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RECEIVED
JUN 28 2010
DEPARTMENT OF
WATER RESOURCES

Attorneys for Albert & Alvera Fols, Charles & Mary Harling, A.C. & Luella Pilkerton, Lloyd & Sheryl Tutor, James Edgren & Jennifer Brady, and Tracy Mascia

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. See Exhibit A
	)	
Case No. 39576	)	RESPONSE TO MOTION TO
	)	WITHDRAW AS ATTORNEY OF
	)	RECORD
	)	
	)	
	)	

COME NOW, ALBERT & ALVERA FOLS, CHARLES & MARY HARLING, A.C. & LUELLA PILKERTON, LLOYD & SHERYL TUTOR, JAMES EDGREN & JENNIFER BRADY, and TRACY MASCIA, Respondents in the above-referenced subcases (hereinafter collectively referred to as the "Carmen Creek Users"), by and through their attorneys of record, Barker Rosholt & Simpson LLP, and hereby submit this response to the *Motion to Withdraw as Attorney of Record*, filed by the law firm Holden, Kidwell, Hahn & Crapo, P.L.L.C., counsel for the Objectors, John E. and Ruth C. Burn's, George Matejko, Rick and Linda Rice, Robert M. & Jacqueline D. Ernest, William W. Clements and James R. & Rowena D. Quinn.

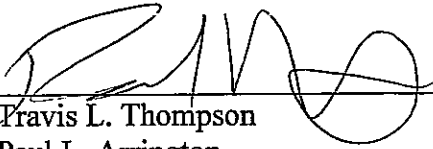
Through the pending motion, counsel for the Objectors seeks to withdraw as attorney of record, stating that the Objectors have decided to continue in these proceedings by “representing themselves *pro se*.” *Harris Aff.* ¶¶ 5 & 11.

The Carmen Creek Users do not oppose the *Motion to Withdraw* filed by the Objectors’ counsel. However, the Carmen Creek Users are concerned that, in proceeding *pro se*, the Objectors may attempt to represent each other in violation of the State’s prohibition against the unauthorized practice of law. In the proceedings before the Presiding Judge in relation to the State’s *Motion for Order on Interim Administration of Water Rights in Basin 75 and Request for Expedited Hearing*, these same Objectors responded and presented oral argument *pro se*. Each of the pleadings filed by the Objectors in that proceeding was identical in both formatting and substance. It is unclear whether each Objector prepared his or her own filing in that matter, as required by Idaho law.

Furthermore, in their *Objection to Motion for Order of Interim Administration*, each of the Objectors sought denial of the motion “on behalf of themselves and others similarly situated.”¹ In Idaho, the unauthorized practice of law is prohibited. Idaho Code §§ 3-401 *et seq.* As such, if the motion to withdraw is granted, the Special Master should clarify to the Objectors that they must proceed in these subcases individually – unless they hire new counsel. Moreover, the Court should advise the Objectors that they will be held to the same standard as counsel in these proceedings. *Huff v. Singleton*, 143 Idaho 498, 500 (2006) (In Idaho, *pro se* litigants are held to the same standards as attorneys).

¹ A copy of *Objection* filed by John E. and Ruth Burns is attached to this response for the Special Master’s convenience. The *Objections* filed by the other Objectors are available on file with the SRBA Court under Subcase No. 00-920021-75.

DATED this 25th day of June, 2010.



Travis L. Thompson
Paul L. Arrington

Attorneys for the Carmen Creek Users

CERTIFICATE OF MAILING

I certify that on the 25th day of June, 2010, I served a true and correct copy of the foregoing **RESPONSE TO MOTION TO WITHDRAW AS ATTORNEY OF RECORD** on the following individuals via first class mail, postage prepaid:

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

United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street MSC 033
Boise, Idaho 83724

IDWR Depository
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Boise, Idaho 83720-0098

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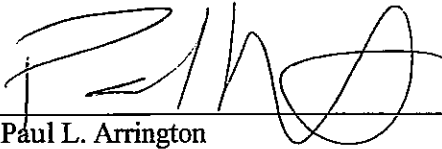
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Attachment A

75-10061AA	75-10061N	75-10061A
75-10061B	75-10061X	75-10061Q
75-10061C	75-10062L	75-10061R
75-10061J	75-10062V	75-10061Y
75-10061T	75-14025	75-10061AE
75-10061Z	75-14027	75-10062A
75-10061AC	75-14044	75-10062P
75-10061AM	75-14046	75-10062W
75-10062C	75-14055	75-10062AC
75-10062H	75-14056	75-14441
75-10062R	75-14057	75-14443
75-10062X	75-14058	75-14540
75-10062Y		
75-10062AA		
75-10062AB		
75-10062AL		
75-10136A		
75-10136B		
75-10137A		
75-10137B		
75-14388		

John E. Burns & Ruth C. Burns
Box 264
Carmen, Idaho 83462

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAY 12 2010
By _____ Clerk
Deputy Clerk

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. 92-00021-75

OBJECTION TO MOTION FOR ORDER OF
INTERIM ADMINISTRATION OF WATER
RIGHTS IN BASIN 75

COME NOW JOHN E. & RUTH C. BURNS, holders of Decreed Water Rights in Water District 75-D and claimants thereof in the SRBA, who by and through themselves, file this *Objection to Motion for Order of Interim Administration*.

On April 19, 2010, The State of Idaho filed a *Motion for Order of Interim Administration of Water Rights in Basin 75 and Request for Expedited Hearing*. In its Order of April 20, 2010, the Court set hearings on these matters for Tuesday, May 18, 2010. Objections and/or Briefing in Opposition are due no later than May 14, 2010. The Court has limited service of copies to only the State of Idaho, the Idaho Department of Water Resources, and the United States Department of Justice at this time.

The State of Idaho has provided *Brief in Support of Motion for Order of Interim Administration for Water Rights in Basin 75 and Affidavit of Timothy J. Luke in Support of Motion for Order of Interim Administration*.

Objectors' response to the State's *Request for Expedited Hearing on Opposition to Motion for Order of Interim Administration* is by separate document filed this date. Affidavit by John E. Burns is attached hereto as Exhibit 1.

1. **The State has not shown a need specific to Basin 75 that justifies *Interim Administration* in advance of the current SRBA litigation. Nor has the State shown or even stated how *Interim Administration* will aid accomplishment of the expressed broad objectives. Instead, the State's rationale rests solely on generalities without any tie or reference to actual conditions in Basin 75. For example, the State has not identified or described the existing Water Districts in the Basin, or the administrative situation therein. Likewise, areas that may not be included in existing Water Districts in Basin 75 are not identified or described in any fashion. The State provides no factual or even estimated information to the number of SRBA claimants who would be affected. The State has simply failed to provide even the most basic information necessary to understand and respond to the proposal for *Interim Administration*.**
2. **The Objectors and others similarly situated will be adversely affected and disadvantaged both in the delivery of their Decreed senior water rights this season and in the SRBA litigation currently underway and scheduled for trial this October by *Interim Administration*.**

THEREFORE, Objectors John & Ruth Burns, on behalf of themselves and others similarly situated, respectfully ask the Court to grant relief and deny the State's *Motion for Order of Interim Administration of Water Rights in Basin 75* pending full and complete disclosure of objectives, description by the IDWR of specific plans for new, enlarged or combined Water Districts, and proper analysis and description of costs, personnel needs, timeline for actions, and other information to enable water users to understand and properly respond to the State's objectives and plans.

FURTHER, Objectors ask that the Court recognize that the Idaho Department of Water Resources failure to comply with the Court Order of March 25, 2009 placed *Objectors* and others similarly situated at a severe disadvantage. Likewise, failure to comply with the requirements of Idaho Code Title 42-1425(2)(a) will work additional severe hardship if *Interim Administration* were initiated prematurely and disruption of Senior Rights resulted thereby.

AND, Objectors wish to draw the Court's attention to the fact that all claimants likely to be adversely affected by *Interim Management* were not notified of the State's filings with the Court or informed of the May 14 deadline.

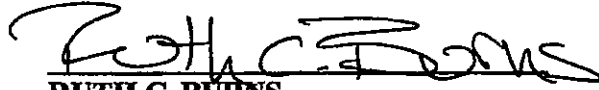
Objectors request the opportunity to present objections and argument at the *Hearing on Motion for Order of Interim Administration of Water Rights in Basin 75*, whether held on May 18 or the more appropriate date of July 20, 2010 as Objectors respectfully request.

RESPECTFULLY SUBMITTED this 10th day of May, 2010.

JOHN E. & RUTH C. BURNS

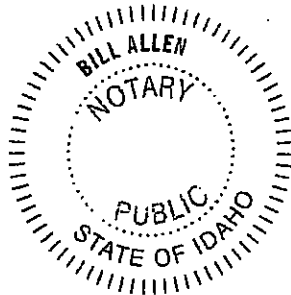


JOHN E. BURNS



RUTH C. BURNS

SUBSCRIBED AND SWORN to before me this 10th day of May, 2010.



Notary public for Idaho
Residing at: Salmon, Idaho
My Commission Expires: 2/19/2015