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SEP 01 2010

**DEPARTMENT OF
WATER RESOURCES**

Attorneys for Claimant and Objector
Pioneer Irrigation District

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18946.0138

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. 63-32580

**MEMORANDUM IN SUPPORT OF
MOTION TO AMEND OBJECTION**

Pioneer Irrigation District, through undersigned counsel of record, hereby files this Memorandum in Support of Motion to Amend Objection pursuant to SRBA Rule of Procedure 1 and Idaho Rules of Civil Procedure 7(b)(3) and 15(a).

**I.
INTRODUCTION**

Pioneer has already filed an objection to IDWR's recommendation of water right 63-32580. With its motion, Pioneer simply seeks to amend its objection to add an objection

to priority date. The standards for amending pleadings are liberal, and the delay in adding this basis of objection will not prejudice the claimant Mason Creek Ditch Company, as there is still adequate time to develop evidence to support the recommended priority date. Therefore, Pioneer respectfully requests leave to amend its objection as reflected in Exhibit A to the motion.

II. STATEMENT OF FACTS

On or about November 29, 2006, Mason Creek Ditch Company filed a claim to water right 63-32580. (Exhibit A) This beneficial use claim claims a diversion rate of 17 cfs to irrigate 1,937 acres, with a priority date of June 1, 1869. IDWR issued its recommendation for this claim in a Late Claim Director's Report issued November 30, 2009. (Exhibit B) IDWR recommended a diversion rate of 17 cfs to irrigate 1,504.3 acres, with a priority date of March 1, 1922. The deadline for filing objections was February 10, 2010, and Pioneer timely filed an objection on January 20, 2010. (Exhibit C) In that objection, Pioneer objected to source and quantity. It did not object to priority date.

However, Pioneer owns two water rights that it diverts from Mason Creek, one of which (63-32515) authorizes Pioneer to divert up to 53 cfs of water for irrigation anywhere within Pioneer's approximately 34,000-acre place of use, but which would be junior to the recommended March 1, 1922 priority date for 63-32580. (Exhibit D) The recommendation of a new, senior water right for 17 cfs on Mason Creek could significantly impact Pioneer. Therefore, Pioneer respectfully requests leave to amend its objection to object to priority date.

III. LEGAL DISCUSSION

A. Leave To Amend Objections Is To Be Freely Given And Is Left To The Sound Discretion Of The Court

An objection in the SRBA is considered a “pleading” for the purposes of the rules of civil procedure. SRBA RULE OF PROC. 2(r). Therefore, the amendment of an objection is governed by Idaho Rule of Civil Procedure 15(a), which provides:

A party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar,¹ the party may so amend it at any time within twenty (20) days after it is served. Otherwise a party may amend a pleading only by leave of court or by written consent of the adverse party; *and leave shall be freely given when justice so requires*, and the court may make such order for the payment of costs as it deems proper. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(Emphasis added).

“[T]he decision to grant or refuse permission to amend [a pleading] is left to the sound discretion of the trial court.” *Jones v. Watson*, 98 Idaho 606, 610, 570 P.2d 284, 288 (1977) (citations omitted). “Rule 15(a) establishes a rather lenient standard for amending pleadings.” *In Re SRBA*, Order Granting Motion to Amend Objection, Case No. 39576, Subcase No. 37-415 (5th Dist., Dec. 3, 2008) (S.M. Bilyeu). “[T]he purpose of [Rule 15(a)] is two-fold: First, to allow the best chance for each claim to be determined on its merits rather than on some procedural technicality; and, second, to relegate pleadings to the limited role of providing parties with notice of the nature of the pleader’s claim and the facts that have been called into question.”

¹ This subcase has been set for trial pursuant to the Special Master’s Trial Scheduling Order of May 27, 2010 (Subcase Nos. 63-166A, *et al*).

Clark v. Olsen, 110 Idaho 323, 329, 715 P.2d 993, 996 (1986) (citing C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE: CIVIL 2D § 1471 (1971)).

B. Pioneer's Motion Satisfies The Liberal Standards Of Rule 15(a)

"If the amended pleading does not set out a valid claim, or if the opposing party would be prejudiced by the delay in adding the new claim, or if the opposing party has an available defense such as a statute of limitations, it is not an abuse of discretion for the trial court to deny the motion to file the amended complaint. *Black Canyon Racquetball Club, Inc. v. Idaho First Nat'l Bank*, 119 Idaho 171, 175, 804 P.2d 900, 904 (1991). The remainder of this brief will discuss the application of these standards. At the outset, it is worth emphasizing that these are factors that the Court "may consider," *Spur Products Corp. v. Stoel Rives LLP*, 142 Idaho 41, 44, 122 P.3d 300, 303 (2005), not individual elements that must be proven by a movant in order to amend a pleading.

1. Priority Date Is A Valid Basis To Object To A Water Right Recommendation

In ruling on a motion to amend a pleading, "[t]he court may not . . . weigh the sufficiency of the evidence related to the additional claim." *Spur Products Corp.*, 142 Idaho at 44, 122 P.3d at 303. Instead, the Court is simply confirming that the moving party proposes to add a legally recognized claim. *See generally Spur Products Corp.*, 142 Idaho at 44-45, 122 P.3d at 303-04 (2005) (concluding that the moving party asserted a valid claim for attorney malpractice/negligence because it properly pled the necessary elements for such a claim); *Duffin v. Idaho Crop Imp. Ass'n*, 126 Idaho 1002, 1013, 895 P.2d 1195, 1206 (1995) ("it is generally inappropriate to consider the substantive merits of the claim sought to be added when passing on a motion to amend").

In the SRBA, the Standard Form 5 Objection form is simply a “check the box” form. All that is required to file a valid objection is to check the element or elements to which the party is objecting, and to comply with the formalities regarding signatures, filing, and service. Here, Pioneer is simply seeking to add an objection to priority date, one of the elements recognized on the objection form. This is all that is required to establish a “valid claim” for the purposes of Rule 15(a).

2. Allowing Pioneer To Amend Its Objection Now Will Not Prejudice Mason Creek Ditch Company

Objections to the recommendation for 63-32580 were due February 1, 2010, and Pioneer timely filed its objection to the recommendation on January 20, 2010. Therefore, the question before the Court is whether this delay in objecting to priority date prejudices Mason Creek. For the following reasons, Pioneer submits there would be no such prejudice.

First, it is worth reiterating that Pioneer has already objected to this water right recommendation on other bases. Therefore, it is not as if a water right without previous objections is being converted into a contested subcase.

Second, this subcase is set for trial on December 14, 2010, more than three months from now. This is ample time for Mason Creek to develop the factual evidence necessary to support the recommendation on such a narrow issue. And, in fact, Mason Creek has already performed some of that investigation, as evidenced by the letters which accompanied its notice of claim. (*See Exhibit A*).

3. There Are No Defenses Available to a Purely Factual Matter Such as Priority Date

While the “available defense” aspect of the Rule 15(a) analysis may make sense in the context of traditional civil litigation, it does not apply neatly in the context of the SRBA. The priority date for a water right is a factual matter that is determined by reference to when a

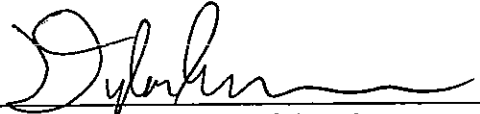
particular diversion and beneficial use of water began. It is not really an independent cause of action or legal defense. Therefore, Mason Creek does not have any "available defenses such as a statute of limitations," *Black Canyon Racquetball Club, Inc.*, 119 Idaho at 175, 804 P.2d at ___, which would justify denying Pioneer's motion.

IV. CONCLUSION

Based upon the liberal standards of Rule 15(a), Pioneer respectfully requests that the Court grant Pioneer's motion to amend its objection.

DATED this 31st day of August, 2010.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Dylan B. Lawrence – Of the Firm
Attorneys for Claimant and Objector
Pioneer Irrigation District

CERTIFICATE OF SERVICE

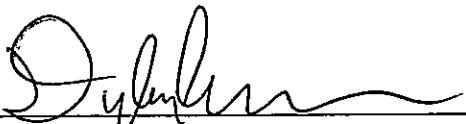
I HEREBY CERTIFY that on this 31st day of August, 2010, I caused a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF MOTION TO AMEND OBJECTION** to be served by the method indicated below, and addressed to the following:

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Mason Creek Ditch Co.
Represented by:
Albert P. Barker
1010 W. Jefferson, Ste. 102
P.O. Box 2139
Boise, ID 83701-2139

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Dylan B. Lawrence

EXHIBIT A
TO MEMORANDUM IN SUPPORT OF
MOTION TO AMEND OBJECTION

In Re SRBA Case No. 39576
Subcase No. 63-32580

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number
Date Received:
Receipt No:
Received By:

63-32580
11/20/2006
C-82713
RECEIVED

NEW CLAIM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

NOV 29 2006
DEPARTMENT OF
WATER RESOURCES

1. Name of Claimant(s)

MASON CREEK DITCH CO Phone: (208)459-0428

C/O RICHARD BICANDI
1905 MASON
CALDWELL ID USA 83605

2. Date of Priority: 06/01/1869

3. Source: MASON CREEK Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	02W	19	NW NW	CANYON	
04N	02W	19	SE NW	CANYON	

5. Description of diverting works:

DIV. DAM IN MASON CREEK

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	17	

7. Total Quantity Appropriated is:
17 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	02W	7	SE	SE	IRRIGATION	11
			SW	SE	IRRIGATION	10
			Section Acres			
04N	02W	8	SW	SW	IRRIGATION	9
			Section Acres			
04N	02W	17	SW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			NW	SW	IRRIGATION	40
			NW	SE	IRRIGATION	40
			SW	SE	IRRIGATION	40
			SE	SE	IRRIGATION	40
			NE	SW	IRRIGATION	40
			SW	SW	IRRIGATION	40
			SE	SW	IRRIGATION	40
			Section Acres			
04N	02W	18	NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	40
			NE	SE	IRRIGATION	13
			NE	NW	IRRIGATION	37
			NW	NW	IRRIGATION	30
			SW	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			NW	SW	IRRIGATION	40
			SW	SW	IRRIGATION	40
			SW	NE	IRRIGATION	40
			SE	NE	IRRIGATION	40
			Section Acres			
04N	02W	19	NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	40
Section Acres				160		
04N	03W	11	SE	SE	IRRIGATION	21
			SW	SE	IRRIGATION	22
Section Acres				43		
04N	03W	12	SE	SE	IRRIGATION	12

					Section Acres	12
04N	03W	13	NE	NW	IRRIGATION	26
			NW	NW	IRRIGATION	25
			NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	26
			SW	NE	IRRIGATION	25
			SE	NE	IRRIGATION	40
			SW	NW	IRRIGATION	26
			SE	NW	IRRIGATION	25
			NE	SW	IRRIGATION	26
			NW	SW	IRRIGATION	25
			SW	SW	IRRIGATION	40
			SE	SW	IRRIGATION	26
			NE	SE	IRRIGATION	40
			NW	SE	IRRIGATION	25
			SW	SE	IRRIGATION	25
			SE	SE	IRRIGATION	37
					Section Acres	477
04N	03W	14	NE	NE	IRRIGATION	22
			NW	NE	IRRIGATION	22
			SW	NE	IRRIGATION	22
			SE	NE	IRRIGATION	21
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	40
			SW	NW	IRRIGATION	20
			NE	SW	IRRIGATION	29
			SE	SW	IRRIGATION	16
			NE	SE	IRRIGATION	22
			NW	SE	IRRIGATION	21
			SE	NW	IRRIGATION	40
					Section Acres	315
04N	03W	24	NE	NE	IRRIGATION	20
					Section Acres	20
					Total Acres	1937

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

POU is west of Wells Road.

15. Basis of Claim: Beneficial Use

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am SECRETARY R.L.B. of
Title RICHARD BICANDI
Mason Creek Ditch Co. that I have signed the foregoing
Organization
document in the space below as SECRETARY of
Title
Mason Creek Ditch Co and that the statements contained in the
Organization
foregoing document are true and correct. Richard J. Bicandi
Signature of Authorized Agent
Secretary of Mason Creek Ditch Co.
Title and Organization
11-28-06
Date

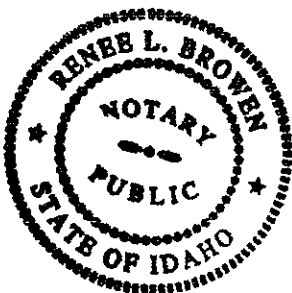
State of Idaho)
County of CANYON) SS.

Subscribed and sworn (or affirmed) before me this

28 of NOVEMBER 2006

Renée L. Browen
Notary Public

Residing at WILDER ID
My commission Expires 04/27/10



Dorothy Bicandi
1905 Mason Rd.
Caldwell, Idaho 83605

RECEIVED
NOV 29 2006
DEPARTMENT OF
WATER RESOURCES

Danielle Favereau
IDWR
State House Mail
Boise, Idaho 83702-9000

Danielle,

I took the measurements of the 2 diversions for Mason Creek Ditch Company.

Diversion 1- 1- 19 feet wide
2- 5 feet wide
3- 4ft. 7 inches wide

Diversion 2- 1- 10 feet wide
2- 6 feet wide

There are 540 acres irrigated out of Diversion 1 (known as Mason Lateral) and 310 acres irrigated out of Diversion 2. Diversion 2 sends water down the delivery ditches and is then pumped, so the amount of water that is sent down the ditch is greater than the amount used. The unused water then flows back into the Boise River. The unused water from Mason Lateral also flows back into the river.

David Tuthill said he would calculate the amount of water if we gave him the dimensions of the checks.

I discovered a mistake on the affidavit from June Vassar. Diversion 2 is West of Well's Road or East of KCID Road, not West of KCID Road , however, that is obvious on the map.

If you need any more information call me at 208-459-0428 or my husband Dick Bicandi at 208-941-0960.

Sincerely,

Dorothy Bicandi
Dorothy Bicandi

SCANNED
DEC 13 2006

Charles Paynter Jr.
2911 Lincoln St.
Caldwell, Idaho 83605
November 26, 2006

IDWR
Adjudication Bureau
Statehouse Mail
Boise, Idaho 83702-9000

To Whom It May Concern:

I have lived on our family farm all of my 90 years. Mason Creek runs through our property and Mason Creek Ditch Company has used the water out of Mason Creek for irrigation for as for as long as I can remember. The diversion of this water is South of Marble Front Rd. on Mason Creek and just North of Marble Front Rd., West of Well's Rd.

I affirm that these statements are true to the best of my memory.

Signature of Claimant

Charles L. Paynter Jr. Date 11-28-06

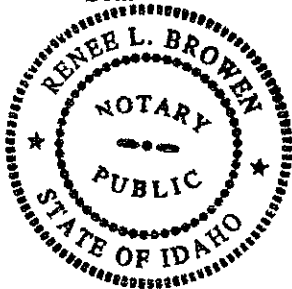
State of Idaho _____

SS.

County of CANYON

Subscribed and sworn (or affirmed) before me this 28 day of NOVEMBER 2006

Seal



Notary Public Renee L. Brown

Residing at WILDER, ID

My Commission Expires 04/27/10

EXHIBIT B
TO MEMORANDUM IN SUPPORT OF
MOTION TO AMEND OBJECTION

In Re SRBA Case No. 39576
Subcase No. 63-32580

11/19/2009

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-32580

NAME AND ADDRESS: MASON CREEK DITCH CO
C/O RICHARD BICANDI
1905 MASON
CALDWELL ID 83605

SOURCE: MASON CREEK

TRIBUTARY: BOISE RIVER

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

QUANTITY: 17.000 CFS

PRIORITY DATE: 03/01/1922

POINT OF
DIVERSION:

T04N R02W S19 NWNW Within CANYON County

T04N R02W S19 SENW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	17.000 CFS

PLACE OF USE:

850 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

This right and Right No. 63-179C are limited to the irrigation of a combined total of 1504.3 acres in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

EXHIBIT C
TO MEMORANDUM IN SUPPORT OF
MOTION TO AMEND OBJECTION

In Re SRBA Case No. 39576
Subcase No. 63-32580

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DEPARTMENT OF
WATER RESOURCES

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)
_____)

A.

Subcase 63-32580

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Pioneer Irrigation District

Address: P.O. Box 426

Caldwell, Idaho 83606

Daytime Phone: 208-459-3617

Name & Address of Attorney, if any:

Scott L. Campbell / Andrew J. Waldera

Moffatt Thomas Barrett Rock & Fields

P.O. Box 829, Boise, ID 83701-0829

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Mason Creek Ditch Company

Address: c/o Richard Bicandi

1905 Mason, Caldwell, Idaho 83605

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: _____
Waste water remarks should be revised to more specifically identify source as waste water developed within the boundaries of Pioneer Irrigation District; and that such waste water is subject to the right of recapture by the District.
3. ☒ **Quantity**
Should be: _____
No more than 0.02 cfs/acre or the duty of water actually proven; stacked right with no. 63-00179C currently yields in excess of 0.02 cfs per acre for irrigation purposes.
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
☐ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):** _____

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Ada)

Andrew J. Waldera, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

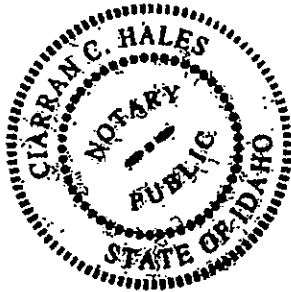
(Signature of person filing objection)

Waldera

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

1/19/10



C. Hales
Notary Public for Idaho

Residing at: Boise, Idaho

My Commission Expires: 4/9/2013

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on January 19, 2010, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

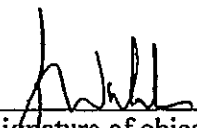
Name: Mason Creek Ditch Company c/o Richard Bicandi
Address: 1905 Mason
Caldwell, ID 83605

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

EXHIBIT D
TO MEMORANDUM IN SUPPORT OF
MOTION TO AMEND OBJECTION

In Re SRBA Case No. 39576
Subcase No. 63-32580

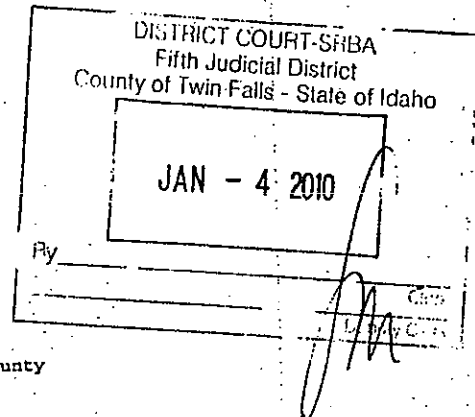
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-32515



NAME AND ADDRESS:

PIONEER IRRIGATION DISTRICT
PO BOX 426
CALDWELL, ID 83606

SOURCE:

MASON CREEK TRIBUTARY: BOISE RIVER

QUANTITY:

53.00 CFS

PRIORITY DATE:

05/01/1935

POINT OF DIVERSION:

T04N R02W S33

SESE Within Ada County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
03-01 TO 11-15

QUANTITY
53.00 CFS

PLACE OF USE:

This right is limited to the irrigation of 34,204.61 acres within the boundary of the Pioneer Irrigation District. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

34204.61 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This water right shall not alter or abrogate any provision of contract executed by the United States or State law regarding Pioneer Irrigation District or Nampa & Meridian Irrigation District rights and responsibilities to use and make available water developed in drains within their boundaries.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric Wildman
Presiding Judge of the
Snake River Basin Adjudication