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DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls-State of Idaho

AUG 20 2025

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: THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

BRIAN CARPENTER AND THERESA
CARPENTER

Plaintiffs,

v.

ROCKIE WALKER AND LEANNE
WALKER, husband and wife,
Defendants.

IN RE: SRBA Case No. 39576

RESPONSE TO WALKERS' MOTION TO
DISMISS CARPENTERS' MOTION TO
FILE A CLAIM OF FRAUD AND
REQUEST RELIEF AND MOTION TO
REMOVE DEFENDANTS' WATER
RIGHTS

COME NOW, Brian Carpenter and Theresa Carpenter, self-represented Plaintiffs, and respond to Defendants Rockie and Leanne Walker's Motion to Dismiss (filed August 15, 2025) seeking dismissal of Plaintiffs' Motion to File a Claim of Fraud and Request Relief (filed June 6, 2025) and Motion to Remove Defendants' Water Rights (filed June 16, 2025) in SRBA Case No. 39576. This response rebuts Walkers' claims of duplicative litigation, time-bar, lack of jurisdiction, meritlessness, and attorney fees under Idaho Code § 12-121. Referenced exhibits (D,

RESPONSE TO WALKERS' MOTION TO DISMISS CARPENTERS' MOTION TO FILE A CLAIM OF FRAUD AND REQUEST
RELIEF AND MOTION TO REMOVE DEFENDANTS' WATER RIGHTS

E2, D1-D7, A1-A3, B1-B4, C, F1-F3, J-J2, L1-L3), filed June 6, 2025, with Supplemental Affidavit #2, authenticate claims of fraud, statutory violations, and public health harm. The motion should be denied.

I. I.R.C.P. 12(b)(8) Inapplicable as SRBA and Lemhi Claims Are Distinct

The Walkers' claim for dismissal under I.R.C.P. 12(b)(8) (another action pending) is meritless. SRBA adjudicates water right elements (Idaho Code § 42-1411), distinct from Lemhi County's ditch and easement disputes (CV30-23-0114). Fraud in Walker's 2011 application for water right 74-733H, falsely stating "none" for other water rights despite historic ditches serving four holders including Plaintiffs' 74-733G (Exhibit E2, filed June 6, 2025), undermines the Final Unified Decree's validity. This is within SRBA's jurisdiction to correct (*City of Blackfoot v. Spackman*, 162 Idaho 302, 306, 396 P.3d 1184 (2017)). CV30-23-0114 addresses conveyance, not adjudication—dismissal would deny SRBA's role in fraud claims.

II. Fraud Motion Is Timely Under I.R.C.P. 60(b)(3) for Fraud Upon the Court

The Walkers' claim that the fraud motion is time-barred (6 months post-August 25, 2014 decree, I.R.C.P. 60(c)(1)) ignores fraud upon the court, which has no time limit (*Compton v. Compton*, 101 Idaho 328, 335, 612 P.2d 1175 (1980)). Walker's false statement concealing historic 1946, highway, and lower pasture ditches (Exhibit E2) misled the SRBA Court, warranting relief under I.R.C.P. 60(b)(3).

III. SRBA Has Jurisdiction Over Fraud and Water Right Violations

The SRBA Court has authority to address fraud in water right applications and enforce Idaho Code §§ 42-1207 (unauthorized ditch construction) and 42-1102 (encumbrances), as the illegal Southwest Ditch (post-2004 construction without permission, Exhibits F1-F3, J-J2, D, filed June 6, 2025) and E. coli contamination (Exhibits D1-D7, filed June 6, 2025) impact water right 74-733H's validity. Revocation is within SRBA's purview (Idaho Code § 42-1412; *Zingiber Inv., LLC v. Hagerman Highway Dist.*, 150 Idaho 675, 680, 249 P.3d 868 (2011)).

IV. Claims Are Factually and Legally Meritorious

The Walkers' assertion of no merit is refuted by evidence:

- 1) **Fraud:** Exhibit E2 (2008 sewer documentation) proves Walker concealed historic ditches, violating Idaho Code § 18-5401 (perjury) and § 18-2403 (felony fraud).
- 2) **Illegal Ditch:** Exhibit D (DEQ email) confirms Southwest Ditch illegality under §§ 42-1207/42-1102, encumbering 74-733G (Exhibits L1-L3).
- 3) **Health Harm:** Exhibits D1-D7 (E. coli tests, July 9, 2024–June 11, 2025) link contamination to Walker’s actions, causing \$1,500,000 in damages within \$2,731,385 (Exhibits Q1-Q4, filed June 6, 2025).
- 4) **Conspiracy:** Walker and McIntosh’s actions (Exhibit H, sewer permit; Exhibit Z2, McIntosh’s false denial of E. coli) constitute conspiracy (McPheters v. Maile, 138 Idaho 391, 64 P.3d 317 (2003)). Exhibits A1-A3 (USGS photos), B1-B4 (historical photos), C (Painter drawing), F1-F3, J-J2 (filed June 6, 2025) corroborate ditch history.

V. No Basis for Attorney Fees Under Idaho Code § 12-121

Plaintiffs’ motions are grounded in evidence (Exhibits D, E2, D1-D7, A1-A3, B1-B4, C, F1-F3, J-J2, L1-L3) and law (§§ 42-1207/42-1102, I.R.C.P. 60(b)(3)), not frivolous. The Walkers’ collateral attack claim fails, as SRBA’s jurisdiction is distinct. Deny fees (Idaho Code § 12-123). Relief Requested: Deny the Walkers’ dismissal motion, proceed to the September 16, 2025 hearing on fraud and water rights claims, and award costs.

VERIFICATION

We declare under penalty of perjury pursuant to Idaho Code § 9-1406 that the foregoing is true and correct. Referenced Exhibits D, E2, D1-D7, A1-A3, B1-B4, C, F1-F3, J-J2, L1-L3 (filed June 6, 2025, Supplemental Affidavit #2, SRBA Case No. 39576) and Exhibit Z2 (attached if not filed) are true and correct copies, authenticated as follows: D (DEQ email, I.R.E. 902(8)); E2, F1-F3, J-J2 (East Idaho Health/Goodman records, I.R.E. 901(b)(1)); D1-D7 (Teton Microbiology/Steele Memorial, I.R.E. 902(10)); A1-A3, B1-B4, C (self-authenticating/photos, I.R.E. 902(11)); L1-L3 (IDWR certified, I.R.E. 902(4)); Z2 (court record, I.R.E. 902(4)).

DATED: August 18, 2025.

Respectfully Submitted,



Brian Carpenter Pro Se and Theresa Carpenter



Theresa Carpenter

LIST OF EXHIBITS

- 1) **Referenced Exhibits (Filed June 6, 2025, Supplemental Affidavit #2, SRBA Case No. 39576):**
 - a) **Exhibit D:** DEQ Email Confirming Illegal Southwest Ditch.
 - b) **Exhibit E2:** 2008 Sewer Documentation.
 - c) **Exhibits D1-D7:** E. coli Test Results, July 9, 2024–June 11, 2025.
 - d) **Exhibits A1-A3:** USGS Photos, 1946/1953/1994.
 - e) **Exhibits B1-B4:** Historical Photos.1994 USGS
 - f) **Exhibit C:** Painter Drawing (previous owner) 2005-2017
 - g) **Exhibits F1-F3:** 2004 Goodman Photos from Lemhi Building Dept.
 - h) **Exhibits J-J2:** 2006 Sewer Inspection Photos from EIHD.
 - i) **Exhibits L1-L3:** Water Rights Documentation Deeds.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing document to be served upon the following persons as set forth below.

DATED this 18th day of August 2025.

Theresa Carpenter



Brian Carpenter



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