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DEPARTMENT OF
WATER RESOURCES

Travis L. Thompson, ISB # 6168
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
195 River Vista Place, Suite 204
Twin Falls, Idaho 83301-3029
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

Attorneys for Claimants Lance & Katrina Roper

**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. 41-42, 41-47, and 41-10285
	)	
Case No. 39576	)	STIPULATED MOTION TO SET ASIDE
	)	PARTIAL DECREES AND STIPULATED
	)	ELEMENTS OF WATER RIGHTS
	)	
	)	
	)	
	)	

COME NOW, Claimants Lance & Katrina Roper ("Ropers"), by and through counsel of record Barker Rosholt & Simpson LLP, and movants Ron Nelson et al.¹ ("Movants"), by and through counsel of record May, Rammell & Thompson, Chtd., and hereby stipulate to set aside the partial decrees for water rights 41-42, 41-47, and 41-10285 and further stipulate to the elements of water rights 41-42 and 41-47. The parties request the Special Master to recommend the Presiding Judge take the actions described below to effectuate this stipulation.

¹ Ronald L. Nelson, 7UD Ranch by Gene Nelson, Udy Cattle Company by George Udy, James Udy, Dan McHargue, Adam Jensen, Ivan Charles, Farrin Porath, Lynn Hunter, James Robinson, Alan Woodworth, Curtis Munk, M&M Munk Trust by Curtis Munk, Agricol West Inc. by Reynold Ralphs, Steven May, Excalibur Ranches Inc. by Merrill Perman, Jim Woodworth, Leonard May, City of Rockland, Bench Ditch, and Joseph Jones.

BACKGROUND

The Court partially decreed water rights 41-42, 41-47, and 41-10285 to the Ropers on April 2, 2012. The Movants filed a corrected amended motion to set aside water right 41-10285 on September 27, 2013. The Special Master heard oral argument on the motion on October 25, 2013. Following the oral argument the parties met and discussed a possible resolution of the outstanding motion and dispute over the Ropers' water rights. Further, the parties filed a joint motion to delay a decision on the pending motion that day. Since that time, the parties have resolved their outstanding dispute regarding the Ropers' water rights through the terms of this stipulation.

STIPULATION

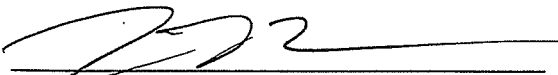
1. The Parties stipulate and agree the SRBA Court should set aside the partial decree for water right 41-10285. The Parties further stipulate and agree the Court should decree water right 41-10285 disallowed.
2. The Parties stipulate and agree the SRBA Court should also set aside the partial decrees for water rights 41-42 and 41-47. The Parties further stipulate and agree the Court should decree water rights 41-42 and 41-47 as described in the attached water right descriptions (Exhibit A). The Parties agree that the attached water right descriptions accurately define the water rights previously decreed in the *In re Houtz et al.* arbitration (ONEIDA COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903) and subsequently used and claimed by the Ropers in the Snake River Basin Adjudication.
3. The Parties agree to take all further actions before IDWR and/or the SRBA Court to effectuate the terms of this stipulation.

4. In the event that other parties to the SRBA object to this stipulation or the elements of the water rights as described herein, the Parties agree to jointly support and defend this stipulation and take such further actions as necessary to effectuate it.
5. In the event the Court does not accept the stipulation or decree the water rights as described herein, the Parties reserve all rights as to their respective positions on the pending corrected amended motion to set aside water right 41-10285 and further proceedings on that matter.

Dated this 5th day of December, 2013.

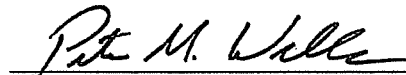
BARKER ROSHOLT & SIMPSON LLP

MAY, RAMMELL & THOMPSON CHTD.



Travis L. Thompson

Attorneys for Claimants Lance & Katrina Roper



Peter M. Wells

Attorneys for Movants Ron Nelson et al.

CERTIFICATE OF SERVICE

I certify that on December 5th 2013 I served a true and correct copy of the foregoing **STIPULATED MOTION TO SET ASIDE PARTIAL DECREES AND STIPULATED ELEMENTS OF WATER RIGHTS** upon the following individuals by the method indicated as follows:

Original faxed and mailed to:

Clerk of the Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

Copies mailed to:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

Peter M. Wells
May, Rammell & Thompson, Chtd.
216 W. Whitman
P.O. Box 370
Pocatello, ID 83204-0370
pete@mrtlaw.net


Travis L. Thompson

Exhibit A

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 41-42

NAME AND ADDRESS: LANCE & KATRINA ROPER
3823 ROCK CREEK RD
AMERICAN FALLS, ID 83211

SOURCE: ROCK CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: ~~3-900~~ 8.0 CFS

THE QUANTITY LISTED ABOVE SHALL BE MEASURED AT THE POINT OF DIVERSION LISTED FOR THIS RIGHT BY MEANS OF A MEASURING BOX OF THE TYPE AND DIMENSIONS DECREED BY IN RE HOUTZ ET AL (ONEIDA COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903). ANY CHANGE IN THE METHOD OF MEASUREMENT SHALL CONSTITUTE A CHANGE IN THE POINT OF DIVERSION REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF WATER RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.

PRIORITY DATE: 9/15/1882

POINT OF
DIVERSION:

T9S R30E S15 NESE Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 05/31	3-900 8.0 CFS
	09/01 10/31	3-900 8.0 CFS

PLACE OF USE: IRRIGATION in POWER County

T9S R30E S10 SWSW 20.00	T9S R30E S10 SESW	8.00
T9S R30E S15 NENE 3.70	T9S R30E S15 NWNE	31.00
T9S R30E S15 SWNE 33.00	T9S R30E S15 SENE	29.00
T9S R30E S15 NENW 36.40	T9S R30E S15 NWNW	29.10
T9S R30E S15 SENW 5.20		

195.4 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 195.4 acres in a single irrigation season. Combined Right Nos.: 41-41A, 41-42, 41-47, 41-2024, & 41-10264. & ~~41-10285.~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

DRAFT WATER RIGHT DESCRIPTION

41-47

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 41-47

NAME AND ADDRESS: LANCE & KATRINA ROPER
3823 ROCK CREEK RD
AMERICAN FALLS, ID 83211

SOURCE: ROCK CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.0 CFS

IN ADDITION TO THE QUANTITY LISTED ABOVE, THE RIGHT HOLDER IS ENTITLED TO DIVERT AND USE ANY FLOW OF WATER FROM SAID ROCK CREEK THAT MAY FIND ITS WAY TO THE HEAD OF THE FRODSHAM-KELLY DITCH BY REASON OF SEEPAGE OR PERCOLATION OR NON USE BY THE CLAIMANTS, AND OR THEIR SUCCESSORS IN INTEREST, IDENTIFIED IN IN RE HOUTZ ET AL. (ONEIDA COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903), WHOSE WATER RIGHTS WERE ALSO PARTIALLY DECREED IN THE SNAKE RIVER BASIN ADJUDICATION.

THE QUANTITY LISTED ABOVE SHALL BE MEASURED AT THE POINT OF DIVERSION LISTED FOR THIS RIGHT BY MEANS OF A MEASURING BOX OF THE TYPE AND DIMENSIONS DECREED BY IN RE HOUTZ ET AL (ONEIDA COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903). ANY CHANGE IN THE METHOD OF MEASUREMENT SHALL CONSTITUTE A CHANGE IN THE POINT OF DIVERSION REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF WATER RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.

PRIORITY DATE: 9/15/1882

POINT OF
DIVERSION:

T9S R30E S15 NESE Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	6/01 08/31	1.000 CFS
		<u>PLUS ADDITIONAL WATER LISTED IN REMARK ABOVE</u>

PLACE OF USE: IRRIGATION in POWER County

T9S R30E S10 SWSW 20.00	T9S R30E S10 SESW	8.00
T9S R30E S15 NENE 3.70	T9S R30E S15 NWNE	31.00
T9S R30E S15 SWNE 33.00	T9S R30E S15 SENE	29.00
T9S R30E S15 NENW 36.40	T9S R30E S15 NWNW	29.10
T9S R30E S15 SENW 5.20		

195.4 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 195.4 acres in a single irrigation season. Combined Right Nos.: 41-41A, 41-42, 41-47, 41-2024, & 41-10264. & ~~41-10285.~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed