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Attorneys for Mason Creek Ditch Company

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SEP 20 2010

**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	)	
	)	SUBCASE NOS.: 63-00166a, 63-00166b,
	)	63-00167a, 63-00167b, 63-00179a, 63-00179c,
Case No. 39576	)	and 63-32580
	)	
	)	MOTION FOR ORDER SHORTENING
	)	TIME

COMES NOW **MASON CREEK DITCH COMPANY** ("Mason Creek"), by and through its attorneys of record Barker Rosholt & Simpson, LLC, and here by requests this Court issue an Order Shortening Time allowing Mason Creek to file the accompanying Motion for Summary Judgment 25 days prior to the hearing date of October 12, 2010 rather than 28 days as required by the Idaho Rules of Civil Procedure.

The basis for this Motion is that counsel for Mason Creek Ditch Company failed to calendar the due date for filing the Summary Judgment Motions and the due date was not specifically set forth in the Court's Trial Scheduling Order. The fact that it was not set forth in the Court's Trial Scheduling Order is no excuse and it was due to an oversight by counsel.

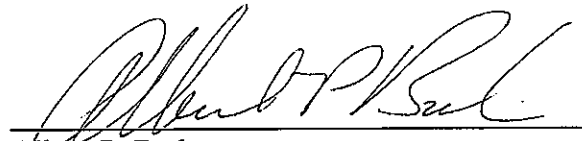
Mason Creek requests the opportunity to file the Summary Judgment Motion. Mason Creek has no objection to allowing Pioneer Irrigation District 14 days from the date of filing of this Motion for Summary Judgment to respond so that Pioneer will not be prejudiced by having less than the 14 days authorized under the Rule. Mason Creek will file any replies 7 days in advance of the hearing date or by October 5, 2010 regardless of the date upon which Pioneer files its response. Pioneer Irrigation District will not be prejudiced by granting this Motion because it will have the full amount of time necessary to respond. The Court will also have filings complete on schedule.

As the Court can see from the contemporaneously filed Motion for Summary Judgment, the Motion involves a straight-forward matter of law involving the long-standing rule of this Court prohibiting collateral attacks on an existing decreed water right. Neither the facts nor the law on this Motion are complicated. Moreover, Mason Creek's Summary Judgment mirrors that filed timely by Franklin Ditch Company in these consolidated subcases. The legal issues are the same. Pioneer has long been on notice, indeed ever since the Department recommended these rights, that Mason Creek's right was derived from the Stewart decree.

Accordingly, Mason Creek Ditch Company requests that the Court allow the filing of this Summary Judgment Motion as of September 17, 2010, that Pioneer Irrigation District be allowed until October 1, 2010 to respond, and that any reply by Mason Creek be filed by October 5, 2010.

DATED this 17th day of September, 2010.

BARKER ROSHOLT & SIMPSON LLP

A handwritten signature in cursive script, appearing to read 'Albert P. Barker', written over a horizontal line.

Albert P. Barker

Attorneys for Mason Creek Ditch Company

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 17th day of September, 2010, I caused to be served a true and correct copy of the foregoing **MOTION FOR ORDER SHORTENING TIME** by the method indicated below, and addressed to each of the following:

Original hand delivered to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707
Fax No. 208-736-2121

Copy mailed to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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

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