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DEPARTMENT OF
WATER RESOURCES

Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

Debra K. Ellers, ISB No. 3497
ATTORNEY AT LAW
P.O. Box 1030
McCall, Idaho 83638
Telephone: (208) 315-2827
Facsimile: (208) 634-9946

Attorneys 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

NOTICE OF CHALLENGE

Objectors Raymond C. Barker, Jr., Charles J. Kritz, Jr. and Diane B. Kritz, by and through their counsel of record, Dana L. Hofstetter of Hofstetter Law Office, LLC, and Debra K. Ellers, hereby respectfully submit this *Notice of Challenge*. Filed in accordance with I.R.C.P. Rule 53(e)(2) and SRBA Administrative Order 1, this *Notice of Challenge* is supported by the record in this Subcase.

Statement of Issues

Specifically, this Court is respectfully requested to consider the following issues:

1. The Special Master incorrectly concluded that the Objectors' Motion to Strike was no longer relevant or was essentially moot after ruling based on Objectors' own evidence, and consequently made incorrect findings of fact, including without limitation, a finding regarding Objectors' or their predecessors' alleged attempts to block Mr. Wilkerson or his predecessors from exercising Water Right No. 2-2318A;
2. The Special Master incorrectly concluded that the doctrine of forfeiture did not apply as a matter of law;
3. The Special Master incorrectly concluded that the doctrine of abandonment did not apply as a matter of law;
4. The material facts in dispute and inferences therefrom in the record relating to the doctrines of abandonment, forfeiture, waiver and laches, require denial of Claimants' *Motion for Summary Judgment*, and proceeding to trial; and/or
5. The Special Master's *Recommendation for the Partial Decree of Water Right 2-2318A* should be modified to include a remark in the point of diversion element that no right of way or easement is conferred across the property of another.

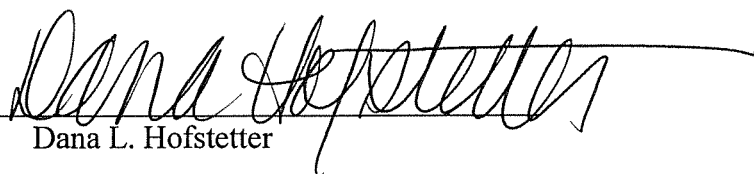
Transcript Requests

The following transcripts in this Subcase are requested: Hearing on Claimants' *Motion for Summary Judgment* and Objectors' *Motion to Strike* held on July 8, 2010 at 2 p.m. The transcript for the 10:00 a.m., February 19, 2009, Initial Hearing was previously lodged with the Court on June 14, 2010.

A check payable to the court reporter in the amount of the estimated transcript fee accompanies the original Notice of Challenge filed with the Court.

DATED this 22nd day of April, 2011.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of April, 2011, I caused to be served copies of the foregoing **Notice of Challenge** by U.S. Mail postage pre-paid to the following:

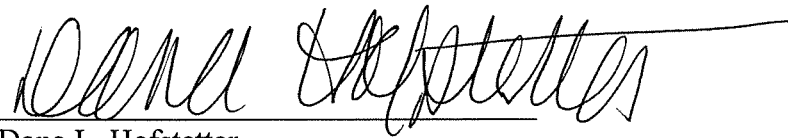
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P. O. BOX 83720
BOISE, IDAHO 83720-0098

JOSEPHINE P. BEEMAN
BEEMAN & ASSOCIATES, P.C.
409 WEST JEFFERSON STREET
BOISE, IDAHO 83702

UNITED STATES DEPARTMENT OF JUSTICE
ENVIRONMENT AND NATURAL RESOURCE DIVISION
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CHIEF, NATURAL RESOURCES DIVISION
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 44449
BOISE, ID 83711-4449

LINDA LEDBETTER
570 RIM VIEW DRIVE
TWIN FALLS, IDAHO 83301


Dana L. Hofstetter