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

JUN 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

Plaintiff,

v.

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

Defendants

IN RE: SRBA Case No. 39576

MOTION TO REMOVE DEFENDANTS'
WATER RIGHTS, BURY ILLEGAL
SOUTHWEST DITCH, REINSTATE
HISTORIC WATER DELIVERY, ENJOIN
CITATION, REFER CRIMINAL
VIOLATIONS, AND REFER FINDINGS TO
LEMHI COUNTY CIVIL COURT

MOTION TO REMOVE DEFENDANTS' WATER RIGHTS, BURY ILLEGAL SOUTHWEST DITCH, REINSTATE HISTORIC WATER
DELIVERY, ENJOIN CITATION, REFER CRIMINAL VIOLATIONS, AND REFER FINDINGS TO LEMHI COUNTY CIVIL COURT

COMES NOW, Brian Carpenter and Theresa Carpenter, self-represented, and move under Idaho Code §§ 42-222, 42-1412, 42-1207, and Idaho Rules of Civil Procedure 60(b)(3) to:

- Jurisdiction: The SRBA court has exclusive authority to adjudicate water rights and resolve ditch disputes affecting water delivery (I.C. § 42-1405, I.C. § 42-1412). By proving fraud and violations, the SRBA can revoke Walkers' and McIntosh's water rights (I.C. § 42-222), order the Southwest ditch buried as a trespass (I.C. § 6-202), and reinstate historic delivery via the Carpenter 1946 encumbered ditch, the Carpenter Highway encumbered ditch, and the Carpenter Lower Pasture encumbered ditch.
- Remove Defendants' water rights (74-733H, 74-733E) for fraud, perjury, and violations of Idaho water laws, 42-1207, and 42-1102.
- Grant permission to bury the illegal Southwest ditch on Carpenter property as it is not historic, did not exist prior to 2004, installed without written permission, violates DEQ setbacks, and is causing E-coli poisoning. Carpenters' well is 53 feet from the wastewater ditch, which would make the well compliant if the illegal ditch is buried.
- Reinstate three historic water delivery ditches to our 5.01-acre pasture, restoring our 1893 water right (74-733G). Carpenters' are successors to Elmer Peters' 12.4 acres, Basin 74.
- Enjoin or dismiss our Idaho Code § 18-4310 citation (issued June 6, 2025) pending resolution of our Rule 60(b)(3) motion in Lemhi County or this SRBA motion.
- Refer Defendants' criminal violations, including Idaho Code §§ 18-5501, 18-7001, 18-4310, 41-293, 18-6710, and 18-7008, to the Twin Falls County Prosecutor and Idaho Department of Environmental Quality (DEQ) for investigation and potential prosecution.
- Refer the SRBA court's findings of fraud, ditch violations, and environmental harm to the Lemhi County civil court (Case No. CV30-23-0114) for consideration in our tort claims, noting that these findings will be submitted as evidence in Lemhi to compel damages and attorney fees due to Lemhi's lack of water rights expertise.
- Avoid declaratory damages to preserve the integrity of our Rule 60(b)(3) motion in Lemhi County, which is not intended for open debate or oral argument due to overwhelming evidence of Defendants' fraud and misconduct.

This motion is supported by Supplemental Affidavit #2 and exhibits (A-K), aligns with our Rule 60(b)(3) motion in Lemhi County Case No. CV30-23-0114 per Berg v. Kendall, 147 Idaho 571, 212

P.3d 1001 (2009), and is designed to be irrefutable in Plaintiffs' favor by leveraging unassailable evidence and legal authority.

GROUND

- SRBA Jurisdiction: The SRBA court has exclusive authority over water rights in the Snake River Basin, including Lemhi County (Basin 74), under Idaho Code § 42-1401A, to adjudicate, modify, or revoke rights for fraud, violations, or abandonment. This encompasses revoking Defendants' water rights (74-733H, 74-733E), granting permission to bury the illegal Southwest ditch, and reinstating historic water delivery to our 5.01-acre pasture, protecting our senior 1893 water right (74-733G) (Idaho Code § 42-1401A; Idaho Department of Water Resources SRBA).
- Unlawful Citation (June 6, 2025):
 - On June 6, 2025, we were cited under Idaho Code § 18-4310 for alleged neglect to deliver water to Defendants. This citation is unenforceable, as our inability to deliver water stems from Defendants' unauthorized actions, not our willful neglect Idaho Code § 18-4310.
 - Walker buried the (1978 encumbered) highway ditch (1994), Painter's drawing (1978 encumbered) ditch (2006), and the (1978 encumbered) 1946 ditch (2008), which historically served Carpenters' 1893 water right, without written recorded permission, violating Idaho Code § 42-1207(3)(a), (5)(a) (Exhibits A1-A3, A1B, A1C, B1-B4, C).
 - Defendants fabricated the Southwest ditch post-2022, falsely claiming it as the "main ditch," without written recorded permission, violating Idaho Code § 42-1207(3)(a), (5)(a) and § 42-1102 (Exhibits A1-A3, A1B, A1C, B2-B4, C, F-F1). The ditch, illegally installed, abandoned over 5 years multiple times, and never a main irrigation source, functions as a waste ditch for flood protection on Carpenter property, diverting historic river returns and causing E-coli contamination 4 feet from Carpenters well (Exhibit D, D1-D7, latest test, June 11, 2025, Steele Memorial test), violating IDAPA 37.03.09.040(d) (100-foot well setback) and IDAPA 58.01.03.017 (50-100 foot sewer setbacks).
 - The citation constitutes harassment (Idaho Code § 18-6710) and criminal trespass (Idaho Code § 18-7008), as the Southwest ditch is illegal under Idaho Code § 42-1207 and DEQ regulations, not a historic irrigation source, as proven by 1994 USGS photos (Exhibit B2-

B4) and 2004 Goodman photo (Exhibit F-F1) (Idaho Code § 18-6710, Idaho Code § 18-7008).

- **Fraud and Perjury:**
 - **Walker's 2019 SRBA Application:** In 2019, Walker filed a false SRBA application (Exhibit E1-E2), claiming "none" for other water rights, deliberately concealing our senior 1893 right (74-733G). This constitutes perjury under Idaho Code § 18-5401 and felony fraud, disenfranchising our water right to facilitate an illegal sewer system in a flood zone, violating Idaho Code § 18-7001 (malicious injury to property) (Exhibits E1-E2; Idaho Code § 18-5401, Idaho Code § 18-7001).
 - **Walker's 1987 Sewer Application:** Walker's 1987 sewer application (Exhibit E2) omitted the so called "main southwest ditch", the 1946 ditch, highway ditch, and our lower pasture ditch, which served our pasture, evidencing fraud to conceal an illegal sewer system in a flood zone, violating Idaho Code § 18-7001 (Exhibit E2) and DEQ 58.0103.17.
 - **Walker's Fraudulent Insurance Claim:** Walker filed a fraudulent insurance claim with Farm Bureau after conspiring with McIntosh to build an illegal berm and disenfranchise the Carpenters water right, with property damage, misrepresenting property compliance to secure benefits from Farm Bureau, violating Idaho Code § 41-293. This claim reinforces Walker's pattern of fraud, aligning with his false SRBA and sewer applications to conceal illegal activities and disenfranchise our water right, while saving McIntosh money on a below the ground sewer scheme. (Exhibits E, E1,E2; Idaho Code § 41-293).
 - **McIntosh's Fraudulent Actions:** After purchasing the property in 2021, McIntosh perpetuated Walker's fraud by concealing Walkers' illegally buried ditches an obtaining an illegal below-ground sewer permit in a flood zone (Exhibit H), using Walker's unadjudicated judgment to mislead the Idaho Transportation Department for illegal access, Lemhi County Health and Building Departments, despite separate cases for substantive purposes, violating Idaho Code § 18-7001 (Exhibit H, H1- H3). A calculated gamble to avoid a 50k above the ground sewer cost for a 1000 SQ/ft. house.
 - **Witness Perjury and Collusion:** A witness, Painter aligned with Walker, perjured themselves by claiming the Southwest ditch was the main irrigation source, contradicted by 1946 photo, (Exhibit A2-A3, A1B, A1C), 1994 USGS photos (Exhibit B2-B4) and

2004 Goodman photo (Exhibit F-F1), which confirm no such ditch existed pre-2004. The witness and Walker met before the deposition but failed to align their stories, indicating collusion and Perjury. (Exhibits B2-B4, F-F1).

- Ditch Violations:

- Unauthorized Burial of Historic Ditches: Between 1994 and 2008, Walker buried three ditches serving our 1893 water right without our written permission, violating Idaho Code § 42-1207(3)(a), (5)(a):
 - Highway Ditch (1987): Buried, as shown in 1994 USGS photos (Exhibit B2-B4).
 - Painter's Drawing Ditch (2006): Buried, as depicted in Painter's drawing (Exhibit C, prior owner 2005-2017).
 - 1946 Ditch (2008): Buried, as shown in historical photos, hand drawn maps and testimony by witness Bockleman said the ditch existed until 2008 after his 13 year tenure. (Exhibits A2-A3, A1B, A1C, B1, B2, B3, B4). These actions disrupted water delivery to our pasture, causing our unlawful Idaho Code § 18-4310 citation (Exhibits A1-A3, A1B, A1C, B1-B4, C).
- Fabrication of the Southwest Ditch: Post-2022, Defendants fabricated the Southwest ditch, falsely claiming it as the "main ditch," without prior recorded written permission, violating Idaho Code § 42-1207(3)(a), (5)(a) and § 42-1102 (Exhibits A1-A3, A1B, A1C, B2-B4, C, F-F1). The ditch:
 - Was illegally installed in or about 2006, abandoned multiple 5 year periods, and never functioned as a main irrigation source, serving as a waste ditch for flood protection to the new homes foundation, which could crack from excessive moisture.
 - Is proven non-historic by the 2004 Goodman photo (Exhibit F-F1) and 1994 USGS photos (Exhibit B2-B4), which show a different ditch 120 feet north, also USGS photos from, (1946 USGS photo A2, A3).
 - Diverts flows from historic river returns with E-coli infested water.
 - The illegal ditch on Carpenter property is too small for required irrigation, (12 inches wide x 6 inches deep), volume, breaching Idaho Code § 42-1102 (Exhibits A1-A3, C), as the foot print cannot be increased, or the historic river returns cannot be blocked. It is even questionable that the river returns are historic

another violation of 42-1207 which are not shown in any photos before or after the encumbrances.

- Causes E. coli contamination, 4 feet from our well, violating IDAPA 37.03.09.040(d) and IDAPA 58.01.03.017 (Exhibit D).
- The three buried ditches on Walkers' property were to conceal Walker's buried ditches and illegal sewer system (Exhibits B2-B4, F-F1) and disenfranchise the Carpenters of irrigation as water does not run uphill..

- I.C. § 42-1207 in Detail

Section	Key Requirement	Violation by Walker/McIntosh
42-1207(3)(a)	Written permission from ditch owner/operator for relocation/piping, ensuring no interference.	Southwest ditch built without permission on Carpenter property, interfering with three buried ditches of historical water delivery.
42-1207(5)(a)	Written permission from servient estate owners for ditch relocation.	No permission obtained for Southwest ditch.
42-1207(4)	Unauthorized ditches must be removed/restored if interfering.	Southwest ditch interferes, requiring removal.

- Environmental and Criminal Violations:
 - E. coli Contamination: The Southwest ditch's proximity to our well and sewer causes ongoing E. coli contamination (Exhibit D1-D7, latest test, June 11, 2025), violating IDAPA 37.03.09.040(d), IDAPA 58.01.03.017, 58.01.11 (groundwater protection), and 58.01.17 (wastewater permits). This constitutes felony poisoning under Idaho Code § 18-5501, exacerbated by the Lemhi civil judge's failure to address the ditch's illegality, (IDAPA 37.03.09, IDAPA 58.01.03, IDAPA 58.01.11, IDAPA 58.01.17; Idaho Code § 18-5501).
 - McIntosh's Sewer Permit: McIntosh fraudulently obtained a below-ground sewer permit in a flood zone (Exhibit H), breaching IDAPA 58.01.17 by misrepresenting compliance, using Walker's unadjudicated judgment to deceive authorities, violating Idaho Code § 18-7001 (Exhibit H), possible insurance fraud, I.C. § 41-293, if McIntosh obtained

liability insurance under fraud or Farm Bureau filings show representation as interests were aligned. (Can be produced at Prosecutors' request, a large number of filings).

- Criminal Violations: Defendants' actions violate:
 - Idaho Code § 18-4310: Interference with water delivery, causing our citation.
 - Idaho Code § 18-7001: Malicious injury to our property through ditch and sewer fraud.
 - Idaho Code § 18-7008: Criminal trespass via the illegal Southwest ditch.
 - Idaho Code § 18-5501: Felony poisoning via E. coli contamination.
 - Idaho Code § 41-293: Insurance fraud by Walker's fraudulent Farm Bureau claim.
 - These warrant referral to the Twin Falls County Prosecutor and Idaho DEQ (Idaho Code § 18-4310, Idaho Code § 18-7001, Idaho Code § 18-7008, Idaho Code § 41-293).
- Abuse of Process:
 - Defendants and likely Farm Bureau instigated our Idaho Code § 18-4310 citation to pressure Carpenters', constituting abuse of process per *Badell v. Beeks*, 115 Idaho 101, 765 P.2d 126 (1988) and harassment under Idaho Code § 18-6710. This supports our Rule 60(b)(3) fraud claim (Exhibits G, H; Idaho Code § 18-6710, Idaho Supreme Court Civil Cases).
- Sheriff's Neglect:
 - The Lemhi County Sheriff, aware of violations (Idaho Code §§ 18-5501, 42-1207, 18-7001, 41-293, 18-6710, illegal berm), refused to investigate, breaching Idaho Code § 31-2202, supporting trespass (Idaho Code § 6-202) and harassment claims (Exhibit G; Idaho Code § 31-2202, Idaho Code § 6-202).
- No Final Judgment:
 - McIntosh lacks a final judgment in Lemhi County Case No. CV30-23-0114, as material facts (e.g., ditch fraud, sewer permit) remain disputed, supporting Rule 60(b)(3) relief.
 - Walker's purported judgment is unadjudicated, used by McIntosh fraudulently to mislead authorities (Exhibits H, I, J), warranting SRBA intervention under Idaho Code § 42-1412 Idaho Supreme Court Civil Cases.
- Procedural Misconduct:

- Since January 30, 2025, Defendants failed to serve us separately as husband and wife, despite our pro se status, violating Idaho Rules of Civil Procedure 4 and 5, prejudicing Carpenters' responses (Harrigfeld v. Hancock, 140 Idaho 134, 90 P.3d 884 (2004)) Idaho Rules of Civil Procedure.
- The Lemhi court dismissed fraud evidence (Exhibits A-J) before the February 4, 2025, hearing, an error supporting our Rule 60(b)(3) motion (Exhibits A-J).
- Coordination with Lemhi County Civil Court:
 - The Lemhi County civil court lacks water rights expertise, as shown by its dismissal of fraud evidence (Exhibits A-J) and failure to address the Southwest ditch's illegality. We request the SRBA court refer its findings of fraud, ditch violations, and environmental harm to Lemhi (Case No. CV30-23-0114) for consideration in our tort claims. These findings will be submitted as evidence in Lemhi to compel damages and fees, aligning with our Rule 60(b)(3) motion per Berg v. Kendall, 147 Idaho 571, 212 P.3d 1001 (2009), without declaratory damages from SRBA motion to preserve Rule 60(b) integrity Idaho Department of Water Resources SRBA.

RELIEF REQUESTED:

WHEREFORE, Plaintiffs respectfully request the SRBA court to grant the following relief:

- Remove Defendants' Water Rights: Revoke all water rights held by Defendants Rockie Walker, LeAnne Walker, and Joshua A. McIntosh (e.g., 74-733H, 74-733E) due to fraud, perjury, and violations of Idaho Code §§ 42-1207, 42-1102, and 42-222, as evidenced by false applications (Exhibits E1-E2, I), fraudulent insurance claim (Exhibit J), and fabricated ditch claims (Exhibits B2-B4, F-F1).
- Grant Permission to Bury Southwest Ditch: Authorize us to bury the illegal Southwest ditch under Idaho Code § 42-1207(4), as it is unauthorized, abandoned, not historic, and causes E. coli contamination (Exhibits D, B2-B4, F-F1).
- Reinstate Historic Water Delivery: Order reinstatement of historic water delivery to our 5.01-acre pasture via the highway ditch, Painter's drawing ditch, and 1946 ditch, restoring our 1893 right (74-733G) (Exhibits A1-A3, A1B, A1C, B1-B4, C).
- Enjoin or Dismiss Citation: Enjoin or dismiss our Idaho Code § 18-4310 citation (June 6, 2025) pending resolution of our Rule 60(b)(3) motion or this SRBA motion, as it results from

Defendants' fraud and constitutes harassment (Idaho Code § 18-6710) and trespass (Idaho Code § 18-7008) (Exhibits A-J).

- Refer Criminal Violations: Refer Defendants' violations (Idaho Code §§ 18-5501, 18-7001, 18-4310, 41-293, 18-6710, 18-7008) to the Twin Falls County Prosecutor and Idaho DEQ for investigation, given E. coli contamination, fraudulent permits, and Walker's insurance fraud (Exhibits D, H, I, J).
- Refer Findings to Lemhi County: Refer the SRBA court's findings to Lemhi County Case No. CV30-23-0114 for consideration in our tort claims. These findings will be submitted as evidence in Lemhi to compel damages and fees due to Lemhi's lack of water expertise (Exhibits A-J).
- No Declaratory Damages: Refrain from awarding declaratory damages to preserve our Rule 60(b)(3) motions' integrity, which is not for open debate due to overwhelming fraud (Exhibits A-J).
- Cease and Desist E-coli Contamination: Issue an immediate cease and desist order to halt E. coli contamination from the Southwest ditch, protecting our health under Idaho Code § 18-5501 and DEQ regulations (Exhibit D).
- Other Relief: Grant such other relief as the Court deems just, including remedies to protect our 1893 water right and restore pasture irrigation.

CONCLUSION

The SRBA court must act decisively to remove Defendants' water rights, bury the illegal Southwest ditch, reinstate historic water delivery, enjoin our unlawful citation, and refer violations, as the evidence of fraud, perjury, and misconduct is irrefutable. Referring findings to Lemhi County ensures coordination, compelling Lemhi to award damages and fees based on SRBA's expertise, protecting our 1893 water right and remedying Defendants' egregious actions.

DATED this 16th day of June, 2025.

Respectfully submitted,

Brian Carpenter

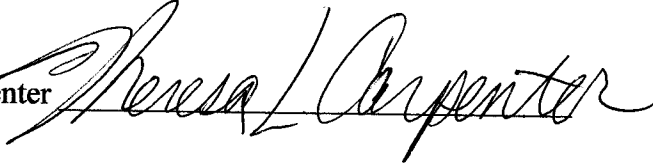
Theresa Carpenter

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 16th day of June 2025.

Theresa Carpenter



Brian Carpenter



Rocky Walker
569 Highway 28
Salmon, Idaho 83467

☒ Priority Mail
☐ Fax
☐ Hand Delivery

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