

RECEIVED

DEC 28 2012

DEPARTMENT OF
WATER RESOURCES

J. Evan Robertson
ROBERTSON & SLETTE, P.L.L.C.
Attorneys at Law
P. O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 933-0700
Facsimile: (208) 933-0701
ISB# 1801
!rlm\idwr\petition for recon.Sheldon

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE)	<u>PETITION FOR RECONSIDERATION</u>
NO. 36-7537)	<u>OF FINAL ORDER ADDING</u>
)	<u>CLARIFYING LANGUAGE TO ASSIST</u>
)	<u>THE DEPARTMENT IN ADMINISTRATION</u>
)	<u>OF WATER RIGHTS ENTITLED TO</u>
_____)	<u>QUALIFIED SUBORDINATION (Appendix B</u>
	<u>List)</u>

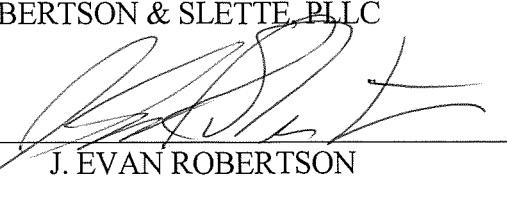
COME NOW PHYLLIS SHELDON; ELENA G. SHELDON; and MYRON B. SHELDON, all of whom are listed as current owners of Idaho Licensed Water Right No. 36-7537 (collectively "Petitioners"), by and through their attorney, J. Evan Robertson, of the firm Robertson & Slette, PLLC, and petition the Idaho Department of Water Resources for reconsideration of its Final Order Adding Clarifying Language to Assist the Department in Administration of Water Rights Entitled to Qualified Subordination (Appendix B List) executed by Gary Spackman, Director, on the 14th day of December, 2012 ("Final Order"). The factual basis on which this Petition rests is that Water Right No. 36-7537 has a licensed priority date of June 6, 1975, and was put to beneficial use prior to October 25, 1984, as supported by the Affidavits of Mr. Myron Sheldon, Mr. Michael Hamilton and Mr. Gary Wright, all of which are submitted herewith.

Based upon the foregoing, the Petitioners respectfully request a reconsideration of the Final Order by Director Spackman, and the entry of a revised final order holding that Idaho Power's hydropower rights are subordinated unqualifiedly to Water Right No. 36-7537 regardless of whether

1
2 actual flow conditions at the Murphy Gauge exceed the minimum stream flow established by the
3 State in 1985.

4 DATED this 27th day of December, 2012.

5 ROBERTSON & SLETTE, PLLC

6
7 By: 

8 J. EVAN ROBERTSON

9 CERTIFICATE OF MAILING

10 I hereby certify that on this 27th day of December, 2012, I served a copy of the foregoing
11 instrument, by depositing same in the United States mail, postage prepaid, in an envelope, addressed,
12 *or by facsimile*, to the following:

13 **Original (by facsimile):**

14 **Idaho Department of Water Resources**
15 **Attn: Gary Spackman, Director**
16 **322 East Front St.**
17 **P.O. Box 83720**
18 **Boise, Idaho 83720-0098**
19 **Facsimile 208-287-6700**

20 **Copies to:**

21 IDWR - Southern Region
22 1341 Fillmore St - Ste. 200
23 Twin Falls, ID 83301-3380

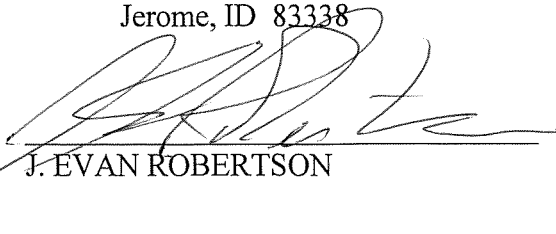
The Sheldons
c/o Irle Ranch
P.O. Box 443
Buhl, ID 83316

Richard H. Kaster
1539 E 4230 N
Buhl, ID 83316

Edith Kaster
1539 E 4230 N
Buhl, ID 83316

24 Pristine Springs, Inc.
25 c/o Fritz X. Haemmerle
26 PO Box 1800
Hailey, ID 83333-1800

Pristine Springs, Inc.
201 Warm Creek Rd.
Jerome, ID 83338


J. EVAN ROBERTSON

MEMORY TRANSMISSION REPORT

TIME : 12-27-'12 11:17
FAX NO.1 : 208-933-0701
NAME : Robertson & Slette

FILE NO. : 934
DATE : 12.27 11:13
TO : 812082876700
DOCUMENT PAGES : 3
START TIME : 12.27 11:13
END TIME : 12.27 11:14
PAGES SENT : 3
STATUS : OK

*** SUCCESSFUL TX NOTICE ***

Robertson & Slette, p.l.l.c.
ATTORNEYS AT LAW

134 Third Ave. East
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
PHONE (208) 933-0700
FAX (208) 933-0701

FACSIMILE TRANSMISSION

DATE: December 27, 2012
FAX TO: Gary Spackman, Director - IDWR 208-287-6700
FROM: Robin L. Moore for Evan Robertson
RE: Final Order - License No. 36-7537

NUMBER OF PAGES INCLUDING THIS ONE: 3

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL US BACK AS SOON AS POSSIBLE AT (208) 933-0700.

INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION IS ATTORNEY/CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS COVER PAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CALL AT (208) 933-0700, AND RETURN THIS FACSIMILE TO US BY MAIL AT THE ABOVE ADDRESS. WE APPRECIATE YOUR COOPERATION.

ADDITIONAL MESSAGE:

**ATTACHED IS A PETITION FOR RECONSIDERATION OF FINAL ORDER
ADDING CLARIFYING LANGUAGE TO ASSIST THE DEPARTMENT IN
ADMINISTRATION OF WATER RIGHTS ENTITLED TO QUALIFIED
SUBORDINATION (Appendix B List) FOR FILING IN THE ABOVE-
CAPTIONED MATTER. THANK YOU!**

*Original
attached
Fax filed yesterday
12-27-12*

Robertson & Slette, p.l.l.c.
ATTORNEYS AT LAW

134 Third Ave. East
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
PHONE (208) 933-0700
FAX (208) 933-0701

FACSIMILE TRANSMISSION

RECEIVED

DEC 27 2012

DEPARTMENT OF
WATER RESOURCES

DATE: December 27, 2012

FAX TO: Gary Spackman, Director – IDWR 208-287-6700

FROM: Robin L. Moore for Evan Robertson

RE: **Final Order – License No. 36-7537**

NUMBER OF PAGES INCLUDING THIS ONE: 3

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL US BACK AS SOON AS POSSIBLE AT (208) 933-0700.

INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION IS ATTORNEY/CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS COVER PAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CALL AT (208) 933-0700, AND RETURN THIS FACSIMILE TO US BY MAIL AT THE ABOVE ADDRESS. WE APPRECIATE YOUR COOPERATION.

ADDITIONAL MESSAGE:

ATTACHED IS A *PETITION FOR RECONSIDERATION OF FINAL ORDER ADDING CLARIFYING LANGUAGE TO ASSIST THE DEPARTMENT IN ADMINISTRATION OF WATER RIGHTS ENTITLED TO QUALIFIED SUBORDINATION (Appendix B List)* FOR FILING IN THE ABOVE-CAPTIONED MATTER. THANK YOU!

J. Evan Robertson
ROBERTSON & SLETTE, P.L.L.C.
Attorneys at Law
P. O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 933-0700
Facsimile: (208) 933-0701
ISB# 1801
rlm\idwr\petition for recon.Sheldon

RECEIVED

DEC 27 2012

DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE)	<u>PETITION FOR RECONSIDERATION</u>
NO. 36-7537)	<u>OF FINAL ORDER ADDING</u>
)	<u>CLARIFYING LANGUAGE TO ASSIST</u>
)	<u>THE DEPARTMENT IN ADMINISTRATION</u>
)	<u>OF WATER RIGHTS ENTITLED TO</u>
)	<u>QUALIFIED SUBORDINATION (Appendix B</u>
	<u>List)</u>

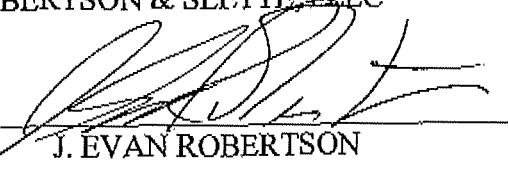
COME NOW PHYLLIS SHELDON; ELENA G. SHELDON; and MYRON B. SHELDON, all of whom are listed as current owners of Idaho Licensed Water Right No. 36-7537 (collectively "Petitioners"), by and through their attorney, J. Evan Robertson, of the firm Robertson & Slette, PLLC, and petition the Idaho Department of Water Resources for reconsideration of its Final Order Adding Clarifying Language to Assist the Department in Administration of Water Rights Entitled to Qualified Subordination (Appendix B List) executed by Gary Spackman, Director, on the 14th day of December, 2012 ("Final Order"). The factual basis on which this Petition rests is that Water Right No. 36-7537 has a licensed priority date of June 6, 1975, and was put to beneficial use prior to October 25, 1984, as supported by the Affidavits of Mr. Myron Sheldon, Mr. Michael Hamilton and Mr. Gary Wright, all of which are submitted herewith.

Based upon the foregoing, the Petitioners respectfully request a reconsideration of the Final Order by Director Spackman, and the entry of a revised final order holding that Idaho Power's hydropower rights are subordinated unqualifiedly to Water Right No. 36-7537 regardless of whether

actual flow conditions at the Murphy Gauge exceed the minimum stream flow established by the State in 1985.

DATED this 27th day of December, 2012.

ROBERTSON & SLETTE, PLLC

By: 

J. EVAN ROBERTSON

CERTIFICATE OF MAILING

I hereby certify that on this 27th day of December, 2012, I served a copy of the foregoing instrument, by depositing same in the United States mail, postage prepaid, in an envelope, addressed, *or by facsimile*, to the following:

Original (by facsimile):

Idaho Department of Water Resources
Attn: Gary Spackman, Director
322 East Front St.
P.O. Box 83720
Boise, Idaho 83720-0098
Facsimile 208-287-6700

Copies to:

IDWR - Southern Region
1341 Fillmore St - Ste. 200
Twin Falls, ID 83301-3380

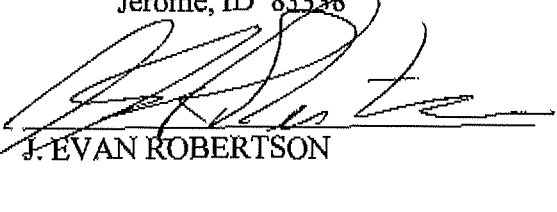
The Sheldons
c/o Irle Ranch
P.O. Box 443
Buhl, ID 83316

Richard H. Kaster
1539 E 4230 N
Buhl, ID 83316

Edith Kaster
1539 E 4230 N
Buhl, ID 83316

Pristine Springs, Inc.
c/o Fritz X. Haemmerle
PO Box 1800
Hailey, ID 83333-1800

Pristine Springs, Inc.
201 Warm Creek Rd.
Jerome, ID 83338


J. EVAN ROBERTSON