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RECEIVED
APR 20 2015
DEPARTMENT OF
WATER RESOURCES

Fritz X. Haemmerle (ISB No. 3862)
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Attorneys for Rangen, Inc.

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. 36-07694
Subcase No. 36-02551

AFFIDAVIT OF FRITZ X.
HAEMMERLE IN SUPPORT OF
RANGEN, INC.'S MOTION TO SET
ASIDE

STATE OF IDAHO,)
) ss.
County of Blaine.)

FRITZ X. HAEMMERLE, being sworn upon oath, deposes and states as follows:

1. My name is Fritz X. Haemmerle. I am one of the attorneys for Rangen, Inc. I am over the age of eighteen (18) years old, and the matters contained in this affidavit are based on

my personal knowledge. The matters contained in this affidavit are based on my personal knowledge.

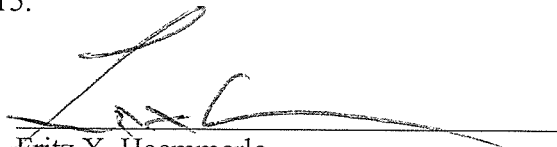
2. Attached hereto as Exhibit 1 are is an *Affidavit of Cater Fritschele*, subcases 21-00014, 21-00015, 21-02153, 21-02159, 21-04006, 21-04007, 21-04008 AND 21-07151 ("SAND CREEK CASES")

3. Attached hereto as Exhibit 2 are the relevant portions of Judge Wood's Decision in the Facility Volume Cases, Subcases 36-02708, et seq.

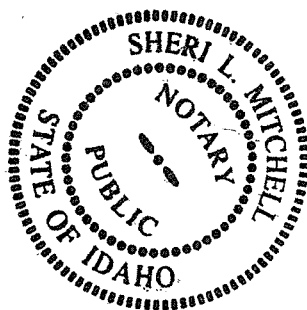
4. Attached hereto as Exhibit 3 are the relevant portions of Administrative Order 1. (AO1).

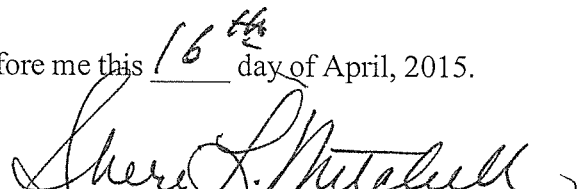
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 16 day of April, 2015.


Fritz X. Haemmerle

SUBSCRIBED AND SWORN to before me this 16th day of April, 2015.




NOTARY PUBLIC FOR IDAHO
Residing at: Jerome, Id.
Commission expires: Oct 26, 2017

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 16 day of April, 2015 he caused a true and correct copy of the foregoing document to be served upon the following by the method indicated:

Original to: State of Idaho SRBA District Court 253 3 rd Avenue North P.O. Box 2707 Twin Falls, ID 83303-2707 Facsimile: (208) 736-2121	Hand Delivery ☒ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☐
Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098 deborah.gibson@idwr.idaho.gov	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☒
Chief, Natural Resources Division Clive J. Strong Michael C. Orr Office of the Attorney General State of Idaho P.O. Box 83720 Boise, ID 83720-0010	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☐
U.S. Department of Justice Environment & Natural Resources Division 550 W. Fort St., MSC 033 Boise, ID 83724	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☐
IDWR Document Depository PO Box 83720 Boise, ID 83720	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☐
Garrick Baxter Emmi L. Blades IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☒

emmi.blades@idwr.idaho.gov kimi.white@idwr.idaho.gov	
Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED P.O. Box 1391 101 South Capitol Blvd, Ste 300 Boise, ID 83704-1391 Fax: 208-433-0167 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☒
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Dean Tranmer CITY OF POCATELLO P.O. Box 4169 Pocatello, ID 83201 dtranmer@pocatello.us	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☒
John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, L.L.P. 195 River Vista Place, Suite 204 Twin Falls, ID 83301-3029 Facsimile: (208) 735-2444 tlt@idahowaters.com jks@idahowaters.com pla@idahowaters.com	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☒
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐ E-Mail ☒
Jerry R. Rigby Hyrum Erickson Robert H. Wood RIGBY, ANDRUS & RIGBY, CHARTERED	Hand Delivery ☐ U.S. Mail ☒ Facsimile ☐ Federal Express ☐

25 North Second East Rexburg, ID 83440 jrigby@rex-law.com herickson@rex-law.com rwood@rex-law.com	E-Mail ☒
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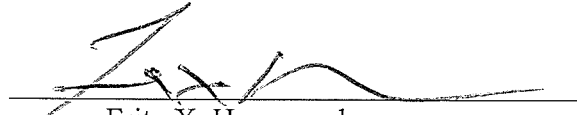

Fritz X. Haemmerle

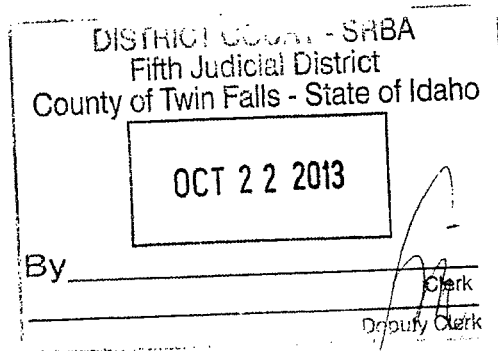
EXHIBIT 1

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

ANN Y. VONDE, ISB No. 8406
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(208) 334-2400
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Attorneys for the Idaho Department of Fish and Game



**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 Nos. 21-00014, 21-00015,
) 21-2153, 21-2159, 21-4006, 21-4007,
) 21-4008, 21-7151
)

) **AFFIDAVIT OF CARTER FRITSCHLE**
) **IN SUPPORT OF SUPPLEMENTAL**
) **MEMORANDUM OF AUTHORITY**
) **IN SUPPORT OF MOTION TO**
) **SET ASIDE PARTIAL DECREES**
)
)

STATE OF IDAHO)
) ss.
County of Ada)

AFFIDAVIT OF CARTER FRITSCHLE IN SUPPORT OF SUPPLEMENTAL
MEMORANDUM OF AUTHORITY IN SUPPORT OF MOTION TO SET ASIDE
PARTIAL DECREES - 1

I, CARTER FRITSCHLE, being duly sworn upon oath, depose and hereby state as follows:

1. My name is Carter Fritschle and my work address is Idaho Department of Water Resources 322 E. Front St., Boise, ID 83720. My telephone number is 208-287-4917.
2. I am employed by the Idaho Department of Water Resources ("Department" or "IDWR") and have been so employed for approximately 26 years. I was over the age of eighteen years at the time I was first employed.
3. I am the Manager, Adjudication Section, for the Department. My principal duties include supervising a staff of technical water right professionals and records support personnel. I have been employed in this position since January of 2006.
4. I make the following statements based upon my review of the Department's records and personal knowledge.
5. The Idaho Department of Fish and Game ("IDFG") filed claims with the Department for water rights 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151 in 1989-1990.
6. The Department issued recommendations for water right claims 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151 that were different in several respects from the way the water rights were claimed by IDFG.
7. Water rights 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151 were decreed as recommended by the Department.
8. After reviewing the recommendations and partial decrees for water rights 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151 the Department has determined they contain significant errors that do not accurately

reflect water usage on-the-ground, and which could lead to difficulties with administration. Some of these difficulties would result from some of the decreed rights having points of diversion that are not located on the decreed source.

9. The Department has an interest in assuring water rights are accurately decreed.

Therefore, it supports IDFG's Motion to Set Aside Partial Decrees 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151.

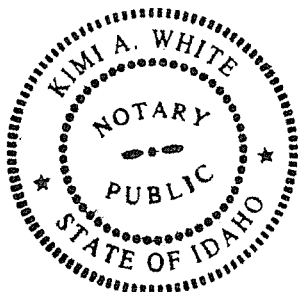
DATED and SIGNED this 21st day of October, 2013.

Carter Fritschle

CARTER FRITSCHLE
Manager, Adjudication Section

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED AND SWORN TO before me this 21st day of October, 2013.



Kimi A. White

NOTARY PUBLIC FOR IDAHO

Residing at: Boise, Idaho

My Commission Expires: 04/01/16

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of October 2013, I caused this AFFIDAVIT OF CARTER FRITSCHLE IN SUPPORT OF SUPPLEMENTAL MEMORANDUM OF AUTHORITY IN SUPPORT OF MOTION TO SET ASIDE PARTIAL DECREES to be filed with the Court and true and correct copies served on the following parties by the methods indicated:

1. Original to:

Clerk Of The District Court Snake River Basin Adjudication 253 Third Avenue North PO Box 2707 Twin Falls, ID 83303-2707	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: (208) 736-2121
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2. Copies to:

IDWR Document Depository P.O. Box 83720 Boise, ID 83720-0098	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Statehouse Mail
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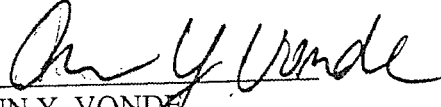
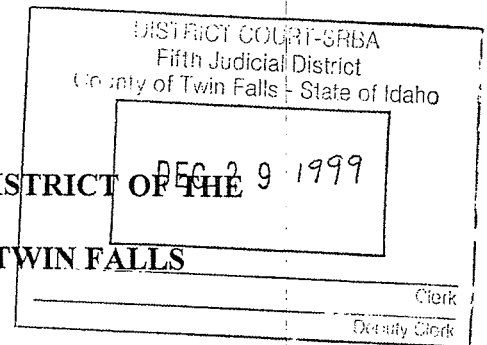

ANN Y. VONDE
Deputy Attorney General

EXHIBIT 2



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 Nos. 36-02708, 36-07201, 36-07218, 36-02048,
) 36-02703, 36-04013A, 36-04013B, 36-04013C, 36-07040,
) 36-07148, 36-07568, 36-07071, 36-02356, 36-07210, 36-
) 07427, 36-07720, 36-02659, 36-07004, 36-07080 and 36-
) 07731

) ORDER ON CHALLENGE (Consolidated Issues) OF
) "FACILITY VOLUME" ISSUE AND "ADDITIONAL
) EVIDENCE" ISSUE

I.
APPEARANCES

Professor D. Craig Lewis, Esq., Moscow, Idaho, and Ms. Dana Hofstetter, Esq.,
Beeman & Hofstetter, Boise, Idaho, for North Snake Ground Water District, May
Farms Ltd., and Faulkner Land & Livestock Company

Mr. Daniel Steenson, Esq., Ringert Clark, Boise, Idaho, for Clear Lakes Trout
Company

Mr. Norman Semanko, Esq., Rosholt Robertson & Tucker, Twin Falls, Idaho, for
Clear Springs Foods Inc. and Blue Lakes Trout Farm Inc.

Mr. Patrick Brown, Esq., Jerome, Idaho, for John W. Jones Jr.

II.
ORAL ARGUMENT AND
MATTER DEEMD FULLY SUBMITTED FOR DECISION

Oral argument on this Consolidated Challenge was held in open court on November 1,
1999. At the conclusion of argument, no party sought to present additional briefing or authorities

and, the Court having requested none, this matter is deemed fully submitted for decision on the next business day, or November 2, 1999.

III. ISSUES PRESENTED

This Challenge on Consolidated Issues was filed by the North Snake Ground Water District ("NSGWD") on behalf of its members, including Faulkner Land & Livestock Company and May Farms Ltd. The 20 subcases listed in the caption above involve water rights for fish propagation facilities in the Hagerman area of Idaho.

NSGWD raises two consolidated issues in these fish propagation subcases.

1. Did the [respective]¹ Special Master err in ruling that facility volume is not "necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director"? Idaho Code § 42-1411(2)(j) (Supp. 1998)? ("facility volume" issue).
2. Which standard is applicable to the submission of evidence in conjunction with motions to alter or amend special masters' reports in the SRBA, Rule 59(e), I.R.C.P. which applies post-judgment, or Rule 53(e)(2), I.R.C.P. which applies to special master's reports? ("additional evidence" issue).

IV. "FACILITY VOLUME" ISSUE

THE ISSUE

As noted above, the issue is stated by NSGWD to be:

Did the [respective] Special Master err in ruling that facility volume is not "necessary for definition of the right, for clarification of any element of a right, or for

¹ The Court uses the phrase "respective Special Master" because each of the three Special Masters then in the SRBA were assigned to one or more of the various subcases and issued reports and recommendations in these subcases. Because these two issues are common between the subcases and because each of the Special Masters ultimately ruled against including a facility volume remark, or allowing additional evidence at the motion to alter or amend stage, the subcases were consolidated on appeal for these two consolidated issues. Special Master Haemmerle heard Clear Springs Foods Inc. subcases 36-04013A, 36-07148, 36-07040, 36-07201, 36-07568, 36-02703, 36-04013B, 36-02708, 36-07218, 36-02048, and 36-04013C; Special Master Bilyeu heard John W. Jones Jr. subcase 36-07071; and Special Master Dolan heard Blue Lakes Trout Farm Inc. subcases 36-07720, 36-07427, 36-07210, and 36-02356 and Clear Lakes Trout Co. subcases 36-02659, 36-07004, 36-07080, and 36-07731. For reasons unknown to this Court, the then Presiding Judge did not reference all of these subcases to one Special Master.

facility volume remark helps to "define the extent of beneficial use" for purposes of mitigation⁴ in time of water shortage. In other words, if a senior fish propagator made a water delivery call on junior water users, the junior users could offer mitigation in the form of money instead of ceasing their use of the called water. However, while mitigation may be voluntarily exercised between private parties, IDWR freely admits it cannot compel a senior user to accept mitigation in the event of a water delivery call. The right of senior water right holders to have water delivered "first in time, first in right" is constitutionally protected. Idaho Constitution, Art. VX. § 3. Therefore, since IDWR has no authority to compel mitigation, this cannot serve as a legal basis for the inclusion of a facility volume remark.

Licenses Issued With and Licenses Issued Without the Facility Volume Remark

As stated earlier in this Decision, some of the water rights licenses were issued with a facility volume remark which was not challenged by the license holder at the time. Other licenses were issued without the facility volume remark and the remark appeared for the very first time in the Director's Report for the respective claimed right.

In his July 31, 1998, *Supplemental Findings of Fact and Conclusions of Law (Facility Volume)*, then Special Master Haemmerle ruled as follows:

F. THE LICENSES

As indicated, some of the water rights based on licenses had facility volume inserted when the licenses were issued. Most of the water rights based on licenses, however, had facility volume inserted in the Director's Report long after the licenses were issued. The inquiry is what relevance or finality previously issued licenses have between Claimants and IDWR in the context of the SRBA. Stated differently, the inquiry is whether the purpose of the SRBA is to inventory licenses or to recondition and reallocate licenses.

The Director has the authority to insert such remarks as are necessary to define, clarify, or administer a particular water right. I.C. § 42-1411(2)(k). On the other hand, a license once issued by IDWR "shall be binding upon the state as to the right of such licensee to use the amount of water mentioned therein, and shall be prima facie evidence as to such right." I.C. § 42-220 [footnote 2 cited]. As applied, IDWR is part of the "state" as the word is used in I.C. § 42-220 [footnote 3 cited]. As between the two statutes, there is a conflict only when a remark redefines the use

⁴ See generally, *Rules For Conjunctive Management of Surface and Ground Water Resources*, IDAPA 37.03.11, *et seq.*.

of a licensed water right. Under these circumstances, the question is which statute controls.

The inquiry involves principles of statutory construction. "It is a basic tenet of statutory construction that a more general statute should not be interpreted to encompass an area already covered by a special statute." *In Re SRBA Case No. 39576* (24 Hagerman Subcases), 130 Idaho 736, 947 P.2d 409, 416 (1997). "[T]o the extent that two statutes conflict, the more specific governs over the more general." *Id.* Here, the more specific and, therefore, controlling statute is I.C. § 42-220 which expressly states that licenses are binding on the state [footnote 4 cited].

[footnote 2] *In Re SRBA Case No. 39576* (24 Hagerman Subcases), 130 Idaho 736, 947 P.2d 409 (1997), the Idaho Supreme Court held that "[n]owhere in Title 42 is the Director 'obligated to accept a prior decree' issued in a private adjudication 'as being conclusive proof of the nature of a water right.'" *Id.* at 414. Unlike prior decrees, Title 42 does require the state to accept license as conclusive proof of a user's right to use water as stated in the license. I.C. § 42-220.

[footnote 3] For purposes of the adjudication of water right under Title 42, Chapter 14, Idaho Code, IDWR has been separated from other state agencies. I.C. § 42-1401B. Under the adjudication statutes, however, the Director's role is to report "claims to water rights acquired under state law." I.C. § 42-1401B. Here, the licenses were acquired and perfected under state law. These licenses are binding on the state and constitute *prima facie* evidence of the water right and should be reported accordingly. I.C. § 42-220.

[footnote 4] There are exceptions to the finality of a license in that the use of a license may change subjecting the license to claims of abandonment, forfeiture, adverse possession, estoppel, or waste. Also, a license is subject to review in a transfer proceeding. I.C. § 42-222.

Although a remark cannot be inserted to redefine the use of a previously issued license, a remark may be inserted to administer or clarify a right so long as the remark does not alter or restrict the use of the license. A similar issue was addressed by the Idaho Supreme Court in *In Re SRBA Case No. 39576* (Basin-Wide Issue 5B), ___ Idaho ___, 951 P.2d 943 (1998). In that case, the issue was whether the court was required to decree certain general provisions contained in a prior decree. Addressing the legitimate and potential need for general provisions, the Court stated: "Finality in water rights is essential. 'A water right is tantamount to a real property right, and is legally protected as such.' An agreement to change any of the definitional factors of a water right would be comparable to a change in the description of property." *Id.* at 4 (citations omitted). Remarks are much like general provisions. Both may be used to further define a water right. I.C. §§ 42-1411(2)(k) and 42-1411(3). Like a prior decree, any attempt to redefine a license would be "tantamount" to altering a real property right. In this case, IDWR issued licenses for water rights 36-02048, 36-02703, 36-02708, 36-07040, 36-07083, and 36-07148. None of these licenses contained remarks addressing facility volume. To the extent that IDWR considers facility volume as a further restriction on these licenses, an attempt to insert facility volume in the context of the SRBA would violate the binding affect of licenses as set forth under I.C. § 42-220. The SRBA cannot serve as a second opportunity for IDWR to recondition a license which it had a full opportunity to condition when the license was originally issued. *See e.g., Matter of Hidden Springs Trout Ranch, Inc., v. Alfred.*

Having determined that I.C. § 42-220 binds the state to licensed rights, those same licenses are also binding on the license holder. If a party is aggrieved by any aspect of a license, that party's remedy is to seek an administrative review and then, if necessary, a judicial review of the license. I.C. §§ 42-1701(A) and 67-5270; *Hardy v. Higginson*, 123 Idaho 485, 849 P.2d 946 (1997). If the license is not appealed when issued, any attempt to appeal the license in a subsequent judicial proceeding, like the SRBA, would constitute a collateral attack on the license. [footnote 5 cited]. See e.g., *Mosman v. Mathison*, 90 Idaho 76, 408 P.2d 450 (1965); *Bone v. City of Lewiston*, 107 Idaho 844, 693 P.2d 1046 (1984). In this case, Claimant did not appeal the remarks addressing facility volume for water rights 36-07201, 36-07218, and 36-07568. Therefore, Claimant is bound by the licenses for these rights.

In evaluating the licenses where facility volume was included when the licenses were issued, the court notes that there is no express provision in the licenses indicating the relevance of the remarks. As previously indicated, the court cannot find any rational reason why the remarks exist. When confronted with an ambiguous element contained in a prior decree or license, the court may clarify the ambiguous element or provision. I.C. § 42-1427(b). Therefore, to clarify this ambiguity, the

[footnote 5] The court expresses no opinion as to whether parties in the SRBA, not parties to a license, can challenge a license in the SRBA. That issue is not before the court.

court will recommend that facility volume be included for water right numbers 36-07201, 36-07218, and 36-07568 with the following additional language: "The remark addressing facility volume is included in this water right only because the remark appeared on the license. The remark addressing facility volume does not define the extent of beneficial use and cannot be used to limit any element of this water right. The remark shall not prevent the owner of the license from expanding facility volume."

For these reasons, the licenses at issue are final and binding on both the Claimant and IDWR.

As to those licenses which contained a facility volume remark when issued, Special Master Haemmerle held that the remark must remain in the license, but it is ambiguous, and because it was ambiguous the Court could clarify the remark. I.C. § 42-1427(1)(b). The clarifying remark was to be:

The remark addressing facility volume is included in this water right only because the remark appeared on the license. The remark addressing facility volume does not define the extent of beneficial use and cannot be used to limit any element of this water right. The remark shall not prevent the owner of the license from expanding facility volume.

EXHIBIT 3

- or Amend the Special Master's Recommendation shall constitute a waiver of the right to challenge it before the Presiding Judge. This waiver shall also apply to proceedings in the subcase if remanded back to the Special Master.
- b. Where a Motion to Alter or Amend is filed in a subcase, notice will be reported on the Docket Sheet and the motion will be decided by the Special Master with or without a hearing. No second Motion to Alter or Amend may be filed on the decision granting or denying a Motion to Alter or Amend.
 - c. Any party who first filed or participated in a Motion to Alter or Amend before the Special Master may file a Notice of Challenge to the decision on a Motion to Alter or Amend. A Notice of Challenge shall be filed within 14 days following the date of the decision on a Motion to Alter or Amend. The Notice of Challenge shall include a statement of the issue(s) and a detailed description, including hearing dates of any transcript(s) requested. Once raised and detailed, the issue(s) on which the challenge is based shall not be amended to include additional issue(s) not specifically identified in the Notice of Challenge except on motion and leave of court. The Notice of Challenge shall be reported in the Docket Sheet and shall be served on all parties to the subcase challenged, the SRBA court reporter and the parties listed in Section 6e(2).
 - d. If a transcript is requested in a Notice of Challenge, the party filing the Notice of Challenge must contact the court reporter for an estimate of the cost for preparing the transcript. The estimated fee must accompany the Notice of Challenge.
 - (1) The transcript shall be lodged with the court within 35 days following the deadline for filing a Notice of Challenge.
 - (2) There will be no time for settlement of the transcript. If the transcript is incomplete or erroneous, the requesting party may file the appropriate motion to correct the transcript.
 - (3) One copy of the transcript shall be served on the challenger and the opposing parties. When multiple parties are involved, the parties are required to submit a stipulation to the court stating which parties are to receive the transcript copies.
 - e. At the close of the time period for filing a Notice of Challenge, the court will enter a scheduling order. Unless otherwise ordered, the following schedule for brief argument shall be set:
 - (1) Opening briefs shall be filed simultaneously within 21 days following the deadline for filing a Notice of Challenge. If a reporter's transcript is requested, opening briefs shall be filed simultaneously within 21 days following lodging of the transcript. Briefs shall be limited to 25 pages and shall be served on the parties to the subcase and any party filing a Notice of Challenge.
 - (2) Rebuttal briefs shall be filed within 14 days after the deadline for filing opening briefs. Rebuttal briefs shall be limited to 25 pages and shall be served on the parties to the subcase and any party filing a Notice of Challenge.
 - (3) All parties lodging briefs in response to a Notice of Challenge are required to file an original and one copy to the court.
 - (4) Oral argument on a challenge to a Special Master's Recommendation shall be held no earlier than 7 days after the deadline for filing rebuttal briefs. Only parties filing briefs will be allowed oral argument and each party will be limited to 30 minutes.
 - f. The court shall accept the Special Master's findings of fact unless clearly erroneous. The court may, in whole or in part, adopt, modify, reject, or receive further evidence and remand it with instructions. I.R.C.P. 53(e)(2).

14. ENTRY OF PARTIAL DECREES

- a. The Presiding Judge shall enter a partial decree for uncontested water rights that have not been referred to a Special Master by an Order of Reference.
- b. Following review of a Special Master's Recommendation and the resolution of any challenges, the Presiding Judge shall enter a partial decree. The partial decree

served only on parties to the subcase and notice of its entry shall be report Docket Sheet. A certified copy of the partial decree shall be served on IDWR compliance with I.C. 42-1403 and 42-1412(6).

- c. The form of the partial decrees and the maintenance of partial decrees as the record of title to the water right shall be decided by the Presiding Judge.
- d. Parties seeking to modify a partial decree shall comply with I.R.C.P. 60(a) o Partial decrees are final judgments and cannot be modified by an administrati proceeding except as provided in I.C. 42-222.

15. APPEALS FROM PARTIAL DECREES

- a. Appeals from a partial decree by a party to a subcase may be brought pursuant I.R.C.P. 54(b) or I.A.R. 12.
- b. Motions and proceedings for certification of a judgment as final shall follow practice rules.

16. BASIN-WIDE ISSUES

a. Designation -

- (1) Any party to the adjudication may file a Motion to Designate Basin-Wide Issue that party believes an issue materially affects a large number of parties to adjudication. The motion to designate shall be decided by the Presiding Judge a Special Master by Special Order of Reference. A motion to designate shall
 - (a) The issue, in 20 words or less;
 - (b) Why the issue is broadly significant and is better resolved as a basin-
 - (c) The need for its early resolution;
 - (d) The type of right(s) affected by the issue; and
 - (e) A description of how those rights will be affected.

(2) The Presiding Judge may enter a Notice of Intent to Designate Basin-Wide Issu

(3) Unless otherwise ordered, a motion or notice of intent to designate shall fol Docket Sheet Procedure.

(4) Any party to the adjudication may respond to a motion or notice of intent to designate. The response shall be served on the movant, if any, and the parti in Section 6e(2) or, if being heard on an expedited basis, to the addresses o Court Certificate of Mailing for Expedited Hearings which is available from t Clerk of the SRBA Court.

(5) A motion or notice of intent to designate may be filed at any time after the a Director's Report which raises the issues that are the subject of the motio motion shall not be heard until after the objection and response periods to t Director's Report have run.

(6) On receipt of a motion or notice of intent to designate, the Clerk of the Cou assign a separate subcase number to the basin-wide issue. This new subcase f number shall be included on all documents filed in the basin-wide issue and a entries reported on the Docket Sheet.

(7) When basin-wide issues are designated by the Presiding Judge, hearings may be expedited, and all parties to the adjudication will be given notice of procee through the Docket Sheet Procedure.

b. Service -

- (1) When the Presiding Judge issues an Order Designating Basin-Wide Issue, a separate certificate of mailing shall be created for each basin-wide issue. basin-wide issue certificate of mailing will consist of the parties who filed