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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

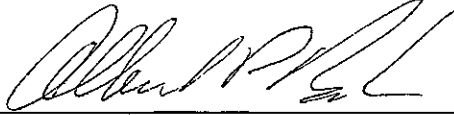
)
) SUBCASE NOS.: 63-00166a, 63-00166b,
) 63-00167a, 63-00167b, 63-00179a, 63-00179c,
) and 63-32580
)
) **MASON CREEK DITCH COMPANY'S**
) **MOTION FOR SUMMARY JUDGMENT**

COMES NOW Mason Creek Ditch Company ("Mason Creek"), by and through its attorneys of record Barker Rosholt & Simpson, LLC, and pursuant to SRBA Administrative Rule of Procedure 1 and Rule 56 of the Idaho Rules of Civil Procedure, hereby submits the following *Motion for Summary Judgment* requesting an Order that Mason Creek is the owner of water rights No. 63-179C and dismissing Pioneers' claims to water right No. 63-179A. This Motion is based upon Mason Creek's Memorandum in Support of Motion for Summary Judgment, the Affidavit of Albert P. Barker, the recommendation of the Department to decree this right in the name of Mason Creek and to disallow Pioneer's claim, the claims of Mason Creek and the pleadings and documents on file with this Court.

Oral argument is requested.

DATED this 17th day of September, 2010.

BARKER ROSHOLT & SIMPSON LLP

A handwritten signature in cursive script, appearing to read 'Albert P. Barker', written in black ink.

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 **MASON CREEK'S MOTION FOR SUMMARY JUDGMENT** 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
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Albert P. Barker