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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Objector, Twin Falls Canal Company

**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.: 47-2479A, 47-4311,**
) **47-17280, 47-17281**
)
) **TWIN FALLS CANAL COMPANY'S**
) **MOTION FOR SUMMARY**
) **JUDGMENT**
)

COMES NOW, the Objector, Twin Falls Canal Company ("TFCC"), by and through its attorneys of record, Barker Rosholt & Simpson LLP, and pursuant to Rule 56(c) of the Idaho Rules of Civil Procedure, Rule 6(4)(f) of this Court's Administrative Order 1 ("AO1") and the August 17, 2009, *Trial Schedule Order*, and hereby moves this Court for an order granting summary judgment in the above-entitled matter. TFCC submits that there are no genuine issues of material fact and that it is entitled to judgment as a matter of law.

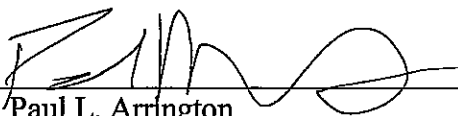
It is undisputed that source of the above-captioned water rights is waste or seep water that is gathered from the TFCC project area. As such, the following comment is necessary to ensure that future administration of these water rights is consistent with the right of TFCC as the "paramount appropriator."

The source of this water right includes waste water. The wasting of water may be discontinued at any time.

This motion is supported by *Twin Falls Canal Company's Memorandum in Support of Motion for Summary Judgment*, the *Affidavit of Brian Olmstead* and the *Affidavit of Paul L. Arrington*, filed together herewith.

Dated this 13th day of November, 2009.

BARKER ROSHOLT & SIMPSON LLP


By: Paul L. Arrington
Attorneys for Twin Falls Canal Company

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of November, 2009, I served true and correct copies of the foregoing **TWIN FALLS CANAL COMPANY'S MOTION FOR SUMMARY**

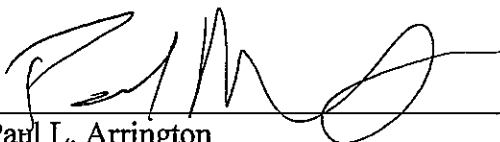
JUDGMENT via U.S. mail, postage prepaid, and addressed to the following:

IDWR
P.O. Box 83720
Boise, ID 83720

United States Department of Justice
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