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DEPARTMENT OF
WATER RESOURCES

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Attorney for Raymond C. Barker, Jr.
Charles J. Kritz, Jr. and Diane B. Kritz

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

In Re SRBA

Case No. 39576

Subcase No. 2-2318A

**AFFIDAVIT OF DANA L.
HOFSTETTER IN SUPPORT OF
REPLY ON MOTION FOR
RECONSIDERATION AND
MOTION TO ALTER OR AMEND**

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Dana L. Hofstetter, being first duly sworn upon oath, deposes and says:

1. I am one of the attorneys of record for Objectors Mr. and Mrs. Kritz and Mr. Barker in this Subcase, and make this affidavit based upon my personal knowledge, and am competent to testify. For about twenty (20) years, I have handled numerous matters for clients in other subcases in the Snake River Basin Adjudication (SRBA), Case No. 39576, pending in the District Court of the Fifth Judicial District of the State of Idaho, for Twin Falls County, and am familiar with the rules and practices therein.

2. On August 25, 2010, in this subcase, Special Master Dolan entered an *Order Denying Motion to Strike, Granting Motion for Summary Judgment and Vacating Trial and Special Master Report* (hereafter "*Order*").

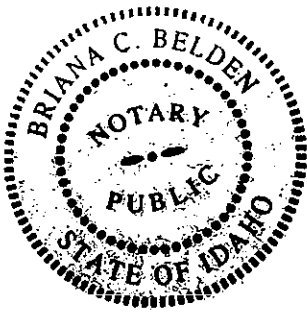
3. Pursuant to SRBA rule and practice, the Docket Sheet listing all matters filed in the SRBA in a particular month issues the following month, with the 7th day of the following month being deemed the date of "appearance" on the Docket Sheet. In this case, with the *Order* having issued in August, 2010, the relevant Docket Sheet for the purpose of determining the time to file a *Motion to Alter or Amend* was compiled in early September 2010 with, according to SRBA Court policy, the date of appearance on the Docket sheet deemed to be September 7, 2010. This made the pertinent deadline for filing the *Motion to Alter or Amend* in accordance with A.O.1, 13a to be on September 28, 2010, as noted in the SRBA Clerk's *Notice of Issuance of Special Master's Recommendation* for the *Order*. Attached hereto as Exhibits A and B, respectively, are true and correct copies of the SRBA Clerk's *Notice of Issuance of Special Master's Recommendation* for the *Order* from my file in this matter and the relevant page of the subject SRBA Docket Sheet, that I printed from the SRBA Court's Internet website.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 31st day of January, 2011.

Dana L. Hofstetter
Dana L. Hofstetter

SUBSCRIBED AND SWORN to before me this 31st day of January, 2011.



Briana C. Belden
Notary Public in and for the State of Idaho
Residing at: Meridian, Idaho
My Commission Expires: 01/16/13

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2011, I caused to be served a copy of the foregoing document on the following by the postage pre-paid method below:

IDWR Director
P. O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Jon C. Gould *Facsimile No. (208) 342-4657*
Ringert Law
P.O. Box 2773
Boise, ID 83701-2773
☐ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax


Dana L. Hofstetter

AUG 25 2010

By

Clerk

Deputy Clerk

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

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

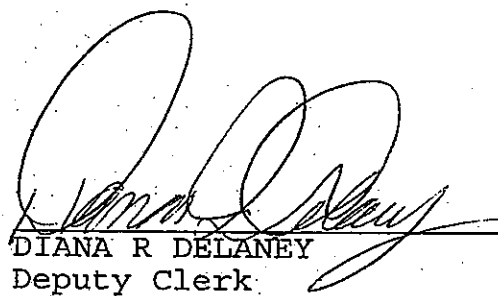
Water Right(s): 02-02318A

On August 25, 2010, Special Master ERIC J WILDMAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED August 25, 2010.


DIANA R DELANEY
Deputy Clerk

NOTICE OF ISSUANCE

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Exhibit No. 5238

EXHIBIT

A

