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DEPARTMENT OF
WATER RESOURCES

Estate of Tina Iest, Tina Iest Family LLLP,
The Hauck Family Revocable Trust, and
Greg Obendorf

Dana L. Hofstetter, ISB #3867
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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY**

In Re SRBA

Case No. 39576

) Subcase No. 63-178C
)
) **MOTION TO**
) **SUBSTITUTE/JOIN PARTIES**
)
)

MOTION

The Estate of Tina Iest, The Tina Iest Family LLLP, The Hauck Family Revocable Trust and Greg Obendorf, by and through their counsel of record, Dana Hofstetter of Hofstetter Law Office, LLC, hereby move, pursuant to I.R.C.P. Rules 19(a)(1) and 25(a)(1), for leave to substitute/join parties. This Motion is supported by the Memorandum below, the contemporaneously filed Affidavit of Dana L. Hofstetter #2 and the record.

MEMORANDUM

I. FACTUAL BACKGROUND

Water Right Nos. 63-127, 63-128, 63-129, 63-130, 63-131 and 63-178 originally were claimed in the SRBA by the Andrews Ditch Company. *Affidavit of Dana L. Hofstetter #1*.¹ However, in 2006, one of the members of the Andrews Ditch Company, Tree Top Ranches LP, proposed dissolving the entity and dividing the water rights between the then two recognized members of the Andrews Ditch Company, Tree Top Ranches, and Tina Iest. *Id.* The Idaho Department of Water Resources ("IDWR") divided the Andrews Ditch Company water rights between these two parties based on the 1906 *Stewart* decree places of use for these water rights. *Id.* Water Right Nos. 63-127A, 63-128A, 63-129A, 63-129A, 63-130A, 63-131A and 63-178A were recommended disallowed in the name of the Andrews Ditch Company; Water Right Nos. 63-127B, 63-128B, 63-129B, 63-130B, 63-131B and 63-178B were recommended to Tree Top Ranches; and Water Right No. 63-178C was recommended to Tina Iest. Tina Iest passed away on December 14, 2008. *Id., Exhibit A.*

Records of Canyon County evidence that the land associated with Water Right No. 63-178C along with Water Right No. 63-178C was owned by Tina Iest and The Tina Iest Family Limited Partnership at the time of her death. *Affidavit of Dana L. Hofstetter #2, Exhibits A and B.* Records of the Idaho Secretary of State's Office establish that The Tina Iest Family Limited Partnership's name changed to The Tina Iest Family L.L.L.P. in July 2007. *Id., Exhibits C and D.*

¹ The Affidavit of Dana L. Hofstetter #1 was filed in the above-captioned subcase on February 5, 2009.

II. LEGAL DISCUSSION

Rule 25(a)(1), I.R.C.P. provides for the substitution of a party who dies while an action is pending. Accordingly, the Estate of Tina Iest should be substituted for Tina Iest in the above-captioned matter.

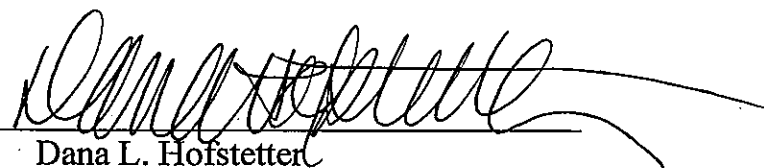
Rules 19(a)(1), I.R.C.P. provides for the joinder of parties claiming “an interest relating to the subject of the action and is so situated that the disposition of the action in the person’s absence may as a practical matter impair or impede the person’s ability to protect that interest.” The Tina Iest Family Limited Partnership and/or The Tina Iest Family L.L.L.P. are at least part owners of Water Right No. 63-178C and, therefore, have an important interest in the subject of this Subcase. The absence of these parties in this proceeding would impair their ability to protect their interest in the subject water right,

III. CONCLUSION

For the reasons stated above, this Motion to Substitute/Join Parties should be granted and the Estate of Tina Iest should be substituted for Tina Iest and The Tina Iest Family Limited Partnership and The Tina Iest Family L.L.L.P. should be joined as party Claimants.

RESPECTFULLY SUBMITTED this 6th day of November, 2009.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of November, 2009, I caused to be served copies of the foregoing **Motion to Substitute/Join Parties** by the methods indicated below:

Idaho Department of Water Resources
Document Depository
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✕ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

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Dana L. Hofstetter