐ Other _____
IDWR Document Depository P.O Box 83720 Boise, ID 83720-0098	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☐ Other _____
Chief, Natural Resources Division Office of the Attorney General P.O. Box 44449 Boise, ID 83711-4449	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☐ Other _____
United States Department of Justice Environment & Nat'l Resources Division 550 W. Fort Street, MSC 033 Boise, ID 83724	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☐ Other _____
Rock Creek, LLC P.O. Box 7250 Newton Beach, CA 92658	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☐ Other _____



ROBERT E. WILLIAMS

EXHIBIT A

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)
_____)

A.

Subcase

37-22398

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Rock Creek, LLC

Address: P.O. Box 7250

Newport Beach, CA 92658

Daytime Phone: _____

Name & Address of Attorney, if any:

Robert E. Williams

P.O. Box 168

Jerome, ID 83338

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Rock Creek, LLC

Address: P.O. Box 7250

Newport Beach, CA 92658



D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 2.26 cfs
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: 43.9 acres
10. ☐ **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):** Shape file agreed upon between claimant and IDWR; excess flow analysis prepared on behalf of claimant and existing in IDWR files.

F. VERIFICATION (must be completed)

State of Idaho)

County of Twin Falls)ss.

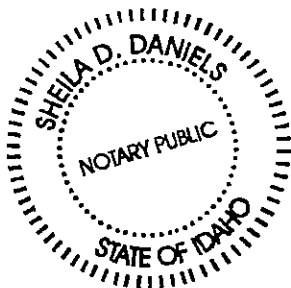
Harry Binker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Harry Binker, by Charles C. Brooking
(Signature of person filing objection) Agent in Fact

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:



Oct. 9, 2009
Sheila D. Daniels
Notary Public for State of Idaho
Residing at: Kimberly, Idaho
My Commission Expires: Aug. 6, 2013

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on _____, 20____, I mailed the original and copies of this objection, including all attachments, to the following persons:

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. One copy to the claimant of the water right at the following address:

Name: _____
Address: _____

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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

Signature of objector or attorney
mailing on Objector's behalf

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

THAT I, **HARRY S. RINKER**, do hereby make, constitute and appoint **CHARLES E. BROCKWAY** and **CHARLES G. BROCKWAY**, of 2016 N. Washington St., Suite 4, Twin Falls, ID 83301, jointly or severally, my true and lawful attorneys for me, in my name, place and stead, and on my behalf, with full power and authority to execute any and all documents on my behalf as fully and effectually to all intents and purposes as I could do in my own proper person, with full power of substitution, hereby ratifying and confirming all that my said attorney in fact shall lawfully do, or cause to be done, by virtue of the authority herein granted and necessary or useful to carry into effect any or all of the following acts, deeds and things:

1. To execute on my behalf notices of claim, motions, or other pleadings to be filed with the Idaho Department of Water Resources, including filings, in Case No. 39576 or an of its subcases, now pending in the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, commonly referred to as the Snake River Basin Adjudication. My attorney shall also have the power to execute on my behalf any Application for appropriation of a water right, transfer of a water right or other similar documents affecting any water right which I now have an ownership interest in, or may hereafter acquire, or which water right is owned, in whole or in part, by a trust, corporation, limited liability company or other business entity of which I am a trustee, officer, member or owner.
2. This instrument is to be construed and interpreted as a special power of attorney, limited to the enumeration of the specific terms, items, acts, rights or powers herein granted. This power of attorney shall remain in effect until it is revoked by me in writing.
3. This power of attorney shall not be affected by my disability.

IN WITNESS WHEREOF, I have hereunto set my hand at Costa Mesa,
CALIF, this 6 day of October, 2009.



HARRY S. RINKER

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Orange

On

Oct 6, 2009

Date

before me,

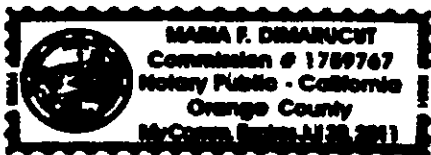
Maria F Dimaricut

Here Insert Name and Title of the Officer

personally appeared

Harry S. Rinker

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~ they executed the same in his/~~her~~ their authorized capacity(ies), and that by his/~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Special Power of Attorney

Document Date:

10/6/09

Number of Pages:

1

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

Signer's Name:

- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

