

RECEIVED
DEC 23 2019
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**

)

)

)

)

)

)

)

)

)

)

)

1. I am over the age of 18 years and one of the attorneys representing the State of Idaho in the above-captioned. I have personal knowledge of the facts stated below.

2. Attached hereto as the individually numbered Exhibits listed below are true and correct copies of the following:
- a. Exhibit 1: the amended *Partial Decrees* issued by this Court for the water rights listed in Attachment A;
 - b. Exhibit 2: the *Partial Decrees* issued by this Court for water rights 1-6 and 1-17;
 - c. Exhibit 3: the *Motion for Order Decreeing Water Rights* filed in this Court by the State of Idaho on January 30, 2015, and the *Status Report* filed in this Court by the United States on June 3, 2016;
 - d. Exhibit 4: excerpted pages of the following SRBA transcripts: *Reporter's Transcript, SRBA Subcases 1-219, et al., Status Conference* (Aug. 4, 2016); the *Reporter's Transcript, SRBA Subcases 1-219, et al., Status Conference* (Sep. 12, 2016); *Reporter's Transcript, In Re: SRBA & CSRBA, Monthly Status Conference* (Oct. 25, 2016); *Reporter's Transcript, In Re: SRBA & CSRBA, Monthly Status Conference* (Dec. 20, 2016); *Reporter's Transcript, In Re: SRBA & CSRBA, Monthly Status Conference* (Feb. 21, 2017); and *Reporter's Transcript, In Re: SRBA, Monthly Status Conference* (May 16, 2017);
 - e. Exhibit 5: excerpted pages of the following briefs filed in the contested case currently pending before the Idaho Department of Water Resources (IDWR) under IDWR Docket # P-WRA-2017-002 (*Petition Regarding Storage Reset in Water District 01 filed by Milner Irrigation District*): *Surface Water Coalition's Opening Brief Re: Legal Question* (Jan. 22,

- 2018); *Shoshone-Bannock Tribes' Brief on "Threshold Issue"* (Jan. 19, 2018); *Surface Water Coalition's Response Brief Re: Legal Question* (Jan. 26, 2018); *Shoshone-Bannock Tribes' Response Brief on "Threshold Issue"* (Jan. 26, 2018); and *Aberdeen-Springfield Canal Company's Response Brief Regarding Threshold Legal Question* (Jan. 25, 2018);
- f. Exhibit 6: the *Partial Decrees* issued by this Court on August 17, 2016, for the water rights listed in Attachment A;
 - g. Exhibit 7: the United States' SRBA claim for water right no. 1-219;
 - h. Exhibit 8: IDWR's "preliminary" recommendations for water right no. 1-219 and the United States' "Notice of Error" regarding the same;
 - i. Exhibit 9: the original and amended Director's Reports for water right no. 1-219;
 - j. Exhibit 10: excerpted pages of *Water Distribution and Hydrometric Work, District No. 1, Snake River, Idaho 1978*;
 - k. Exhibit 11: excerpted pages of the *United States' Memorandum in Support of Standard Form 4 Motions to File Late Notices of Claim*, and the Surface Water Coalition's *Memorandum in Support of Motion to File Late Notices of Claim*, both filed in this Court on January 31, 2013;
 - l. Exhibit 12: the State of Idaho's *Motion to Alter or Amend Partial Decrees for Water Right Nos. 63-303, 63-3613, 63-3614, and 63-3618*, filed in this Court on February 19, 2019;
 - m. Exhibit 13: the *Motion to Set Aside Partial Decrees* filed by North Fork Reservoir Company in SRBA subcases 21-2154, 21-2161, and 21-12946

on February 5, 2015; the accompanying *Memorandum in Support of Motion to Set Aside Partial Decrees* filed by North Fork Reservoir Company on the same date; and the orders issued by this Court on May 20, 2015, June 17, 2015, and September 10, 2015 in connection with said motion;

- n. Exhibit 14: excerpted pages of the *Order on Mediation; Order Setting Status Conference* issued by this Court on February 22, 2017, and the *Mediation Report* filed in this Court on April 14, 2017;
- o. Exhibit 15: excerpted pages of the *Surface Water Coalition's Joint Motion to Decree General Provision* filed in this Court on May 15, 2017;
- p. Exhibit 16: excerpted pages of the *Order Denying Motion to File Late Notice of Claim, Subcase 01-10619*, issued by this Court on June 4, 2013;
- q. Exhibit 17: the *Final Order Regarding Instructions to Water District 01 Watermaster, In the Matter of Water Right No. 1-6*, issued by the Director of IDWR on February 11, 2013;
- r. Exhibit 18: excerpted pages of the *Order Sua Sponte Dismissing Motion Without Prejudice* issued by this Court on May 18, 2017;
- s. Exhibit 19: a printout of the online docket for *IDWR Docket #P-WRA-2017-002 (Petition Regarding Storage Reset in Water District 01 filed by Milner Irrigation District)* that is available for viewing at <https://idwr.idaho.gov/legal-actions/administrative-actions/milner-petition.html>;

- t. Exhibit 20: the *Revised Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin* issued by this Court on August 13, 2014;
- u. Exhibit 21: excerpted pages of the *Order Requesting Staff Memorandum; Order Adopting Deadlines; Notice of Status Conference; Notice of Hearing* issued in the contested case currently pending before IDWR under IDWR Docket # P-WRA-2017-002 (*Petition Regarding Storage Reset in Water District 01 filed by Milner Irrigation District*) on November 20, 2017;
- v. Exhibit 22: excerpted pages of the *Order Re: Statements of Issues and Responses; Order Adopting Deadlines; Amended Notice of Status Conference* issued in the contested case currently pending before IDWR under IDWR Docket # P-WRA-2017-002 (*Petition Regarding Storage Reset in Water District 01 filed by Milner Irrigation District*) on January 3, 2018;
- w. Exhibit 23: excerpted pages of the following briefs filed in the contested case currently pending before the Idaho Department of Water Resources (IDWR) under IDWR Docket # P-WRA-2017-002 (*Petition Regarding Storage Reset in Water District 01 filed by Milner Irrigation District*): *Surface Water Coalition's Statement of Issues* (Dec. 8, 2017); *Shoshone-Bannock Tribes' Statement of Issues and Memorandum of Points and Authorities* (Dec. 8, 2017); *Surface Water Coalition's Responses to Parties' Statements of Issues* (Dec. 15, 2017); and *Shoshone-Bannock*

Tribes' Response to Statements of Issues Filed by Other Parties (Dec. 15, 2017);

- x. Exhibit 24: the following motions and stipulations filed in the contested case currently pending before IDWR under IDWR Docket # P-WRA-2017-002 (*Petition Regarding Storage Reset in Water District 01 filed by Milner Irrigation District*): the *Stipulated Motion for Stay* (Feb. 7, 2018); the *Stipulated Motion to Extend Stay and Vacate Hearing Date* (Mar. 2, 2018); *Stipulated Motion to Extend Stay and Schedule Status Conference* (Mar. 20, 2018); the *Interim Stipulation and Motion for Order to Approve* (May 23, 2018); the *Stipulation and Joint Motion for Order Approving Stipulations/Joint Motion for Stay* (Apr. 17, 2019); the *Interim 2019 Stipulation and Joint Motion for Order Approving Stipulation/Joint Motion for Stay* (Aug. 23, 2019); and also the orders issued by the Director of IDWR in connection with these motions and stipulations;
- y. Exhibit 25: a letter from Jeremiah I. Williamson, United States Department of the Interior, Office of the Solicitor, to Gary Spackman, Director, Idaho Department of Water Resources, dated July 8, 2019;
- z. Exhibit 26: a letter from Jeremiah I. Williamson, United States Department of the Interior, Office of the Solicitor, to Gary Spackman, Director, Idaho Department of Water Resources, dated August 26, 2019;
- aa. Exhibit 27: excerpted pages of the *Memorandum Decision and Order on Challenge and Order of Recommitment to Special Master, Subcase Nos. 63-33732 (consolidated subcases no, 630-33737), 63-33733 (consolidated*

subcase no. 63-33738), and 63-33734 issued by this Court on September 1, 2016;

- bb. Exhibit 28: excerpted pages of the *Memorandum Decision and Order on Challenges; Final Order Disallowing Water Right Claims, Subcase Nos. 65-23531 and 63-23532* issued by this Court on October 7, 2016;
- cc. Exhibit 29: excerpted pages of the *Order Granting Motion to Alter or Amend Partial Decrees; Order of Amended Partial Decree, Subcase Nos. 63-303, 63-3613, 63-3614, and 63-3618* issued by this Court on July 9, 2019;
- dd. Exhibit 30: excerpted pages of the *Order Designating Basin-Wide Issue, Basin-Wide Issue 17, Subcase No: 00-91017* issued by this Court on September 21, 2012;
- ee. Exhibit 31: the United States' amended SRBA claims for water rights nos. 1-2064 and 1-2068 filed by the United States.

3. I declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct.

DATED this 20th day of December, 2019.


Michael C. Orr
Deputy Attorney General
Natural Resources Division
Office of the Attorney General
Attorneys of the State of Idaho

CERTIFICATE OF SERVICE

I certify that on this 20th day of December, 2019, I caused the foregoing to be filed with the Court and copies served on the following 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 Exhibits on CD only (two copies), per instruction of the Clerk of the Court	☐ U.S. Mail, postage prepaid ☒ Hand Delivery ☐ Federal Express ☐ Facsimile: (208) 736-2121
--	--

2. Copies to the following:

Exhibits on CD only ANDREW J WALDERA SAWTOOTH LAW OFFICES PLLC 1101 W RIVER ST STE 110 PO BOX 7985 BOISE ID 83707	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: andy@sawtoothlaw.com
Exhibits on CD and hard copy ALBERT P BARKER JOHN SIMPSON BARKER ROSHOLT 1010 W JEFFERSON ST STE 102 PO BOX 2139 BOISE ID 83701-2139	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: apb@idahowaters.com , jks@idahowaters.com
Exhibits on CD only CHRISTOPHER MEYER MICHAEL P LAWRENCE GIVENS PURSLEY 601 W BANNOCK ST PO BOX 2720 BOISE ID 83701-2720	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: chrismeyer@givenspursley.com michaellawrence@givenspursley.com
Exhibits on CD only CHARLES MCDEVITT CHAS MCDEVITT LA PO BOX 1543 BOISE ID 83701-1543	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: chas@mcdevitt.org
Exhibits on CD only CRAIG D HOBDEY HOBDEY LAW OFFICE PLLC 125 5 TH AVE	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile:

PO BOX 176 GOODING ID 83330-0176	☒ Email: hobdeycraig@gmail.com
Exhibits on CD only SARAH W HIGHER IDAHO POWER CO PO BOX 70 BOISE ID 83707-0070	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: shiger@idahopower.com
Exhibits on CD only JERRY R RIGBY RIGBY ANDRUS 25 N 2 ND E PO BOX 250 REXBURG ID 83340-0250	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: jrigby@rex-law.com
Exhibits on CD only RANDALL C BUDGE RACINE OLSON 201 E CENTER ST STE A2 PO BOX 1391 POCATELLO ID 83204-1391	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: randy@racineolson.com
Exhibits on CD only SARAH A KLAHN SOMACH SIMMONS DUNN 2033 11 TH ST STE 5 BOULDER CO 80302	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: sklahn@somachlaw.com
Exhibits on CD and hard copy TRAVIS THOMPSON BARKER ROSHOLT 163 2 ND AVE WEST PO BOX 63 TWIN FALLS ID 83303-0063	☐ U.S. Mail, postage prepaid ☒ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: tlt@idahowaters.com
Exhibits on CD and hard copy W KENT FLETCHER FLETCHER LAW OFFICE 1200 OVERLAND AVE PO BOX 248 BURLEY ID 83318-0248	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☒ Federal Express ☐ Facsimile: ☒ Email: wkf@pmt.org
Exhibits on CD and hard copy WILLIAM F BACON SHOSHONE-BANNOCK TRIBES TRIBAL COUNSEL OFFICE PO BOX 306 FORT HALL ID 83203-0306	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☒ Federal Express ☐ Facsimile: ☒ Email: bbacon@sbtribes.com

Exhibits on CD and hard copy EDMUND C GOODMAN HOBBS STRAUS DEAN 516 SE MORRISON ST STE 1200 PORTLAND OR 97214	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☒ Federal Express ☐ Facsimile: ☒ Email: egoodman@hobbsstrauss.com
Exhibits on CD only ROBERT L HARRIS HOLDEN KIDWELL 1000 RIVERWALK DR STE 200 IDAHO FALLS ID 83405-0130	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: rharris@holdenlegal.com
Exhibits on CD only CANDICE MCHUGH MCHUGH BROMLEY 308 S 4 TH ST STE 103 BOISE ID 83702	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: cmchugh@mchughbromley.com
Exhibits on CD only NORM SEMANKO PARSON BEHLE 800 W MAIN ST STE 1300 BOISE ID 83702	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: nsemanko@parsonsbehle.com
Exhibits on CD only KIRK BYBEE POCATELLO CITY 911 N 7 TH AVE PO BOX 4169 POCATELLO ID 83205	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: kibybee@pocatello.us
Exhibits on CD only DAVID W GEHLERT UNITED STATE DEPT OF JUSTICE 999 18 TH ST SOUTH TERRACE STE 370 DENVER CO 80202	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Email: david.gehlert@usdoj.gov
Exhibits on CD only UNITED STATES OF AMERICA BUREAU OF RECLAMATION REGIONAL DIRECTOR 1150 N CURTIS RD STE 100 BOISE ID 83706-1234	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☐ Email:

Exhibits on CD and hard copy USDI BUREAU OF RECLAMATION Represented by: US DEPT OF JUSTICE ENVIRONMENT & NATL' RESOURCES 550 W FORT ST MSC 033 BOISE ID 83724	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☐ Email:
Exhibits on CD and hard copy DIRECTOR OF IDWR STATEHOUSE MAIL PO BOX 83720 BOISE, ID 83720-0098	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☒ Statehouse Mail


 MICHAEL C. ORR

ATTACHMENT A

**01-219
01-2064
01-2068
01-4055
01-10042
01-10043
01-10044
01-10045
01-10620
01-10621A
01-10621B
01-10622
01-10623
21-02154
21-02156
21-02161
21-04155
21-12946
21-13193
21-13194
21-10560
21-13161
25-07004
25-14413A
25-14413B**