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APR 28 2020

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

In Re CSRBA)
) Subcase 95-17352
) (Insert water right number)
)
) STANDARD FORM 7
)
 Case No. 49576) ☐ MOTION TO FILE LATE OBJECTION
) OR
) ☒ MOTION TO SET ASIDE AND MODIFY
) PARTIAL DECREE OR FINAL ORDER
) DISALLOWING WATER RIGHT CLAIM
 _____)

NAME AND ADDRESS OF PERSON FILING MOTION FOR LATE OBJECTION OR
MOTION TO SET ASIDE PARTIAL DECREE/FINAL ORDER DISALLOWING

Name: Debbie and Jake Berreth
Address: c/o Mihara Law PLLC, 923 N. Third Street, Coeur d'Alene, Idaho 83814
Daytime Phone: (208) 292-4883

☒ I am an attorney representing Debbie and Jake Berreth
My name is Kinzo H. Mihara
My address is 923 N. Third Street, Coeur d'Alene, Idaho 83814
My phone number is (208) 292-4883

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT OR
PARTIAL DECREE/FINAL ORDER DISALLOWING

Name: Robert and Jan Stuppy Family Trust
Address: 2263 E. Garwood Road, Hayden, Idaho 83835

If you are seeking to file a late Objection, list the reason(s) this objection is late and why it was not filed by the Objection deadline:

Objectors did not live on the adjacent property during the time. In addition, the Claimant has only recently attempted to utilize the claim in a property boundary dispute between the parties; thus, surprising the Objectors. Once the property boundary dispute became apparent the Objectors examined the water right at issue and became aware of the background information given to the Department of Water Resources in support of the claim. For additional reasons set forth in the affidavit of T. Balderrama filed concurrently herewith and incorporated herein by reference.

If you are seeking leave to file a late Objection,

YOU MUST ATTACH A COMPLETED STANDARD FORM 1 (Objection form).

If you are seeking to set aside and modify a Partial Decree/Final Order Disallowing, indicate the basis for your motion:

- ☐ Idaho Rule of Civil Procedure 59 (e)
- ☐ Idaho Rule of Civil Procedure 60(a)
- ☒ Idaho Rule of Civil Procedure 60(b)

And list the reason(s) why the Partial Decree/Final Order Disallowing should be set aside:

The Partial Decree should be set aside due to mistake; inadvertence; surprise; or excusable neglect. In the alternative, newly discovered evidence that, with reasonable diligence, could have have been discovered in time to move for a new trial. In the second alternative, for fraud, misrepresentation, or misconduct (specific allegations in support of this alternative reason to set aside are attached hereto and incorporated herein as Exhibit 1.

INSTRUCTIONS FOR MAILING

You must mail this motion, to the Clerk of the court. **FAX filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on April 24, 2020, I mailed the original and copies of this motion, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

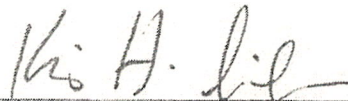
2. One copy to the each party involved in the Subcase including the claimant, all objectors, respondents and any party granted a motion to participate. Attach a list of names and addresses.

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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



Signature of Movant or attorney
mailing on Movant's behalf



Mihara Law PLLC

An Idaho Professional Limited Liability Company

Kinzo H. Mihara
Attorney and Counselor at Law
923 N. Third Street
Coeur d'Alene, Idaho 83814

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DEPARTMENT OF
WATER RESOURCES

Phone: (208) 292-4883
Fax: (208) 620-2200
khmihara@miharalawpllc.com

April 24, 2020

Clerk of the District Court
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Motion to Set Aside Water Right – Water Right No. 95-17352

Dear Clerk:

Enclosed please find my client's SF-7 motion to set aside the above-referenced water right, along with an accompanying SF-1 objection form.

Also enclosed is an affidavit of Teresa Balderrama with exhibit in support of the motion.

Prior to sending these materials, I have called to check to see if there are any filing fees and was informed there were none. Please let me know if my understanding is incorrect.

Best regards and thank you.

Very truly yours,

MIHARA LAW PLLC


Kinzo H. Mihara

Cc. File.

Encl. As noted.