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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**

|                       |   |                                       |
|-----------------------|---|---------------------------------------|
| <b>In Re CSRBA</b>    | ) | <b>Claim Nos.: 93-07653, 93-07654</b> |
|                       | ) |                                       |
| <b>Case No. 49576</b> | ) | <b>OBJECTION TO UNITED STATES'</b>    |
|                       | ) | <b>MOTION FOR DELAY IN ISSUANCE</b>   |
|                       | ) | <b>OF PARTIAL DECREES FOR</b>         |
|                       | ) | <b>UNCONTESTED WATER RIGHT</b>        |
|                       | ) | <b>CLAIMS IN BASIN 93</b>             |
|                       | ) |                                       |

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COMES NOW, Benewah County, a political subdivision of the State of Idaho, by and through its attorneys of record, and timely files this objection to the Motion for Delay in Issuance of Partial Decrees for Uncontested Water Right Claims in Basin 93 filed by the United States of America (United States), acting on its own behalf and as trustee for the Coeur d'Alene Tribe.

Benewah County is a claimant in the CSRBA and has filed Claims No. 93-7653 and 93-7654 in Basin 93 (and additional claims in the CSRBA which are not yet before this Court, as follows: 91-7791, 92-10928, 92-10930, 92-10931, 92-10932, 92-10933, 92-10934, 95-16789, 95-16790 and 95-167910). Benewah County's Basin 93 claims were approved by order of the

OBJECTION TO UNITED STATES' MOTION FOR DELAY IN ISSUANCE OF PARTIAL DECREES FOR  
UNCONTESTED WATER RIGHT CLAIMS IN BASIN 93

Court to be late filed on September 17, 2014 and said claims are under review with Idaho Department of Water Resources for a Director's recommendation. Benewah County is also an objector to the Federal Reserved Water Rights claims filed by the United States of America as trustee on behalf of the Coeur d'Alene Tribe of the Coeur d'Alene Indian Reservation.

These proceedings are governed by Idaho Code § 42-1412 and CSRBA Administrative Order 1. Both provide that any claimant who desires to object to a water right shall file an objection with the district court within the time specified in the notice of filing of the director's report. *Idaho Code § 42-1412(1), Admin Order 1(4)(d)(1)*. Objections to CSRBA Basin 93 claims contained in the Director's Report issued on March 27, 2014 were required to be filed with the CSRBA court on or before September 29, 2014. The United States did not file any Basin 93 objections and the United States is not a party to the subcases in which they have now filed their Motion for Delay. *Idaho Code § 42-1401A(6) and Admin Order 1(2)(q)*. Titling the Motion for Delay a "motion" rather than an "objection" does not cure this defect. The United States has not followed state law, the Idaho Rules of Civil Procedure, or the procedures established to govern the CSRBA litigation and is not entitled to the relief requested.

If this Court grants the United States' motion for delay in the issuance of partial decrees for uncontested claims in Basin 93, it will likely be applied to all claims filed in Basin 93, including those late claims filed by Benewah County. Therefore, Benewah County respectfully requests that the United States' Motion for Delay in Issuance of Partial Decrees for Uncontested Water Right Claims in Basin 93 be denied and the Court enter partial decrees for those uncontested Basin 93 claims recommended allowed by the Director in the notice filed by IDWR on December 8, 2014.

OBJECTION TO UNITED STATES' MOTION FOR DELAY IN ISSUANCE OF PARTIAL DECREES FOR UNCONTESTED WATER RIGHT CLAIMS IN BASIN 93

DATED this 15<sup>th</sup> day of January, 2015.

MORRIS & WOLFF, P.A.

By: Wanda R. Dunham (7287)  
For NANCY A. WOLFF, ISB# 2930  
Attorney for Benewah County

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UNCONTESTED WATER RIGHT CLAIMS IN BASIN 93

## CERTIFICATE OF MAILING

I hereby certify that on the 15 day of January, 2015 I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to each of the following:

United States Department of Justice  
Environmental & Natural Resources  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

(X) U.S. Mail, Postage Prepaid  
( ) Hand Delivered  
( ) Overnight Mail  
( ) Facsimile

Chief Natural Resources Division  
Office of the Attorney General  
State of Idaho  
PO Box 83720  
Boise, Idaho 83720-0010

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Idaho Department of Water Resources  
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Boise, Idaho 83720

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By: MARIAH R. DUNHAM  
MARIAH R. DUNHAM

OBJECTION TO UNITED STATES' MOTION FOR DELAY IN ISSUANCE OF PARTIAL DECREES FOR  
UNCONTESTED WATER RIGHT CLAIMS IN BASIN 93