

SEP 02 2014

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Attorneys for Defendants Gary Spackman and
the Idaho Department of Water Resources

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

D.L. EVANS BANK,

Plaintiff,

vs.

BALLENTYNE DITCH COMPANY,
LIMITED; THOMAS MECHAM RICKS,
GARY SPACKMAN, IN HIS OFFICIAL
CAPACITY AS THE DIRECTOR OF THE
IDAHO DEPARTMENT OF WATER
RESOURCES; AARON RICKS, DIRECTOR
OF BALLENTYNE DITCH COMPANY;
SHAUN BOWMAN, DIRECTOR OF
BALLENTYNE DITCH COMPANY; JOE
KING, DIRECTOR OF BALLENTYNE
DITCH COMPANY; STEVE SNEAD,
DIRECTOR OF BALLENTYNE DITCH
COMPANY

Case No. CV-OC-2013-17406

**IDWR'S MOTION AND
MEMORANDUM IN SUPPORT OF
CHANGE IN VENUE AND
REASSIGNMENT OF CASE**

**IDWR'S MOTION AND MEMORANDUM IN SUPPORT OF
CHANGE IN VENUE AND REASSIGNMENT OF CASE - PAGE 1**

COPY

Defendants.

COME NOW the Idaho Department of Water Resources and Gary Spackman, Director of the Idaho Department of Water Resources (collectively referred to herein as “IDWR”), and move this Court to change venue pursuant to I.R.C.P. 40 (e) and reassign the case to Twin Falls County. The venue should be changed because D. L. Evans Bank’s Amended Complaint challenges final water right decrees issued by the Snake River Basin Adjudication (“SRBA”) Court and the SRBA Court is the appropriate court to adjudicate its own final judgments. Additionally, under administrative orders issued by the Idaho Supreme Court and the Fifth Judicial District Court, the SRBA Court is the court to be assigned to hear these types of water cases seeking declaratory relief involving IDWR.

A. The Amended Complaint is a collateral attack on a final judgment issued in the SRBA. The SRBA Court has procedures for the D.L. Evans Bank to challenge the water right decrees that have been certified as final judgments.

D.L. Evans Bank, despite owning no water rights or shares to use water, seeks to attack final judgments of the SRBA Court by commencing a new action in another district court. Although D.L. Evans Bank frames its Amended Complaint as a challenge to IDWR’s administration of water rights, its complaint is fundamentally a challenge to the water right decrees of Ballentyne Ditch Company, Limited (“Ballentyne”) that have been certified as final judgments by the SRBA Court. Attached as Exhibit A are copies of the relevant water right decrees. D.L. Evans Bank is effectively requesting the Ada County District Court set aside the water right decrees, thereby dissolving the seven large water rights decreed to Ballentyne, and require IDWR to divide and transfer numerous new smaller water rights to the individual property owners who hold shares in the Ballentyne. *See Amended Complaint*, p. 11 (“The Court

should issue a mandatory injunction, directing Spackman and IDWR ... to transfer the water rights listed in Ballentyne's name to owners of the property to which the water is appurtenant.”; “Plaintiff prays for ... a mandatory injunction compelling Spackman, in his official capacity as Director of IDWR, and IDWR to ... remove any water rights from Ballentyne's name and place the rights in the names of the property owners that have beneficially applied the water to their land”) The relief requested by D.L. Evans Bank in the Amended Complaint seeks to change the ownership, place of use and the quantity of water for every shareholder within the 735.5 acres authorized place of use under Ballentyne's water rights.

Although the SRBA is winding down and the *Final Unified Decree* was issued on August 25, 2014, the SRBA Court still maintains jurisdiction over the adjudication of water rights and over the water right decrees it has issued. I.C. §§ 1-1603 and 1-1901. Moreover, the SRBA Court retained jurisdiction to resolve issues related to the *Final Unified Decree* that are not reviewable under Idaho's Administration Procedures Act and /or IDWR rules. Paragraph no. 17 in Section IV of the *Final Unified Decree*, a copy of which is attached as Exhibit B.

Notwithstanding the fact that D.L. Evans Banks' Amended Complaint is likely barred by res judicata because it failed to timely object, respond, or otherwise participate when the SRBA decreed water rights to Ballentyne, the SRBA Court does have procedures in place to address the extraordinary type of relief sought by D.L. Evans Bank. SRBA Court rules provide that a party may file a motion to set aside a water right decree. SRBA Administrative Rule no. 1. Before any court may provide the type of relief sought by the D.L. Evans Bank it must set aside the water right decrees. Given that the SRBA is still active and the SRBA Court's powers to enforce its own orders, proceedings seeking to set aside water right decrees that have become final judgments should be heard by the SRBA Court. The SRBA is the appropriate venue to

adjudicate water right cases involving competing claims between parties over the same water.

D.L. Evans Bank requests relief that only the SRBA Court can provide.

B. Under the administrative orders issued by the Idaho Supreme Court and the Snake River Basin Adjudication District Court, the Fifth Judicial District Court in Twin Falls is the appropriate venue to adjudicate water right cases and hear declaratory actions involving the Idaho Department of Water Resources.

In its Amended Complaint, D.L. Evans Bank prays for a declaratory judgment that it is entitled to the use and delivery of water to its property. D.L. Evans Bank also seeks injunctive relief against IDWR related to water right administration. *Amended Complaint*, ¶ 54. D.L. Evans Bank additionally challenges IDWR's denial of D.L. Evans Bank's request to change ownership of the SRBA decreed water rights. *Amended Complaint* ¶ 66.

On December 9, 2009, the Idaho Supreme Court issued an *Administrative Order* ("Order") providing that "all petitions for judicial review of any decision regarding the administration of water rights from the Department of Water Resources shall be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District." The Court further authorized the SRBA District Court to develop the procedural rules necessary to implement the *Order*. A copy of the *Order* is attached hereto and labeled as Exhibit C.

On July 1, 2010, the presiding judge of the SRBA District Court, Eric J. Wildman, issued an administrative order adopting procedures for implementing the Court's December 9, 2009 *Order*. The administrative order outlines the procedural rules governing actions for declaratory judgments of decisions from the Idaho Department of Water Resources. A copy of the *Administrative Order Adopting Procedures for the Implementation of the Idaho Supreme Court Administrative Order Dated December 9, 2009* ("Administrative Order") is attached hereto and labeled as Exhibit D.

The Department of Water Resources has reviewed the certificate of mailing and determined that a courtesy copy of the action for declaratory judgment was not provided to the SRBA District Court of the Fifth Judicial District in Twin Falls and the Department intends to forward a copy of the action for declaratory judgment to the SRBA District Court of the Fifth Judicial District in Twin Falls.

The Administrative Order provides that the clerk of the district court where the action is filed shall issue, file, and concurrently serve upon IDWR and all other parties a Notice of Reassignment assigning the matter to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District for disposition and further proceedings. A proposed Order Granting Reassignment is attached hereto and labeled as Exhibit E.

For reasons stated herein, the SRBA Court is the appropriate venue to set aside the final judgment decreeing water rights to Ballentyne and to adjudicate water right cases involving competing claims between parties over the same water. Defendant IDWR requests oral argument on this motion and will file an appropriate notice of hearing.

RESPECTFULLY SUBMITTED this 9th day of September, 2014.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Chief, Natural Resources Division



JOHN HOMAN
GARRICK L. BAXTER
MEGHAN CARTER
Deputy Attorneys General
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of September, 2014, I caused a true and correct copy of the foregoing **document** to be filed with the Court and served on the following parties by the indicated methods:

Original to:
Clerk of the Court
Ada County District Court
200 W. Front Street
Boise, Idaho 83702
Facsimile: (208) 287-6919

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

R.C. Stone
Jason R. Naess
Parsons, Smith, Stone, Loveland
& Shirley, LLP
137 West 13th Street
P.O. Box 910
Burley, Idaho 83318
Facsimile: (208) 878-0146
rcstone@pmt.org
jason@pmt.org

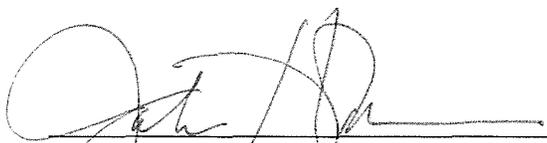
- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

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Sawtooth Law Offices, PLLC
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- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
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380 South 4th Street, Suite 103
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cbromley@mchughbromley.com

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email



JOHN HOMAN
Deputy Attorney General

Exhibit A

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

FILED
2007 DEC 10 10 30

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-31808

NAME AND ADDRESS: BALENTYNE DITCH CO LTD
 C/O JOE KING
 170 N SIERRA WAY
 EAGLE, ID 83616

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 9.67 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

This right authorizes the diversion rate of 0.14 cfs and an annual diversion volume of 24.9 af for ground water recharge as replacement of losses caused by evaporation from the five ponds associated with Right 63-12598.

PRIORITY DATE: 06/01/1888

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	9.53 CFS
	Groundwater Recharge	03-01 TO 11-15	0.14 CFS
			24.90 AFY

Diversion under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto for the purposes of flood control pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: Groundwater Recharge Within Ada County

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

FILED
TWIN FALLS CO., IDAHO
2007 DEC 10 PM 3 26

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-00195

NAME AND ADDRESS: BALENTYNE DITCH CO LTD
 C/O JOE KING
 170 N SIERRA WAY
 EAGLE, ID 83616

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.80 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1891

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.80 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 741 ACRES WITHIN THE BOUNDARY OF BALENTYNE DITCH COMPANY.
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

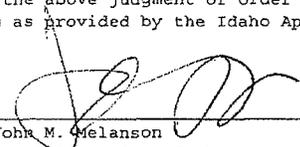
incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

FILED
2007 DEC 10 P 1:03 27

In Re SRBA) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-00198AA

NAME AND ADDRESS: BALLENTYNE DITCH CO LTD
 C/O JOE KING
 170 N SIERRA WAY
 EAGLE, ID 83616

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.06 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1877

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.06 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 741 ACRES WITHIN THE BOUNDARY OF BALLENTYNE DITCH COMPANY.
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

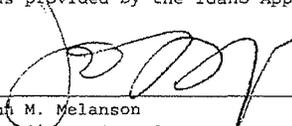
incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

FILED
2007 DEC 10 11 3 27

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-00258A

NAME AND ADDRESS: BALLENTYNE DITCH CO LTD
 C/O JOE KING
 170 N SIERRA WAY
 EAGLE, ID 83616

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.135 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 05/01/1893

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.135 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 741 ACRES WITHIN THE BOUNDARY OF BALLENTYNE DITCH COMPANY.
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2007 DEC 10 PM 3 27

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-00260B

NAME AND ADDRESS: BALLENTYNE DITCH CO LTD
C/O JOE KING
170 N SIERRA WAY
EAGLE, ID 83616

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.756 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 05/01/1883

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.756 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 741 ACRES WITHIN THE BOUNDARY OF BALLENTYNE DITCH COMPANY. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

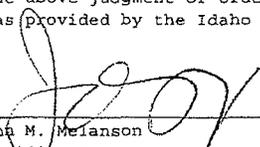
incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2007 DEC 10 10 3 27

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-00264

NAME AND ADDRESS: BALLENTYNE DITCH CO LTD
 C/O JOE KING
 170 N SIERRA WAY
 EAGLE, ID 83616

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.00 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 04/01/1878

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	3.00 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 741 ACRES WITHIN THE BOUNDARY OF BALLENTYNE DITCH COMPANY.
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

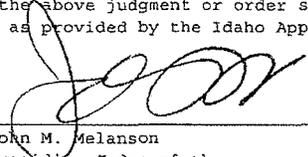
incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SREA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED
 TWIN FALLS CO. IDAHO
 2007 DEC 10 PM 1:32

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) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
 Case No. 39576)
)
) Water Right 63-00285

NAME AND ADDRESS: BALLENTYNE DITCH CO LTD
 C/O JOE KING
 170 N SIERRA WAY
 EAGLE, ID 83616

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.392 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 05/01/1906

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.392 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 741 ACRES WITHIN THE BOUNDARY OF BALLENTYNE DITCH COMPANY.
 The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

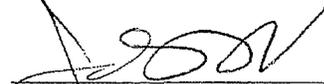
incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

Exhibit B

ORIGINAL

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

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> AUG 26 2014 </div>	
By _____	Clerk
_____	Deputy Clerk

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)
)
 _____)

FINAL UNIFIED DECREE

I. PROCEDURE

On June 17, 1987, the State of Idaho, ex rel. A. Kenneth Dunn in his official capacity as Director of the Idaho Department of Water Resources, filed a petition in the above-entitled Court seeking commencement of a "general adjudication inter se of all rights arising under state or federal law to the use of surface and ground waters from the Snake River basin water system and for the administration of such rights." *Petition* at 2. On November 19, 1987, this Court issued its *Commencement Order* thereby initiating the above-entitled general stream adjudication of all rights to the use of the waters of the Snake River Basin within the State of

Idaho pursuant to Idaho Code § 42-1406A (Supp. 1987).¹ The *Commencement Order* adopted by reference this Court's October 14, 1987, *Memorandum Opinion on Commencement of Adjudication* as "further findings of fact and further conclusions of law as permitted by I.R.C.P. 52(a)." *Commencement Order* at 4.

As set forth in the *Memorandum Opinion on Commencement of Adjudication*, Idaho Code § 42-1406A (Supp. 1987) required that the adjudication be commenced within the terms of the McCarran Amendment, 43 U.S.C. § 666. This Court determined that for the adjudication to come within the terms of the McCarran Amendment the entire Snake River Basin water system within the State of Idaho had to be adjudicated. This Court defined the entire Snake River Basin water system within Idaho as follows:

Beginning at the point where the southern boundary line of the state of Idaho meets the western boundary line of the state of Idaho, then following the western boundary of the state north to the northern boundary of the Clearwater Basin, in Idaho, in section 36, T. 36 N., R. 6 W., B.M., then following the northern watershed divide of the Clearwater River Basin north and east to the eastern boundary of the state of Idaho in section 4, T. 42 N., R. 11 E., B.M., then following the eastern boundary of the state southeast to the northern boundary of the Bear River Basin in section 35, T. 10 S., R. 46 E., B.M., then following the northern watershed divide of the Bear River Basin, in Idaho, southwest to the southern boundary of the state of Idaho in section 26, T. 16 S., R. 28 E., B.M., then following the southern boundary line of the state of Idaho west to the point of beginning.

Commencement Order at 5. A map showing the boundaries of the Snake River Basin water system is attached for illustrative purposes as Attachment 1, as required by Idaho Code § 42-1413 (2003). The following counties are wholly located within the boundaries of the Snake River Basin water system:

Ada	Canyon	Idaho	Owyhee
Adams	Clark	Jefferson	Payette

¹ Idaho Code § 42-1406A was added by section 1 of chapter 18, 1985 Idaho Sess. L. at 28. Section 42-1406A was subsequently amended by section 11 of chapter 454, 1994 Idaho Sess. L. at 1452-53, and now appears as an uncodified law in the 1994 Idaho Session Laws.

Bingham	Clearwater	Jerome	Teton
Blaine	Custer	Lemhi	Twin Falls
Boise	Elmore	Lewis	Valley
Bonneville	Fremont	Lincoln	Washington
Butte	Gem	Madison	
Camas	Gooding	Minidoka	

Commencement Order at 5. The following counties are partly located within the boundaries of the Snake River Basin water system:

Bannock	Nez Perce
Caribou	Oneida
Cassia	Power
Latah	Shoshone

Id. at 6.

The *Commencement Order* also determined that “all classes of water uses . . . within the water system [must] be adjudicated as part of the Snake River Basin adjudication.” *Id.* At 6. On January 17, 1989, however, this Court entered its *Findings of Fact, Conclusions of Law, and Order Establishing Procedures for Adjudication of Domestic and Stock Water Uses* that allowed claimants of *de minimis* domestic and stock water rights, as defined in Idaho Code § 42-1401A(5) and (12) (Supp. 1988), to elect to defer adjudication of their claims; provided, all such claimants “shall be joined as parties in this proceeding and will be bound by all decrees entered in this case, including the final decree.” *Findings of Fact* at 3.

The *Commencement Order* directed the Director of the Idaho Department of Water Resources (“Director”): 1) to investigate the water system as provided in Idaho Code § 42-1410 (Supp. 1987); 2) to prepare the notice of order commencing a general adjudication containing that information required by Idaho Code § 42-1408A(1) (Supp. 1987); 3) to serve notice of the order commencing a general adjudication in accordance with chapter 14, title 42, Idaho Code; and 4) to file with this Court affidavits and other documents stating the

persons served with a notice of order commencing the adjudication. *Commencement Order* at 7-8.

Based upon the claims submitted; the files and records of the Idaho Department of Water Resources and the Court; the examination of the ditches, diversions, lands irrigated, and other uses of water within the water system; the Director's Reports and evidence herein, this Court enters the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

1. All requirements for joinder of the United States as a party under state and federal law, including but not limited to 43 U.S.C. § 666, have been satisfied.
2. The Nez Perce Tribe participated in this proceeding by filing notices of claim for water rights reserved under federal law and by filing a general notice of appearance with the Court. *Notice of Claim to a Water Right Reserved Under Federal Law* (filed with Dept. of Water Res. March 25, 1993); *Notice of Appearance* (March 18, 1993).
3. The Northwestern Band of the Shoshoni Nation participated in this proceeding by filing notices of claim for water rights reserved under federal law and by filing a general notice of appearance with the Court. *Partial Protective Filing by the Northwestern Band of the Shoshoni Nation of Notices of Claim for Water Rights Reserved Under Federal Law* (filed with Dept. of Water Res. March 25, 1993); *Notice of Appearance on Behalf of the Northwestern Band of the Shoshoni Nation* (March 22, 1993).
4. The Shoshone-Bannock Tribes sought and were granted intervention in this proceeding. *Order Granting Permissive Intervention by the Shoshone-Bannock Tribes* (April 12, 1993).

5. The Shoshone-Paiute Tribes of the Duck Valley Indian Reservation sought and were granted intervention in this proceeding. *Motion to Intervene and Request for Expedited Hearing* (SRBA Consolidated Subcase No. 51-12756, Jan. 12, 1999); *Order Granting Tribes' Motion to Intervene, Order Requiring Written Status Reports and Order for Scheduling Conference Reports* (SRBA Subcases Nos. 51-12756 et al., Dec. 6, 1999).

6. The Director served notice of the commencement of the Snake River Basin Adjudication ("SRBA") in accordance with chapter 14, title 42, Idaho Code and the orders of this Court. This included service of the notice of commencement on the State of Idaho and the United States; service of the notice of commencement on all other persons by publication; service of the notice of commencement by posting in each county courthouse, county recorder's office and county assessor's office in which any part of the water system is located; service of the notice of commencement by mail on each person listed as owning real property on the real property assessment roll within the boundaries of the Snake River Basin water system; and filing of a copy of the notice of commencement in the office of the county recorder in each county in which any part of the water system is located.

7. In addition to the steps taken in paragraph 6, the Idaho Department of Water Resources also served notices of commencement on persons who may have used water within the water system, but were not listed as owners of real property. The sources of information the Idaho Department of Water Resources reviewed for this purpose were: 1) water right records of the Idaho Department of Water Resources for each basin wholly or partly within the water system; 2) cooperating farm/ranch operator records of the United States Department of Agriculture, Agricultural Stabilization and Conservation Service for each basin wholly or partly within the water system; and 3) mining claim records on federal

land of the United States Department of Interior, Bureau of Land Management for each basin wholly or partly within the water system.

8. The Director has completed an examination of the Snake River Basin water system and submitted Director's Reports to this Court in conformance with the requirements of chapter 14, title 42, Idaho Code and the orders of this Court.

9. As required by title 42, chapter 14, Idaho Code and this Court's orders, claims to water rights arising under state or federal law to the use of the surface and ground waters from the Snake River Basin water system have been adjudicated resulting in the issuance of partial decrees that have been certified as final pursuant to I.R.C.P. 54(b).²

10. Idaho Code § 42-1412(8) (2003) provides that: "Upon resolution of all objections to water rights acquired under state law, to water rights established under federal law, and to general provisions, and after entry of partial decree(s), the district court shall combine all partial decrees and the general provisions into a final decree." The Court finds that the conditions of Idaho Code § 42-1412(8) (2003) have been met with respect to the water rights identified in Attachments 2, 4, 5 and 6 and the general provisions in Attachment 3, enabling the Court to issue this Final Unified Decree.

III. CONCLUSIONS OF LAW

1. The SRBA is a general stream adjudication *inter se* of all water rights arising under state or federal law to the use of surface and ground waters from the Snake River Basin water system and for the administration of such rights.

2. The State of Idaho is a party to this proceeding.

² At the time of entry of this Final Unified Decree there are a total of 103 subcases pending final resolution. A separate *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* is being entered contemporaneously herewith, which provides for the continued processing of the subcases listed therein.

3. The Director was withdrawn as a party to this proceeding in 1994. Idaho Code § 42-1401B (2003); *State of Idaho, ex rel. Higginson v. United States*, 128 Idaho 246, 256-57, 912 P.2d 614, 624-25 (1995).

4. The United States is a party to this proceeding under 43 U.S.C. § 666.

5. This Final Unified Decree is conclusive as to the nature and extent of all rights of the United States to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, including, but not limited to, water rights held by the United States in trust for any Indian tribe, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

6. The Nez Perce Tribe, the Northwestern Band of the Shoshoni Nation, the Shoshone-Bannock Tribes, and the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation are parties to this proceeding.

7. The *Consent Decree Approving Entry of Partial Final Decrees Determining the Rights of the United States as Trustee for the Benefit of the Nez Perce Tribe and the Nez Perce Tribe to the Use of Water in the Snake River Basin within Idaho and Partial Final Decrees Determining Minimum Stream Flow Water Rights Held by the Idaho Water Resources Board* with its six attachments dated January 30, 2007 ("*Nez Perce Consent Decree*"), is included in Attachment 4 and is hereby incorporated into this Final Unified Decree by reference. The *Nez Perce Consent Decree* is conclusive as to the nature and extent of all rights of the Nez Perce Tribe to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

8. 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*, dated August 13, 2014 (“*Shoshone-Bannock Consent Decree*”), is included in Attachment 4 and is hereby incorporated into this Final Unified Decree by reference. The *Shoshone-Bannock Consent Decree* is conclusive as to the nature and extent of all rights of the Shoshone-Bannock Tribes to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

9. The *Revised Consent Decree Approving Entry of Partial Decrees Determining the Rights of the United States as Trustee for the benefit of the Shoshone-Paiute Tribes to the Use of Water in the Snake River Basin within Idaho* with its three attachments, dated December 12, 2006 (“*Shoshone-Paiute Consent Decree*”), is included in Attachment 4 and is hereby incorporated into this Final Unified Decree by reference. The *Shoshone-Paiute Consent Decree* is conclusive as to the nature and extent of all rights of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

10. This Final Unified Decree is conclusive as to the nature and extent of all rights of the Northwestern Band of the Shoshoni Nation to the use of the waters of the Snake River Basin water system within the State of Idaho with a priority date before November 19, 1987, except for those water rights expressly exempted by Idaho Code § 42-1420 (2003) or by order of this Court.

11. Claimants in each of the SRBA basins received notice of the commencement of the SRBA in accordance with chapter 14, title 42, Idaho Code and orders of this Court. These notice procedures satisfy constitutional due process requirements. *LU Ranching Co. v. U.S.*, 138 Idaho 606 (2003).

IV. ORDER

NOW THEREFORE this Court ORDERS, ADJUDGES AND DECREES as follows:

1. This Final Unified Decree is conclusive as to the nature and extent of all water rights within the Snake River Basin within the State of Idaho with a priority date prior to November 19, 1987, except the following described water rights shall not be lost by failure to file a notice of claim, as provided in Idaho Code § 42-1420 (2003):

- a. Any domestic and stock water right, as defined in Idaho Code § 42-111 (1990), Idaho Code § 42-1401A(5) (1990), and Idaho Code § 42-1401A(12) (1990), the adjudication of which was deferred in accordance with this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*;
- b. A water right application for permit filed under chapters 2 or 15, title 42, Idaho Code;
- c. A water right permit issued under chapters 2 or 15, title 42, Idaho Code, unless the Director required the permit holder to file a notice of claim in accordance with subsection (7) of section 42-1409, Idaho Code;
- d. A water right license issued under chapters 2 or 15, title 42, Idaho Code, if proof of beneficial use was not filed with the Department of Water Resources

before November 19, 1987, unless the Director required the license holder to file a notice of claim in accordance with subsection (7) of section 42-1409, Idaho Code; and

- e. A claim to a water right under federal law, if the priority of the right claimed is later than November 18, 1987.

All other water rights with a priority before November 19, 1987, not expressly set forth in this Final Unified Decree are hereby decreed as disallowed.³ Any water rights with a priority date subsequent to November 18, 1987, were not required to be claimed in the SRBA, but to the extent any such water rights were claimed in the SRBA and a partial decree issued, the partial decree is conclusive as to the nature and extent of the right.

2. All partial decrees issued by this Court are set forth in Attachments 2 and 4 to this Final Unified Decree and are incorporated herein by reference.

3. Attachment 2 consists of a name index and a copy of all partial decrees issued by this Court.

4. General provisions decreed by this Court are set forth in Attachment 3 to this Final Unified Decree and are incorporated herein by reference.

5. Attachment 4 consists of the federal and tribal reserved water rights partially decreed and/or otherwise memorialized in a consent decree issued in conjunction with the approval of a federal reserved water right settlement, including all consent decrees and all attachments thereto; all partial decrees issued by this Court as part of the respective settlements; and all Federal, State and/or Tribal legislation necessary to enact and approve the water right settlements. In the case of any conflict between this Final Unified Decree and the partial

³ Excepting those claim numbers listed in the *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* entered contemporaneously herewith.

consent decrees approving reserved water right settlements, the partial consent decrees approving the reserved water right settlements as set forth in Attachment 4 shall control.

6. All claims to water rights filed in this proceeding that were decreed disallowed by this Court are set forth in Attachment 5 to this Final Unified Decree and are incorporated herein by reference.

7. The water right numbers for those water rights of record with the Idaho Department of Water Resources that were required to be claimed but were not claimed in this proceeding and therefore were decreed disallowed by this Court are set forth in Attachment 6 and are incorporated herein by reference. The portion of any disallowed water right that was deferrable pursuant to this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* is not affected by this paragraph.

8. This Final Unified Decree is binding against all persons including any persons that deferred filing of domestic and/or stock water claims pursuant to this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*, which is set forth in Attachment 7 to this Final Unified Decree and is incorporated herein by reference.

9. The adjudication of deferred domestic and stock water claims and the administration of such rights prior to their adjudication shall be governed by this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* and applicable state law.

10. All water rights based on beneficial uses, licenses, permits, posted notices, and statutory claims required to be claimed in this proceeding are superseded by this Final

Unified Decree. Provided, however, this Final Unified Decree does not supercede the third-party beneficiary contractual rights conferred on certain classes of water rights pursuant to the "Contract to Implement Chapter 259, Sess. Law 1983" as authorized by 1983 Idaho Sess. Laws 689 and codified as Idaho Code § 61-540 (2002). The scope of third-party beneficiaries and contract rights are defined in this Court's *Order on State of Idaho's Motion for Partial Summary Judgment on Issue No. 2*. Subcase No. 00-91013 (Basin-Wide Issue 13) (July 12, 2011) included as Attachment 9.

11. All prior water right decrees and general provisions within the Snake River Basin water system are superseded by this Final Unified Decree except as expressly provided otherwise by partial decree or general provisions of this Court.

12. This Final Unified Decree shall not be construed to define, limit or otherwise affect the apportionment of benefits to lands within an irrigation district pursuant to chapter 7, title 43, Idaho Code.

13. This Final Unified Decree shall not be construed to supersede or affect otherwise the following: 1) any administrative changes to the elements of a water right completed after the entry of a partial decree but prior to the entry of this Final Unified Decree; or 2) elements of a water right defined by a license where, in accordance with Idaho Code § 42-1421(3) (2003), a partial decree was issued based on a permit prior to the issuance of the license.

14. The time period for determining forfeiture of a partial decree based upon state law shall be measured from the date of issuance of the partial decree by this Court and not from the date of this Final Unified Decree. State law regarding forfeiture does not apply to partial decrees based upon federal law.

15. The decreed water rights shall be administered in the Snake River Basin water system in accordance with this Final Unified Decree and applicable federal, state and tribal law, including the administrative provisions set forth in the federal reserved water right settlement agreements in Attachment 4.

16. Nothing in this Final Unified Decree shall be interpreted or construed as exempting the holder of a decreed water right based on state law from exercising or changing such right in compliance with applicable Idaho law.

17. This Court retains jurisdiction of this proceeding to: a) resolve any issues related to the Final Unified Decree that are not reviewable under the Idaho Administrative Procedures Act and/or the rules of the Idaho Department of Water Resources; b) adjudicate any domestic or stock water rights deferred under this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*; and c) enter partial decrees, orders of disallowance, or other final determination for the pending subcases listed in the *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* entered contemporaneously herewith. Any order amending or modifying this Final Unified Decree, including the attachments hereto, will be entered on the register of action for Civil Case No. 39576 in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, and will be filed with the Idaho Department of Water Resources in lieu of issuing an Amended Final Unified Decree. Attachment 8 contains instructions on how to access any orders amending this Final Unified Decree.

18. The incorporation by reference of partial decrees and orders of this Court contained in the Attachments to this Final Unified Decree does not constitute a reissuance of such partial decrees and orders.

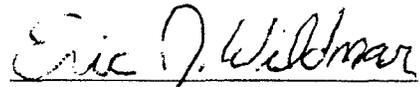
19. This Final Unified Decree, including the entirety of Attachments 1 through 10 listed below, shall be entered in the records of the clerk of the District Court for the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls.

- | | |
|---------------|--|
| Attachment 1 | Snake River Basin Water System Map. |
| Attachment 2 | Partially Decreed Water Rights, including a name index, consisting of 770 pages. |
| Attachment 3 | General Provisions, consisting of 113 pages. |
| Attachment 4 | Federal and Tribal Reserved Water Right Settlements, including all Consent Decrees and all Attachments thereto, all Partial Decrees issued by this Court as part of the Respective Settlements, and all Federal, State and/or Tribal Legislation Necessary to Enact and Approve the Water Right Settlements consisting of 2,857 pages. |
| Attachment 5 | List of Water Right Numbers for Filed Water Right Claims Decreed as Disallowed consisting of 66 pages. |
| Attachment 6 | List of Water Right Numbers for Unclaimed Water Rights Decreed as Disallowed consisting of 24 pages. |
| Attachment 7 | June 28, 2012, <i>Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims</i> consisting of 6 pages. |
| Attachment 8 | Instructions on Searching the Final Unified Decree consisting of 5 pages. |
| Attachment 9 | <i>Order on State of Idaho's Motion for Partial Summary Judgment on Issue No. 2.</i> Subcase No. 00-91013 (Basin-Wide Issue 13) (July 12, 2011). |
| Attachment 10 | <i>Register of Actions</i> , Twin Falls County Case No. 39576 (i.e., SRBA Main Case). |

20. A certified paper and electronic copy of the entire Final Unified Decree shall be provided to the Director. The Director shall record the Final Unified Decree excluding all

Attachments other than Attachments 7 and 8 in the office of the county recorder of each county in which the place of use or point of diversion of any individual decreed water right in the Final Unified Decree is located. The Director shall maintain a copy of the Final Unified Decree for public inspection.

DATED this 25th day of August, 2014.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

ATTACHMENT 1

SNAKE RIVER BASIN WATER
SYSTEM MAP consisting of 1 page.

ATTACHMENT 2

PARTIALLY DECREED WATER RIGHTS, INCLUDING A NAME INDEX AND A WATER RIGHT NUMBER INDEX
(water right number index in electronic copy only).

TABLE OF CONTENTS

1. NAME INDEX Pages 1 to 770
2. WATER RIGHT NO. INDEX (electronic copy only)
3. PARTIAL DECREES Beginning Page 771

ATTACHMENT 3

GENERAL PROVISIONS
consisting of 113 pages.

ATTACHMENT 4

FEDERAL AND TRIBAL
RESERVED WATER RIGHT
SETTLEMENTS, INCLUDING
ALL CONSENT DECREES AND
ALL ATTACHMENTS THERETO,
ALL PARTIAL DECREES
ISSUED BY THIS COURT AS
PART OF THE RESPECTIVE
SETTLEMENTS, AND ALL
FEDERAL, STATE AND/OR
TRIBAL LEGISLATION
NECESSARY TO ENACT AND
APPROVE THE WATER RIGHT
SETTLEMENTS CONSISTING OF
2,857 PAGES.

TABLE OF CONTENTS FOR ATTACHMENT 4

	Page
<i>Revised Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin</i> , dated August 13, 2014.	1
<i>The 1990 Fort Hall Indian Water Rights Agreement by and between the Shoshone Bannock Tribes of the Fort Hall Indian Reservation, the State of Idaho, the United States, and Certain Idaho Water Users</i> , dated July 5, 1990.	211
<i>Public Law 101-602, 104 Stat. 3059</i> (November 16, 1990).	288
<i>Chapter 228, 1991 Idaho Sess. L. 547.</i>	293
<i>H.C.R. No. 16, 1985 Idaho Sess. L. 745.</i>	294
<i>Resolutions of the Business Council of the Shoshone-Bannock Tribes</i> , dated June 15, 1990; July 5, 1990; and June 14, 1991.	295
<i>Revised Consent Decree Approving Entry of Partial Decrees Determining the Rights of the United States as Trustee for the Benefit of the Shoshone-Paiute Tribes to the Use of Water in the Snake River Basin within Idaho</i> , dated December 12, 2006.	300
<i>Consent Decree Approving Entry of Partial Final Decrees Determining the Rights of the United States as Trustee for the Benefit of the Nez Perce Tribe and the Nez Perce Tribe to the Use of Water in the Snake River Basin within Idaho and Partial Final Decrees Determining Minimum Stream Flow Water Rights Held by the Idaho Water Resources Board</i> , dated January 30, 2007.	669
<i>Snake River Water Rights Act of 2004, Pub. L. 108-447, Division J, Title X</i> (December 8, 2004).	2523
<i>Chapter 148, 2005 Idaho Sess. L. 461.</i>	2534
<i>Chapter 149, 2005 Idaho Sess. L. 462-465.</i>	2535
<i>Chapter 150, 2005 Idaho Sess. L. 465-466.</i>	2539
<i>Nez Perce Tribal Resolution No. 05-210</i> (March 29, 2005).	2541

<i>Water Rights Agreement Between the State of Idaho and the United States for the Craters of the Moon National Monument</i> (May 13, 1992); <i>Orders of Partial Decree</i> entered Dec. 1, 1998 (Subcase Nos. 34-12383, 34-12384, 34-12385, 34-12386, 34-12387, 34-12388, and 34-12389).	2545
<i>Water Rights Agreement Between the State of Idaho and the United States for the United States Department of Energy</i> (July 20, 1990); <i>Order of Partial Decree</i> entered <i>nunc pro tunc</i> June 20, 2003 (Subcase No. 34-10901).	2600
<i>Order Approving Stipulation and Entry of Basin 79 Partial Decrees</i> (Subcase No. 79-13597, Hells Canyon National Recreation Area Act Claims, Nov. 16, 2004).	2643
<i>Order Approving Entry of Basin 78 Partial Decrees</i> , dated May 2, 2005 (Consolidated Subcase No. 79-13597 Hells Canyon National Recreation Area Act Claims (Encompassing Subcases 79-14054 through 79-14079 and Subcases 78-12200 through 78-12205).	2753
<i>Amended Order Approving Stipulation and Entry of Partial Decrees</i> (Consolidated Subcase No. 75-13316 (Wild & Scenic Rivers Act Claims, Nov. 17, 2004).	2781
<i>Order of Partial Decree on Uncontested Federal Water Right Claims</i> , dated February 28, 2012 (Water Rights Agreement Between the State of Idaho and the United States for Yellowstone National Park).	2822

ATTACHMENT 5

LIST OF WATER RIGHT NUMBERS FOR FILED WATER RIGHT CLAIMS DECREED AS DISALLOWED consisting of 66 pages.

The disallowed water right numbers listed in Attachment 5 fall into two categories: (1) water right numbers where the actual claimed use of water was adjudicated to be disallowed; and (2) water right numbers where the water right was split subsequent to the filing of the director's report, with the claimed use of water being decreed under the water right numbers for the "children" rights, and the number for the "parent" right having been decreed disallowed for purposes of closing the subcase number in the court's register of action. Please consult the Idaho Department of Water Resources for further inquiry regarding any of the disallowed water right numbers listed in Attachment 5.

ATTACHMENT 6

LIST OF WATER RIGHT
NUMBERS FOR UNCLAIMED
WATER RIGHTS DECREED AS
DISALLOWED consisting of
24 pages.

ATTACHMENT 7

June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* consisting of 6 pages.

ATTACHMENT 8

INSTRUCTIONS ON
SEARCHING THE FINAL
UNIFIED DECREE consisting of
5 pages.

ATTACHMENT 9

*Order on State of Idaho's Motion for
Partial Summary Judgment on Issue
No. 2. Subcase No. 00-91013 (Basin-
Wide Issue 13) (July 12, 2011)*

ATTACHMENT 10

*Register of Actions, Twin Falls Case
No. 39576 (i.e., SRBA Main Case)*

Exhibit C

In the Supreme Court of the State of Idaho

IN THE MATTER OF THE APPOINTMENT OF)
THE SRBA DISTRICT COURT TO HEAR ALL)
PETITIONS FOR JUDICIAL REVIEW FROM THE)
DEPARTMENT OF WATER RESOURCES)
INVOLVING ADMINISTRATION OF WATER)
RIGHTS)

ADMINISTRATIVE ORDER

WHEREAS pursuant to I.C. § 42-1701A any person who is aggrieved by a final decision or order of the Director of the Department of Water Resources is entitled to judicial review, and

WHEREAS there is a need for consistency and uniformity in judicial decisions regarding the administration of water rights, and

WHEREAS the Idaho Supreme Court has a constitutional responsibility to administer and supervise the work of the district courts pursuant to Art. V, § 2 of the Idaho Constitution, and

WHEREAS the Snake River Basin Adjudication District Court of the Fifth Judicial District has particular expertise in the area of water right adjudication,

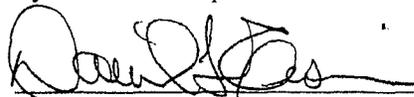
IT IS HEREBY ORDERED that all petitions for judicial review of any decision regarding the administration of water rights from the Department of Water Resources shall be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District. Review shall be held in accord with Title 67, Chapter 52 of the Idaho Code, except that, once filed, all petitions for judicial review shall be forwarded to the clerk of the Snake River Basin Adjudication District Court of the Fifth Judicial District.

IT IS FURTHER ORDERED that the Snake River Basin Adjudication District Court is authorized to develop the procedural rules necessary to implement this order.

IT IS FURTHER ORDERED that this order shall be effective the 1st day of July, 2010.

DATED this 9 day of December 2009.

By Order of the Supreme Court



Daniel T. Eismann, Chief Justice

ATTEST:

Stephen W. Kenyon
Stephen W. Kenyon, Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.

WITNESS my hand and the Seal of this Court 12/10/09

STEPHEN W. KENYON Clerk

By: Kimberly G. ... Deputy

Exhibit D

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS.**

RE: RULES OF PROCEDURE)
GOVERNING PETITIONS FOR)
JUDICIAL REVIEW OR ACTIONS)
FOR DELCARATORY JUDGMENT)
OF DECISIONS FROM THE IDAHO)
DEPARTMENT OF WATER)
RESOURCES)

ADMINISTRATIVE ORDER
ADOPTING PROCEDURES FOR
THE IMPLEMENTATION OF
THE IDAHO SUPREME COURT
ADMINISTRATIVE ORDER
DATED DECEMBER 9, 2009

JUL - 1 2010 Clerk	District Court - SREBA Fifth Judicial District In Re: Administrative Appeals County of Twin Falls - State of Idaho
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WHEREAS Idaho Supreme Court Administrative Order dated December 9, 2009, declares that all petitions for judicial review made pursuant to Idaho Code § 42-1701A of any decision from the Department of Water Resources be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District, and

WHEREAS Idaho Supreme Court Administrative Order dated December 9, 2009, vests in the Snake River Basin Adjudication District Court of the Fifth Judicial District the authority to adopt procedural rules necessary to implement said Order.

THEREFORE THE FOLLOWING ARE HEREBY ORDERED:

1. Filing of Petition for Judicial Review or Declaratory Judgment Action.

Pursuant to Idaho Code § 67-5272(1), any party filing a petition for judicial review pursuant to Idaho Code § 42-1701A, or an action for declaratory judgment, of any decision from the Department of Water Resources shall file the same, together with applicable filing fees, in the district court of the county in which:

- (a) the hearing was held; or
- (b) the final agency action was taken; or
- (c) the aggrieved party resides or operates its principal place of business in Idaho; or
- (d) the real property or personal property that was the subject of the agency decision is located.

The filing party shall also serve a courtesy copy of the petition for judicial review or action for declaratory judgment with the Snake River Basin Adjudication District Court of the Fifth Judicial District at P.O. Box 2707, Twin Falls, Idaho 83303-2707. Upon receipt by the Department of Water Resources of a petition for judicial review or action for declaratory

judgment, the Department shall review the certificate of mailing and in the event it does not show that a courtesy copy of the same was filed with the Snake River Basin Adjudication District Court, then the Department shall forthwith forward a copy of the petition or action for declaratory judgment to the Snake River Basin Adjudication District Court of the Fifth Judicial District at P.O. Box 2707, Twin Falls, Idaho 83303-2707.

2. Reassignment. Upon the filing of a petition for judicial review pursuant to Idaho Code § 42-1701A, or an action for declaratory judgment, of any decision from the Department of Water Resources, the clerk of the district court where the action is filed shall forthwith issue, file, and concurrently serve upon the Department of Water Resources and all other parties to the proceeding before the Department of Water Resources, an *Notice of Reassignment* (copy attached hereto), assigning the matter to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District for disposition and further proceedings.

Also upon issuance of the *Notice of Reassignment*, the clerk of the district court where the action is filed shall forward a copy of the file to the clerk of the Snake River Basin Adjudication District Court of the Fifth Judicial District at P.O. Box 2707, Twin Falls, Idaho 83303-2707.

3. Case Number. All cases assigned to the Snake River Basin Adjudication District Court of the Fifth Judicial District as described herein shall retain the case number and caption assigned to them by the district court where the petition for judicial review or action for declaratory judgment is originally filed.

4. Subsequent Filings. Following the issuance of the *Notice of Reassignment*, all further documents filed or otherwise submitted, and all further filing fees filed or otherwise submitted, shall be filed with the Snake River Basin Adjudication District Court of the Fifth Judicial District at P.O. Box 2707, Twin Falls, Idaho 83303-2707, provided that checks representing further filing fees shall be made payable to the county where the original petition for judicial review or action for declaratory judgment was filed.

5. Lodging of Transcript and Record. Following the preparation and settlement of the agency transcript and record, the Department of Water Resources shall transmit the settled transcript and record, in both paper and electronic form on CD ROM, to the clerk of the Snake River Basin Adjudication District Court of the Fifth Judicial District at P.O. Box 2707, Twin

Falls, Idaho 83303-2707 within forty-two (42) days of the service of the petition for judicial review or action for declaratory judgment.

6. Participation in Hearings by Telephone and Video Teleconferencing (VTC).

Unless otherwise ordered by the Snake River Basin Adjudication District Court of the Fifth Judicial District, telephone participation and/or VTC will be allowed in all hearings, except as follows:

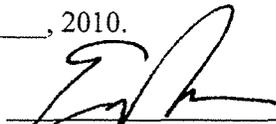
- (a) The court may require in person or VTC attendance as circumstances may require.
- (b) The court's notice setting hearing will specify participation restrictions, telephone conferencing numbers and participant codes and/or location of regional VTC facilities.
- (c) Speakerphones and cell phones often pick up background noise and/or cause interference with sensitive courtroom equipment. Therefore, the use of speakerphones and cell phones are discouraged.
- (d) Place your call to the court a few minutes prior to the scheduled start of your hearing so that the clerk of the court may identify who is participating by telephone.

7. Resolution. This court will notify the clerk of the district court where the petition for judicial review or action for declaratory judgment was originally filed of the completion of the case upon the happening of either:

- (a) the expiration of the time to appeal any decision of this court if no appeal to the Idaho Supreme Court is filed; or
- (b) the filing of the remittitur from the Idaho Supreme Court or Idaho Court of Appeals with this court in the event that an appeal to the Idaho Supreme Court is timely filed following a decision of this court.

8. Other Procedural Rules. Any procedure for judicial review not specified or covered by this Order shall be in accordance with Idaho Rule of Civil Procedure 84 to the extent the same is not contrary to this Order.

DATED this 1 day of July, 2010.



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF _____.

**RE: PETITIONS FOR JUDICIAL
REVIEW OR ACTIONS FOR
DECLARATORY RELIEF OF
DECISIONS FROM THE IDAHO
DEPARTMENT OF WATER
RESOURCES**

)
)
)
)
)
)
)

**CASE NO. _____
NOTICE OF REASSIGNMENT**

WHEREAS Idaho Supreme Court Administrative Order dated December 9, 2009, declares that all petitions for judicial review made pursuant to I.C. § 42-1701A of any decision from the Department of Water Resources be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District, and

WHEREAS Idaho Supreme Court Administrative Order dated December 9, 2009, vests in the Snake River Basin Adjudication District Court the authority to adopt procedural rules necessary to implement said Order, and

WHEREAS on July 1, 2010, the Snake River Basin Adjudication District Court issued an Administrative Order regarding the Rule of Procedure Governing Petitions for Judicial Review or Actions for Declaratory Relief of Decisions from the Idaho Department of Water Resources.

THEREFORE THE FOLLOWING ARE HEREBY ORDERED:

1. The above-matter is hereby assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District for disposition and further proceedings.
2. All further documents filed or otherwise submitted in this matter, and all further filing fees filed or otherwise submitted in this matter, shall be filed with the Snake River Basin Adjudication District Court of the Fifth Judicial District at P.O. Box 2707, Twin Falls, Idaho

83303-2707, provided that checks representing further filing fees shall be made payable to the county where the original petition for judicial review or action for declaratory judgment was filed.

DATED this ____ day of _____, 2010.

CLERK OF THE DISTRICT COURT

By: _____
Deputy Clerk

Exhibit E

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

D.L. EVANS BANK,

Plaintiff,

vs.

BALLENTYNE DITCH COMPANY,
LIMITED; THOMAS MECHAM RICKS,
GARY SPACKMAN, IN HIS OFFICIAL
CAPACITY AS THE DIRECTOR OF THE
IDAHO DEPARTMENT OF WATER
RESOURCES; AARON RICKS, DIRECTOR
OF BALLENTYNE DITCH COMPANY;
SHAUN BOWMAN, DIRECTOR OF
BALLENTYNE DITCH COMPANY; JOE
KING, DIRECTOR OF BALLENTYNE
DITCH COMPANY; STEVE SNEAD,
DIRECTOR OF BALLENTYNE DITCH
COMPANY

Defendants.

Case No. CV-OC-2013-17406

**ORDER GRANTING MOTION
FOR CHANGE IN VENUE AND
REASSIGNMENT OF CASE**

WHEREAS Idaho Supreme Court Administrative Order dated December 9, 2009,
declares that all petitions for judicial review made pursuant to I.C. § 42-1701A of any decision
from the Department of Water Resources be assigned to the presiding judge of the Snake River
Basin Adjudication District Court of the Fifth Judicial District, and

**ORDER GRANTING MOTION FOR CHANGE IN
VENUE AND REASSIGNMENT OF CASE - Page 1**

WHEREAS Idaho Supreme Court Administrative Order dated December 9, 2009, vests in the Snake River Basin Adjudication District Court the authority to adopt procedural rules necessary to implement said Order, and

WHEREAS on July 1, 2010, the Snake River Basin Adjudication District Court issued an Administrative Order regarding the Rule of Procedure Governing Petitions for Judicial Review or Actions for Declaratory Relief of Decisions from the Idaho Department of Water Resources.

THEREFORE THE FOLLOWING ARE HEREBY ORDERED:

1. The above-matter is hereby assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District for disposition and further proceedings.

2. All further documents filed or otherwise submitted in this matter, and all further filing fees filed or otherwise submitted in this matter, shall be filed with the Snake River Basin Adjudication District Court of the Fifth Judicial District at P.O. Box 2707, Twin Falls, Idaho 83303-2707, provided that checks representing further filing fees shall be made payable to the county where the original petition for judicial review or action for declaratory judgment was filed.

DATED this ____ day of September, 2014.

The Honorable Lynn G. Norton
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of September, 2014, I caused a true and correct copy of the foregoing document to be filed with the Court and served on the following parties by the indicated methods:

Original to:
Clerk of the Court
Ada County District Court
200 W. Front Street
Boise, Idaho 83702
Facsimile: (208) 287-6919

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

R.C. Stone
Jason R. Naess
Parsons, Smith, Stone, Loveland
& Shirley, LLP
137 West 13th Street
P.O. Box 910
Burley, Idaho 83318
Facsimile: (208) 878-0146
rcstone@pmt.org
jason@pmt.org

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

S. Bryce Farris
Sawtooth Law Offices, PLLC
1101 W. River Street, Ste. 100
Boise, Idaho 83707
Telephone: (208) 629-7447
Facsimile: (208) 629-7559
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- Overnight Mail
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- Facsimile
- Email

Deputy Clerk