

Brian Carpenter and Theresa Carpenter

559 Highway 28

Salmon, Idaho 83404

Telephone: (208) 580-8380

Self-Represented for Plaintiff/Defendants Carpenter

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

AUG 20 2025

By

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

Plaintiff,

v.

ROCKIE WALKER AND LEANNE
WALKER, husband and wife, AND
JOSHUA A. MCINTOSH

Defendants

IN RE: SRBA Case No. 39576

RESPONSE TO MCINTOSH'S MOTION
TO DEEM CARPENTERS IN VIOLATION
OF I.R.C.P. 11

COME NOW, Brian Carpenter and Theresa Carpenter, self-represented Plaintiffs, and respond to Defendant Joshua A. McIntosh's Motion to Deem Carpenters in Violation of I.R.C.P. 11 (filed August 12, 2025), which seeks sanctions, striking of pleadings, and attorney fees under Idaho Code § 12-121 for alleged violations of I.R.C.P. 11(b) in Plaintiffs' Motion to File a Claim of Fraud and Request Relief (filed June 6, 2025) and Motion to Remove Defendants' Water Rights

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

(filed June 16, 2025). This response demonstrates that Plaintiffs' motions are factually and legally meritorious, not presented for improper purposes, and comply with I.R.C.P. 11(b). Attached exhibits (D, E2, D1-D7, F1-F3, J-J2, L1-L3), previously filed with Supplemental Affidavit #2 (June 6, 2025), authenticate claims of fraud, statutory violations, and public health harm. The motion should be denied.

I. Motions Comply with I.R.C.P. 11(b) as They Are Factually and Legally Grounded

McIntosh's claim that Plaintiffs' motions are frivolous, harassing, or legally unsupported under I.R.C.P. 11(b)(1) and (b)(2) is baseless. The motions seek relief from fraud in the adjudication of water right 74-733H and related violations, supported by:

- 1) **Evidence:** Exhibit E2 (2008 sewer documentation, filed June 6, 2025) proves Walkers concealed historic ditches (1946, highway, lower pasture) in their 2011 SRBA application, constituting fraud upon the court (I.R.C.P. 60(b)(3)). Exhibit D (DEQ email, filed June 6, 2025) confirms the Southwest Ditch's illegality under Idaho Code §§ 42-1207 (unauthorized construction) and 42-1102 (encumbrances on Plaintiffs' 74-733G, Exhibits L1-L3). Exhibits D1-D7 (E. coli tests, July 9, 2024–June 11, 2025) link contamination to the illegal ditch, causing \$1,500,000 in damages (Exhibits Q1-Q4). Exhibits F1-F3 (2004 Goodman photos) and J-J2 (2006 sewer photos) corroborate ditch history.
- 2) **Legal Basis:** Idaho Code § 42-1412 authorizes SRBA to amend decrees for fraud (City of Blackfoot v. Spackman, 162 Idaho 302, 306, 396 P.3d 1184 (2017)). I.R.C.P. 60(b)(3) allows relief for fraud upon the court, with no time limit (Compton v. Compton, 101 Idaho 328, 335, 612 P.2d 1175 (1980)). Idaho Code §§ 42-1207 and 42-1102 protect water rights from unauthorized interference, relevant to McIntosh's sewer permit violations (Exhibit H). Plaintiffs' motions aim to correct the Final Unified Decree (August 25, 2014), not harass or delay, and are warranted by existing law, not frivolous (In re Cook, 481 P.3d 107, 113 (Idaho 2021) (sanctions require clear abuse)).

II. McIntosh's Cited Statutes Are Mischaracterized but Irrelevant to I.R.C.P. 11

McIntosh's critique of statutory citations (Motion, pp. 4-8) misrepresents Plaintiffs' arguments:

- 1) **Idaho Code § 42-1405, § 42-1412:** While § 42-1405 initiates adjudications, § 42-1412 governs objections and amendments for fraud, directly supporting Plaintiffs' motions. McIntosh's claim of irrelevance ignores SRBA's authority to correct decrees (Spackman).
- 2) **Idaho Code §§ 42-1207, 42-1102:** These protect ditch access and water rights, violated by the Southwest Ditch (Exhibit D) and Walker's actions (Exhibit E2), impacting 74-733H's validity.
- 3) **Criminal Statutes (§§ 18-5501, etc.):** Plaintiffs seek referral to authorities for investigation (e.g., E. coli under § 18-5501, perjury under § 18-5401), within SRBA's discretion to address fraud's broader impacts (McPheters v. Maile, 138 Idaho 391, 64 P.3d 317 (2003)).
- 4) **Berg v. Kendall:** Though cited for 60(b)(1)/(6), it supports due process violations (147 Idaho 571, 212 P.3d 1001 (2009)), relevant to fraud's impact on judicial integrity.
- 5) **Thiel v. Goyings Mis-citation:** The erroneous citation (166 Idaho 790) was intended for Doe v. Doe, 166 Idaho 788, 464 P.3d 1 (Ct. App. 2020), corrected herein, but does not negate fraud claims supported by Compton.

These citations, even if partially imprecise, are nonfrivolous arguments for extending law to address fraud and health risks, not sanctionable under I.R.C.P. 11(b)(2).

III. No Improper Purpose Under I.R.C.P. 11(b)(1)

McIntosh's claim of harassment or cost increase is unsupported. Plaintiffs' motions address fraud in the 2011 application (Exhibit E2) and resulting harms (E. coli, Exhibits D1-D7; \$2,731,385 damages, Exhibits Q1-Q4), distinct from Lemhi's ditch disputes (CV30-23-0114). Filing in SRBA is not a "second bite" but a proper challenge to the Final Unified Decree, necessitated by new evidence post-April 2025 (Exhibits D1-D7). No evidence shows intent to harass or delay (In re Cook). IV. McIntosh's Jurisdictional Claims Are Baseless

McIntosh's I.R.C.P. 12(b)(6) and 12(b)(1) arguments fail. SRBA has jurisdiction over fraud in water right adjudications (Idaho Code § 42-1412; Spackman). McIntosh's 2021 property purchase does not negate his conspiracy with Walker to conceal ditch violations (Exhibit H, sewer permit; Exhibit Z, setback violations), impacting 74-733E.

V. No Basis for Striking Pleadings or Attorney Fees

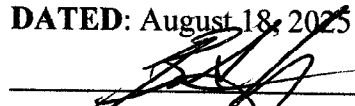
Striking pleadings is unwarranted, as motions are factually supported (Exhibits D, E2, D1-D7,

F1-F3, J-J2, L1-L3) and legally grounded (§§ 42-1207/42-1102, I.R.C.P. 60(b)(3)). Attorney fees under § 12-121 require frivolous actions, not met here due to substantial evidence and law (Idaho Code § 12-123). Relief Requested: Deny McIntosh's motion, proceed to September 16, 2025 hearing, and award costs.

VERIFICATION

We declare under penalty of perjury pursuant to Idaho Code § 9-1406 that the foregoing is true and correct. Exhibits D, E2, D1-D7, F1-F3, J-J2, and L1-L3, attached and previously filed with Supplemental Affidavit #2 (June 6, 2025), are true and correct copies, authenticated as follows: D (official 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 reports, I.R.E. 902(10)); L1-L3 (IDWR certified, I.R.E. 902(4)).

DATED: August 18, 2025



Brian Carpenter Pro Se and Theresa Carpenter Pro Se

LIST OF EXHIBITS

- 1) Exhibit D: DEQ Email Confirming Illegal Southwest Ditch (filed June 6, 2025, Supplemental Affidavit #2).
- 2) Exhibits D1-D7: E. coli Test Results, July 9, 2024–June 11, 2025 (filed June 6, 2025, Supplemental Affidavit #2).
- 3) Exhibit E2: 2008 Sewer Documentation (filed June 6, 2025, Supplemental Affidavit #2).
- 4) Exhibits F1-F3: 2004 Goodman Photos (filed June 6, 2025, Supplemental Affidavit #2).
- 5) Exhibits J-J2: 2006 Sewer Inspection Photos (filed June 6, 2025, Supplemental Affidavit #2).
- 6) Exhibits L1-L3: Water Rights Documentation (filed June 6, 2025, Supplemental Affidavit #2).

CERTIFICATE OF SERVICE

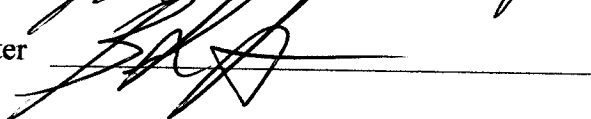
I hereby certify that I caused a true and correct copy of the foregoing document to be served upon the following persons as set forth below.

DATED this 18th day of August 2025.

Theresa Carpenter



Brian Carpenter



Thomas J. Budge, Esq. RACINE OLSON,
Elisheva M. Patterson
201 E. Center St. P.O. Box 1391
Pocatello, Idaho 83204
tj@racineolson.com
elisheva@racineolson.com

☒ E Mail
☐ Fax
☐ Hand Delivery
☐ E-file

M. Anthony Sasser, Esq.
Sasser Law Office
110 S. 8th Ave.
Pocatello, ID 83201
sasserlawoffice@gmail.com

☒ E Mail
☐ Fax
☐ Hand Delivery
☐ E-file

Steven L. Taggart
Olsen Taggart, PLLC
PO Box 3005
Idaho Falls, ID 83403
staggart@olsentaggart.com

☒ E Mail
☐ Fax
☐ Hand Delivery
☐ E-file