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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

Case No. 39576

Subcase No: 22-11639, 22-13509, 22-13854

**STATEMENT REGARDING RESPONSE TO
ORDER: SUBCASES 22-11639, 22-13509,
22-13854**

Richardson Family Properties and Daniel Miller, David Miller, Larry Miller, Lewis Miller, Phillip Miller, Ralph Miller, and Ron Miller, by and through their counsel of record Robert L. Harris of Holden Kidwell Hahn & Crapo, hereby submit this *Statement Regarding Response to Order: Subcases 22-11639, 22-13509, 22-13854* filed by Michael Reid in the above entitled subcases. At the Order to Show Cause hearing held on December 7, 2011, the court heard argument on various matters, including issues relating to the above subcases. At the hearing, Mr. Reid indicated the agreement that the Paradise Springs water right holders had reached had fallen apart. Furthermore, that as part of the agreement, Mr. Reid stated that TJ Budge had indicated to him that he could file an objection to Water Right No. 22-13212 to

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receive a priority year of 1901 as opposed to the priority year decreed in the Rexburg Decree of 1904. Mr. Budge recounted his recollection of the conversation and that no such representation was made.

The purpose of this document is simply to inform the court that Mr Harris was present during that meeting and my recollection is the same as Mr. Budge's, in that we both felt that due to the *res judicata* nature of the Rexburg Decree, it would be highly unlikely that Mr. Reid would prevail on a *Motion to Set Aside* his water right in order to claim a 1901 priority date.

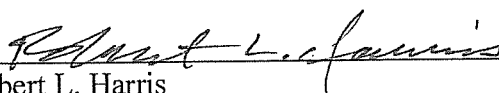
Additionally, with regards to the settlement agreement, attached hereto is the January 24, 2011 letter written by Michael Holladay of the Idaho Department of Water Resources summarizing his understanding of the final settlement agreement reached at the November meeting, and to the best of our knowledge, there was no correspondence from Mr. Reid or others objecting to the framework outlined in Mr. Holladay's letter. It is important to note that there is no reference in that letter that the parties agreed Mr. Reid could file a *Motion to Set Aside* to receive a 1901 priority date.

My clients strongly desire to have this matter finalized as the parties had previously agreed in November of 2010, and are concerned with any filings made by Mr. Reid that attempt to change what was discussed and agreed to. We understand that Mr. Reid desires to continue with his *Motion to Amend Water Right No. 22-13853*, which is a water right owned by Chester and Rex Miller. It is evident that this type of a motion is legally deficient in that Mr. Reid is not a claimant to the water right, and his motion should be more properly labeled a *Motion to File a Late Objection*. We note additionally, however, that Rex Miller was present at the settlement conference, and wholeheartedly supported what the parties had agreed to, which should result in a finding of insufficient good cause to grant the late objection. We therefore intend to

participate in any future hearing on that matter, given its potential impact on the remaining subcases that are part of that settlement agreement that no one, other than Mr. Reid, has now objected to.

Lastly, as discussed at the *Order to Show Cause* hearing, we have no objection to the slight amendments made to Water Right No. 22-11639, which is a water right owned by Mr. Reid, in order to have the amount raised to .59 cfs.

DATED this 20th day of December, 2011.


Robert L. Harris
Holden Kidwell Hahn & Crapo, PLLC

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, on this 21st day of December, 2011.

**DOCUMENT SERVED: STATEMENT REGARDING RESPONSE TO ORDER
SUBCASES 22-11639, 22-13509, 22-13854**

ATTORNEYS AND/OR INDIVIDUALS SERVED:

ORIGINAL TO: Clerk of the SRBA Court
PO Box 2707
Twin Falls, ID 83302-2707

COPIES TO:

Thomas J Budge
21 E Center St
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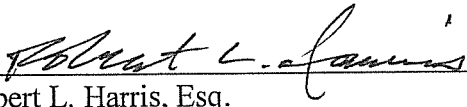
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State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 24, 2011

Dear Claimant:

As you may recall a settlement conference was recently held in Idaho Falls in hopes that the disputes regarding the water right claims from Paradise Springs could be resolved. At the settlement conference the parties in attendance and the Idaho Department of Water Resources reached a tentative agreement. However, final settlement is contingent upon additional action by the parties. The purpose of this letter is to let you know what further action needs to be taken in order to bring closure to the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA").

The table below lists the amounts agreed upon during the settlement conference followed by the tasks that need to be completed before the settlement can be finalized. Please find your subcase(s) below and take the appropriate action. IDWR would be happy to help you through the process if you need assistance, as appropriate. Because of the global nature of the settlement of Paradise Springs, SF5 settlement documents will be prepared once the late claims and amended claims are ready for resolution. In other words, all the subcases are tied together and are anticipated to progress through the SRBA resolution process as a group.

<u>Claim number</u>			<u>Owner</u>	<u>Decreed</u>	<u>Beneficial</u>	<u>Decreed</u>	<u>Beneficial</u>
- - -			-	<u>Acres</u>	<u>Use Acres</u>	<u>Quantity</u>	<u>Use Quantity</u>
22	587	A	KUNZ, LARELL A	25		0.35	
22	12714	B	SUSAN C ALDEEN TRUST	7.8		0.11	
22	13211		MILLER, DON LE ROY	8.5	3.3	0.17	0.07
22	13212		REID, MICHAEL L	26	9.6	0.52	0.19
22	13511		TETON RAINBOW RANCHES	72		1	
22	13586		RICHARDSON, ANDREW J	23.5	8.5	0.47	0.17
22	13853		MILLER, CHESTER H; MILLER, REX H	16.5	6.5	0.33	0.13
22	13854		RICHARDSON FAMILY PROPERTIES LLC	17	14	0.24	0.38
22	13509		FRED MILLER TRUST	25.5	9.5	0.51	0.19

22-587A. No need to amend the claim. Only needs to sign SF5.

22-12714B. Needs to amend claimed flow rate to 0.11 cfs.

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22-13211. No need to amend claim. Only needs to sign SF5. It is my understanding that the objectors to this subcase seek a subordination remark limiting a delivery call on this right to 7.6 acres and .17 cfs. Additionally, needs to set aside 22-11537, the 1969 beneficial use right, and sign an SF5 for .07 cfs and 3.3 acres.

22-13212. Needs to move to set aside and amend claim for 0.52 cfs. Eventual recommendation for -13212 will contain a subordination remark limiting a delivery call on this right to 4.5 acres and 0.16 cfs. Will receive SF5 on 22-11639 for 9.6 acres and 0.19 cfs as the beneficial use claim.

22-13511. No need to amend claim. Only needs to sign SF5.

22-13586. Needs to amend claimed flow rate to 0.47 cfs. This right is governed, in part, by the stipulation filed December 2009. Consistent with that stipulation, the eventual recommendation for -13586 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 8.5 acres and 0.17 cfs.

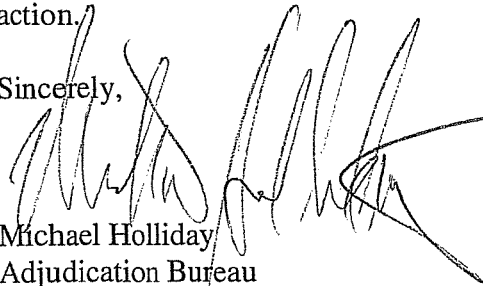
22-13853. Needs to amend claimed flow rate to 0.33 cfs and file a new beneficial use claim for 6.5 acres and 0.13 cfs.

22-13854. This right is governed, in part, by the stipulation filed December 2009. Needs to file a new beneficial use claim for 14 acres and 0.38 cfs.

22-13509. Consistent with the Amended Director's Report filed in July 2010, the eventual recommendation for -13509 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 9.5 acres and 0.19 cfs.

The next status conference on these subcases is set for February 2, 2011, at 9:30 a.m., during which Special Master Bilyeu agreed to hear motions to amend claims. Motions for late claims need to be heard by Judge Wildman. If you have questions about any of this, please contact your attorney, if applicable, or feel free to give me a call. Thanks in advance for your prompt action.

Sincerely,



Michael Holliday
Adjudication Bureau
Senior Water Right Agent