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OCT 15 2009
DEPARTMENT OF
WATER RESOURCES

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Idaho State Bar Number 7018

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 No.: 75-4026

**MOTION TO SET ASIDE SPECIAL
MASTER REPORT AND
RECOMMENDATION**

Salmon River Properties, Inc., by and through counsel of record, Robert L. Harris of the law firm Holden, Kidwell, Hahn & Crapo, PLLC, hereby files this Motion to Set Aside the Special Master Report and Recommendation filed on July 15, 2009, regarding Water Right No. 75-4026.

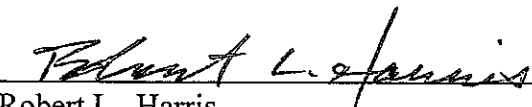
Because of an updated Water Right Recommendation that resulted from resolution of objections filed by Salmon River Properties, the Water Right Recommendation from the IDWR website showed that the water right was recommended as existing. Previously, however, the water right had been disallowed, and after objections were filed by Eric Storlie and Tamara Kaiser to the

renewed recommendation, the parties resolved their differences by stipulation. This stipulation stated that Salmon River Properties should receive a partial decree as is currently recommended to the Court. However, because the initial recommendation was for disallowed, the resulting stipulation has resulted in some confusion.

To be clear, the parties have agreed that Salmon River Properties should receive a water right pursuant to the terms and conditions of their stipulation. As evidence of the parties' universal agreement to that end, enclosed is a photocopy of the Standard Form 5 for Subcase No. 75-4026, which we believe has been filed with the Court. We request that the Special Master revise his recommendation such that Water Right No. 75-4026 is not disallowed, but rather, receives a Partial Decree consistent with the terms and conditions set forth in the executed Standard Form 5, which incorporates the provisions of a Stipulation entered into between Salmon River Properties and Storlie and Kaiser.

At this point, it appears that the motion would be uncontested, and therefore, no hearing is requested on this matter. However, to the extent the Court desires a hearing on the matter, such a date could be set at the Court's convenience.

DATED this 12th day of October, 2009.


Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of October, 2009, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

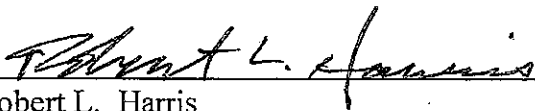
2. Copies to:

Erik F. Storlie
Tamara L. Kaiser
3217 Humboldt Ave. S.
Minneapolis, MN 55408

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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


Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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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

Case No. 39576

Subcase No. 75-04026

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

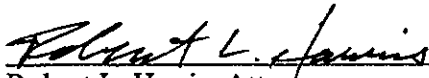
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

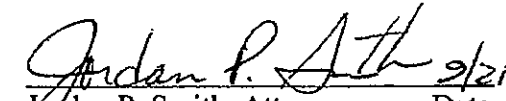
CLAIMANT

Salmon River Properties, Inc.

OBJECTOR

Ward Whitmore


Robert L. Harris, Attorney Date


Jordan P. Smith, Attorney Date

OBJECTOR

Erik Storlie

Erik F. Storlie 8/30/09
Erik Storlie Date
Pro Se

OBJECTOR

Tamara Kaiser

Tamara Kaiser 9/13/09
Tamara Kaiser Date
Pro Se

IDWR Concurrence:

Monica Van Bussum 9/28/2009
Monica Van Bussum Date
Senior Water Resource Agent

Garrick L. Baxter 9/28/09
Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

WARD M WHITMORE

Represented by:
JORDAN P. SMITH
400 W. 2nd AVENUE
SALMON, ID 83467

SALMON RIVER PROPERTIES INC

Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405

ERIK F STORLIE
TAMARA L KAISER
3217 HUMBOLDT AVE S
MINNEAPOLIS, MN 55408

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing form

07/20/2009

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-4026

NAME AND ADDRESS: SALMON RIVER PROPERTIES INC
BOX 4495
CHATSWORTH CA 91313

SOURCE: HAT CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 2.110 CFS

PRIORITY DATE: 07/18/1932

POINT OF DIVERSION:

T17N R21E S20 SWNW Within LEMHI County

T17N R21E S20 SWSWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

2.110 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T17N R21E S17 Lot 7 NWSW	17.00	T17N R21E S17 Lot 8 SWSW	30.00
T17N R21E S18 Lot 3 SENE	3.30	T17N R21E S18 Lot 5 NESE	22.00
T17N R21E S20 Lot 2 NENW	4.10	T17N R21E S20 Lot 3 SENW	0.80

77.2 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(5), Idaho Code.

The operation, use and administration of this water right is subject to a private water right agreement effective June 20, 2009, between Salmon River Properties, Inc., and Erik F. Storlie and Tamara L. Kaiser and recorded in the Lemhi County Recorder's Office as Instrument No. 280073.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

EFL
JPS
PLX
Rut
HS
MVB