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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.: 47-15262

MOTION TO FILE LATE OBJECTION

Robert & Kathi Meyers Ltd. Family Partnership ("Meyers"), by and through its counsel Givens Pursley LLP and pursuant to Section 13 of SRBA Administrative Order 1 ("AO1"), hereby move this Court for leave to file a late objection in the above-referenced subcase. A copy of the Standard Form 1 Objection is attached.

In subcases where partial decrees have not been entered, a motion to file a late objection may be granted upon a showing of good cause pursuant to Idaho Rule of Civil Procedure 55(c) (which deals with setting aside the entry of a default). *Order on Motion to Set Aside Partial Decrees and File Late Objections*, Subcases 65-7267 *et al.*, slip op. at 6 (January 31, 2001). The Rule 55(c) good cause standard takes into account the following factors:

- (1) whether the default was willful;
- (2) whether setting aside the judgment would prejudice the opponent; and
- (3) whether a meritorious position has been presented.

Id. at 7 (citing *McFarland v. Curtis*, 123 Idaho 931, 936, 854 P.2d 274, 279 (1993)).

The applicable facts are set forth in Meyers' contemporaneously filed *Motion to Alter or Amend Special Master Recommendation for Partial Decree and Affidavit of Michael C. Creamer* in the same subcase. In summary, Meyers had good cause for not filing a timely objection because it was not apparent until very recently that IDWR believes it is precluded from allowing Meyers to transfer its water right no. 47-2137 because IDWR considers it to be "stacked" with water right no. 47-15262. An order granting this Motion need not prejudice other parties because Meyers' intention is only to allow IDWR the opportunity to address this "stacking" issue; Meyers does not intend to attack right no. 47-15262. As set forth in Meyers' *Motion to Alter or Amend*, the facts show that Meyers' right no. 47-2137 should not be considered "stacked" with right no. 47-15262.

For the foregoing reasons, Meyers respectfully requests that the Court grant this Motion.

DATED this 27th day of January, 2011.

Respectfully submitted,

GIVENS PURSLEY LLP

By: 
Michael C. Creamer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this DATED this 27th day of January, 2011, the foregoing was filed, served, or copied as follows:

ORIGINAL FILED

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

☐ U. S. Mail
☐ Hand Delivered
☒ Overnight Mail
☐ Facsimile
☐ E-mail

SERVICE

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

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

☒ U. S. Mail
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☐ E-mail

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

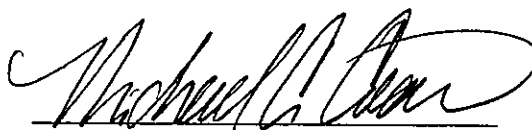
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Pamela J. Christiansen
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Kimberly, ID 83341

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☐ Overnight Mail
☐ Facsimile
☐ E-mail


Michael C. Creamer

**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 **47-15262**
(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: **Robert & Kathi Meyers Ltd. Family Partnership**

Address: **3921 North 3300 East**

Twin Falls, ID 83301

Daytime Phone: **(208) 733-0404**

Name & Address of Attorney, if any:

Michael C. Creamer

GIVENS PURSLEY LLP

P.O. Box 2720

Boise, Idaho 83701

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

KIRK L CHRISTIANSEN

PO BOX 950

TWIN FALLS, ID 83303

PAMELA J CHRISTIANSEN

3175 N 3600 E

KIMBERLY, ID 83341

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: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: not stacked with 47-2137 on SWNW of S. 22, T11S, R18E

11. **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 OBJECTION(S): _____

IDWR has indicated that right no. 47-2137 cannot be transferred from SWNW of S. 22 because IDWR considers it to be "stacked" with right no. 47-15262. This is incorrect. This right should be recommended and decreed with such a remark or it should be disallowed.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Michael C. Creamer, 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 responding 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)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: _____

Notary Public for _____
Residing at: _____
My Commission Expires: _____

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 ____, 2011, I mailed the original and copies of this response, 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:

KIRK L CHRISTIANSEN
PO BOX 950
TWIN FALLS, ID 83303

PAMELA J CHRISTIANSEN
3175 N 3600 E
KIMBERLY, ID 83341

3. Copies to:

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

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

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

Signature of Objector or attorney
mailing on Objector's behalf