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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	)	Subcase Nos. 01-2064, 01-2064A-F, and L,
	)	01-10042, 01-10042A and B, 01-10053A,
	)	and 01-10190 (American Falls Subcases), and
	)	01-2068, 01-2068D-F, M, and Y, 01-10043,
Case No. 39576	)	01-10043A and E, 01-10191, and 01-10389
	)	(Palisades Subcases)
	)	
	)	RESPONSE TO REQUEST FOR
	)	CLARIFICATION OF ORDER ON AMICUS
	)	MOTIONS
	)	
	)	
	)	

On June 26, 2012, the State of Idaho submitted a *Request for Clarification of Order on Amicus Motions* wherein the State requests that the Special Master clarify his June 22, 2012 *Order on Amicus Motions*. In his Order the Special Master was silent as to whether the Amici

are entitled to file a Reply to the State of Idaho's *Response to Motion for Leave to File Amicus Brief*. The State characterized the Special Master's statements during the hearing on the motion as a "verbal[]" ruling that Amici would not be allowed to make any additional filings."¹ The State's recollection concerning the Special Master's statements is incorrect.

The Amici will file a reply to the State of Idaho's Response to Motion for Leave to File Amicus Brief. During oral argument on the Motion for Leave to File Amicus Brief held June 21, 2012, the Special Master stated that he did not need or require any additional briefing from the Amici in the context of the Basin 01 parties' competing Motions for Summary Judgment, but he did not orally rule that the Amicus are prevented from filing a reply to the State's Response. The Amicus Brief stands on its own, separate and apart from the parties Motions for Summary Judgment, and the Amici are entitled to reply to the State's substantive arguments and briefing submitted in response to the *Motion for Leave to file the Amicus Brief* in order to correct misstatements of the State and preserve the Amicus record for purposes of appeal.

Without a properly developed record, in the event that a Basin Wide Issue is not created in response to the Amici's Petition, the only recourse that the Amici will have to protect its clients already decreed storage water rights is through the filings submitted in the context of the Basin 01 matter. On appeal the record will be limited to the record developed before the Special Master prior to any Motion to Alter or Amend.² The Amici are entitled to an opportunity to Reply to the State's Response.

¹ Request for Clarification of Order on Amicus Motions, at p. 2.

² See Administrative Order 1, Rule 13.c. and Rule 15.

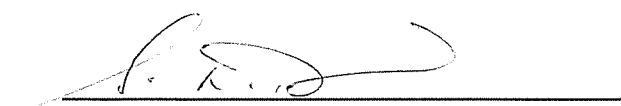
Furthermore, the State's Characterization of its request as a Request for Clarification is a misstatement. The State's Request for Clarification is a request for further relief, not already provided by the Special Master.

For the foregoing reasons, the Amici hereby request that the Special Master **DENY** the State's *Request for Clarification of Order on Amicus Motions*.

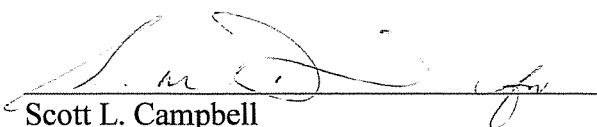
Dated this 26th day of June, 2012.

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of June, 2012, I served a true and correct copy of the foregoing **RESPONSE TO STATE OF IDAHO'S REQUEST FOR CLARIFICATION OF ORDER ON AMICUS MOTIONS** on the person(s) listed below, by U.S. Mail, and electronic mail if available:

Served on the SRBA Court via Facsimile.

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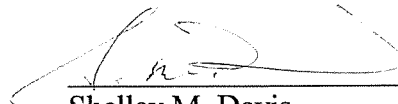
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