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DEPARTMENT OF
WATER RESOURCES

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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. **01-00006**

**SECOND MOTION TO EXTEND
SUMMARY JUDGMENT SCHEDULE**

COMES NOW, Claimant, American Falls Reservoir District No. 2 (AFRD No. 2), and hereby moves this Court for an order vacating the *Amended Scheduling Order* summary judgment schedule currently set in Subcase 01-00006. This motion is brought for the following reasons:

1. On July 20, 2010, this Court issued its *Amended Scheduling Order* which set a schedule for summary judgment motions in the 01-06 Subcase. The order provided as follows:
 - a. Deadline to file motions for summary judgment: August 30, 2010.
 - b. Responses due: October 18, 2010.

- c. Replies due: November 15, 2010.
 - d. Hearing on Motions: December 13, 2010.
2. On July 7, 2010, AFRD No. 2 took the deposition of the State of Idaho pursuant to I.R.C.P. 30(b)(6). The State designated Anthony Olenichak as its witness. During the deposition, the witness indicated that he was in the process of compiling additional documents that were not brought to the deposition but were relevant to the summary judgment issues.
 3. The deposition was recessed with the understanding that it may be reconvened in the event that the documents brought by the State, or any supplemental documents, raised the need for additional testimony.
 4. On August 10, 2010, counsel for AFRD No. 2 received approximately two thousand, three hundred (2,300) pages of documents from the State of Idaho as a supplement to discovery relative to the I.R.C.P 30(b)(6) deposition. The State has indicated that all documents should be deemed relevant.
 5. Given the volume of documents, counsel is unable to review and, if necessary, incorporate the documents into summary judgment argument prior to the current set deadline for filing.
 6. The issue substantially set forth in the Notice of Intent to File Motion for Summary Judgment and Amended Notice of Intent is of paramount importance to AFRD No. 2, and other parties to the subcase, and it is critical to AFRD No. 2 that counsel be given sufficient time to review all information that may be deemed relevant, not to exceed an

additional 30 days beyond the currently set August 30, 2010, deadline.

7. The Claimant has contacted all parties to Subcase 01-06 and there are no objections to extending the summary judgment schedule.
8. It is Claimant's position that the parties will be able to stipulate to a new summary judgment schedule and that no additional scheduling conference is necessary. If granted, Claimant will coordinate with all parties to this Subcase in an effort to reach a stipulated summary judgment scheduling order.

For these reasons, the Claimant, AFRD No. 2, moves this Court to vacate the July 20, 2010, *Amended Scheduling Order* and to order counsel for Claimant to coordinate with all parties to this subcase in an effort to establish a new summary judgment schedule.

DATED: This 23 day of August, 2010.

CAPITOL LAW GROUP, PLLC

A handwritten signature in black ink, appearing to read "Isaac Leppin", followed by the word "for" in a cursive script. The signature is written over a horizontal line.

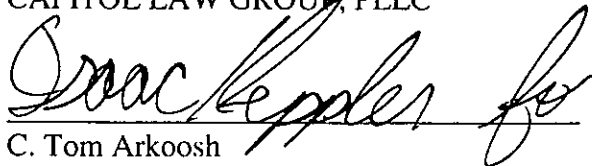
C. Tom Arkoosh
Attorney for American Falls Reservoir District #2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23 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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