

PARSONS, SMITH, STONE, LOVELAND & SHIRLEY, LLP
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BURLEY, IDAHO

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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,)	Case No. CV OC 1317406
)	
Plaintiff,)	
)	
vs.)	
)	
BALLENTYNE DITCH COMPANY,)	STATEMENT OF NO OBJECTION
LIMITED; THOMAS MECHAM RICKS;)	TO DEFENDANTS IDAHO
GARY SPACKMAN, IN HIS OFFICIAL)	DEPARTMENT OF WATER
CAPACITY AS DIRECTOR OF THE)	RESOURCE'S AND THOMAS
IDAHO DEPARTMENT OF WATER)	MECHAM RICKS' MOTIONS FOR
RESOURCES; IDAHO DEPARTMENT)	CHANGE OF VENUE
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.)	

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1 COMES NOW, D.L. Evans Bank ("D.L. Evans") by and through counsel, and
2 hereby files this Statement of No Objection to Defendants Idaho Department of Water
3 Resource's and Thomas Mecham Ricks' (collectively the "Defendants") Motions for Change
4 of Venue.
5

6 The Defendants move the court to change venue pursuant to Idaho Rule of
7 Civil Procedure 40(e), asserting Twin Falls County, not Ada County, is the proper venue for
8 this case. In doing so, the Defendants rely upon the language of the August 25, 2014, Final
9 Unified Decree issued by the SRBA Court, by which the District Court in Twin Falls County
10 retained jurisdiction to resolve any issues related to the Final Unified Decree that are not
11 reviewable under the Idaho Administrative Procedures Act or the rules of the Idaho
12 Department of Water Resources ("IDWR"). Because the present litigation can be construed
13 as related to the Final Unified Decree, D.L. Evans does not object to a change of venue to the
14 Twin Falls County SRBA Court.
15

16 At the same time, D.L. Evans does not concede that the SRBA Court is the
17 proper venue because, as the Defendants argue, D.L. Evans' action is one seeking judicial
18 review and declaratory judgment of a final agency decision by the IDWR. D.L. Evans is not
19 challenging the IDWR's June 27, 2013, Order. That Order narrowly addressed the issue of
20 water delivery under Idaho Code § 42-907, and determined IDWR lacked jurisdiction to
21 answer the question of whether the Ballentyne Ditch Company was required to deliver water
22 to D.L. Evans under that statute. IDWR did not decide the question, but, rather, indicated
23 D.L. Evans should seek relief in District Court.
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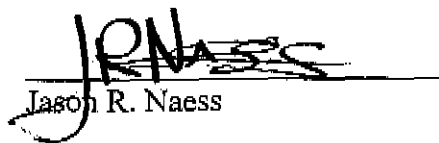
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CONCLUSION

Because D.L. Evans' Amended Complaint seeks relief that is conceivably related to issues decided in the Final Unified Decree, and, because the SRBA Court, in issuing the August 25, 2014, Final Unified Decree, retained jurisdiction over such matters, D.L. Evans does not object to the requested change in venue.

DATED this 11th day of September, 2014.

PARSONS, SMITH, STONE,
LOVELAND & SHIRLEY, LLP


Jason R. Naess

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of September, 2014, I caused a true and correct copy of the Statement of No Objection to Defendants Idaho Department of Water Resource's and Thomas Mecham Ricks' Motions for Change of Venue to be served upon the following person(s) in the following manner:

S. Bryce Farris	<u> x </u>	U.S. Mail
SAWTOOTH LAW OFFICE, PLLC	<u> </u>	Via Facsimile
P.O. Box 7985	<u> </u>	Via Overnight Carrier
Boise, ID 83707	<u> </u>	Via Hand Delivery
Chris Bromley	<u> x </u>	U.S. Mail
McHugh Bromley, PLLC	<u> </u>	Via Facsimile
380 S 4 th St, Ste 103	<u> </u>	Via Overnight Carrier
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John Homan	<u> x </u>	U.S. Mail
Idaho Department of Water Resources	<u> </u>	Via Facsimile
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Boise, ID 83720	<u> </u>	Via Hand Delivery

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