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AUG 20 2010

DEPARTMENT OF
WATER RESOURCES

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Attorneys for American Falls Reservoir District #2

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. **01-00006**

**AMENDED NOTICE OF INTENT TO
FILE MOTION FOR SUMMARY
JUDGMENT**

COMES NOW, Claimant, American Falls Reservoir District No. 2 (AFRD No. 2), and hereby amends its notice of intent file a motion for summary judgment.

Since the time AFRD No. 2 filed its Notice of Intent to File Motion for Summary Judgment, the Director of Idaho Department of Water Resources filed an amended recommendation which now mirrors the language set forth in the Eagle Decree. However, the Director has expressed that he will not specifically recommend how the right should be administered.

Given the amended recommendation, the summary judgment issue(s) have substantially become:

Whether the 01-06 water right should be interpreted and administered according to its plain language as it was previously decreed and set forth in the *Eagle Decree*, which provides that all water diverted by American Falls Reservoir District No. 2 before American Falls Reservoir fills for the last time in a given irrigation season and begins to drop will be considered natural flow and not charged as storage.

Respectfully submitted.

DATED: This 18 day of August, 2010.

CAPITOL LAW GROUP, PLLC

A handwritten signature in black ink, appearing to read "C. Tom Arkoosh", is written over a horizontal line.

C. Tom Arkoosh

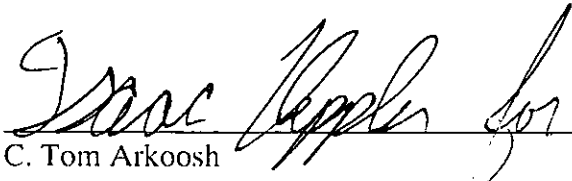
Attorney for American Falls Reservoir District #2

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 18 day of August, 2010, I served a true and correct copy of the foregoing document by depositing a true and correct copy thereof in the United States mail, postage prepaid, in an envelope addressed to the following individuals at the addresses below listed:

Clerk of the SRBA Court 253 Third Ave North P. O. Box 2707 Twin Falls, ID 83303-2707 Robert L. Harris Holden, Kidwell, Hahn & Crapo, PLLC P.O. Box 50130 Idaho Falls, Idaho 83405 Candace McHugh Randall C. Budge Racine, Olson, Nye, Budge & Bailey, Chd. 101 S. Capitol Blvd., Suite 208 Boise, Idaho 83702 Chief, Natural Resources Division Office of the Attorney General P.O. Box 44449 Boise, Idaho 83711-4449	Craig D. Hobdey P.O. Box 176 Gooding, Idaho 83330 Jerry R. Rigby P.O. Box 250 Rexburg, Idaho 83440 IDWR Document Depository P.O. Box 83720 Boise, Idaho 83720-0098 United States Department of Justice Environment & Nat'l Resources Division 550 West Fort Street, MSC 033 Boise, Idaho 83724 American Falls Reservoir District No. 2 PO Box "C" Shoshone, ID 83352
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