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MAR 29 2013
DEPARTMENT OF
WATER RESOURCES

Michael C. Creamer [ISB #4030]
Michael P. Lawrence [ISB #7288]
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com

Attorneys for D. Michael Preston and Shekinah Industries, Inc.

Norman M. Semanko [ISB #4761]
Attorney at Law
P.O. Box 538
Eagle, ID 83616
semanko@rmci.net

Attorney for Nevid LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES

FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 73811 (SHEKINAH INDUSTRIES); APPLICATION FOR TRANSFER NO. 73834 (ORCHARD RANCH); APPLICATION FOR PERMIT NO. 63-32499 (MAYFIELD TOWNSITE); APPLICATION FOR PERMIT NO. 61-12095 (NEVID-CORDER); APPLICATION FOR PERMIT NO. 61-12096 (NEVID); APPLICATION FOR PERMIT NO. 63-32703 (ORCHARD RANCH); APPLICATION FOR PERMIT NO. 61-12256 (INTERMOUNTAIN SEWER AND WATER); APPLICATION FOR PERMIT NO. 63-33344 (ARK PROPERTIES-MAYFIELD TOWNSITE)	**SHEKINAH'S AND NEVID'S STIPULATION TO DEFER THE SUBORDINATION ISSUE**

Shekinah Industries and D. Michael Preston (together "Shekinah"), and Nevid LLC ("Nevid"), through their respective attorneys, hereby stipulate and agree that the following issue need not be addressed in the above-captioned consolidated proceeding:

> Where a point of diversion is proposed to be transferred to a new location (as is proposed in Shekinah's transfer application), whether it is appropriate to subordinate the transferred right to rights with points of diversion already established near the new location.

This issue, and others that may be subsumed within or related to it, are purely legal questions raised only by Nevid in its protest of Shekinah's transfer application. This issue is not germane to this consolidated proceeding, the purpose of which is to "conduct[] a hearing regarding the limited issue of the sufficiency of the ground water supply." *Order Creating Contested Case and Consolidating Protested and Unprotested Applications* at 5 (Jan. 24, 2012).

Accordingly, Shekinah and Nevid stipulate and agree to defer addressing the issue described above, including any briefing and argument, to the individual contested case in Transfer 73811, and that neither party shall be prejudiced by failing to file a dispositive motion on the issue in this consolidated proceeding before the March 31, 2013 deadline set forth in the Director's April 13, 2012 *Prehearing Scheduling Order*.

DATED this 29th day of March, 2013.

GIVENS PURSLEY LLP

By _____
Michael C. Creamer
Attorneys for D. Michael Preston and Shekinah Industries, Inc.

NORMAN M. SEMANKO, Attorney at Law

By _____
Norman M. Semanko
Attorney for Nevid LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of March, 2013, the foregoing was filed, served, and copied as follows:

DOCUMENT FILED:

Gary Spackman, Interim Director Idaho Department of Water Resources 322 East Front Street P.O. Box 83720 Boise, ID 83720-0098	☐ ☒ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail

SERVICE COPIES TO:

Shekinah Industries, Inc. Attn: Michael Preston 420 Bitterroot Dr. Boise, ID 83709	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Brockway Engineering Attn: Erick Powell 2016 N. Washington St., Ste. 4 Twin Falls, ID 83301	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Nevid LLC and Elk Creek Ranch LLC Attn: Norman M. Semanko Attorney at Law P.O. Box 538 Eagle, ID 83616	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Orchard Ranch LLC P.O. Box 1260 Maricopa, AZ 85139	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Dana Quinney Scott Quinney 160 S. Pronghorn Boise, ID 83716	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail

Daniel S. Van Grouw c/o Hofstetter Law Office Attn: Dana Hofstetter 608 W. Franklin St. Boise, ID 83702	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Idaho Water Company Attn: Del Kohtz 1135 Valley Rd. S Eden, ID 83325	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Mayfield Townsite LLC c/o Bruce Smith, Attorney 950 W. Bannock St., Ste. 520 Boise, ID 83702	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Mary Frisch 155 S. Pronghorn Dr. Boise, ID 83716	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Wendy Tippetts 999 N. Slater Creek Mayfield, ID 83716	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Cleveland Corder LLC 2248 Vanocker St. Meridian, ID 83642	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
City of Mountain Home Attn: Wayne Shepherd Director of Public Works P.O. Box 10 Mountain Home, ID 83647	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail

Mayfield Townsite LLC P.O. Box 1359 Caldwell, ID 83606	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Norman M. Semanko Attorney at Law P.O. Box 538 Eagle, ID 83616	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Tonya D. Bolshaw P.O. Box 16022 Boise, ID 83715	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Nevid LLC 1349 Galleria Dr., Ste. 200 Henderson, NV 89014	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
City of Pocatello c/o Beeman & Associates Attn: Josephine Beeman 409 W. Jefferson St. Boise, ID 83702	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Intermountain Sewer & Water Corp. P.O. Box 344 Meridian, ID 83680	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Intermountain Sewer & Water Corp. P.O. Box 344 Meridian, ID 83680	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail

Lori Atkins 602 E. Mike's Pl. Boise, ID 83716	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Brown Farms LLC c/o Holzer Edwards & Harrison Attn: Clifford Brown, Esq. 1516 W. Hays St. Boise, ID 83702	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
G 3 LLC Attn: Craig Haynes 2136 E. Lewandowski Ln. Boise, ID 83716	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Moore Smith Buxton & Turcke Attn: Bruce Smith 950 W. Bannock, Ste. 520 Boise, ID 83702	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
SPF Water Engineering 300 E. Mallard Dr., Ste. 350 Boise, ID 83706	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Perkins Coie LLP Attn: Erika Malman P.O. Box 737 Boise, ID 83701-0737	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Spencer Hafen 886 W. Barrymore Dr. Meridian, ID 83642	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail

Idaho Power Company Attn: James C. Tucker or Nathan F. Gardiner 1221 W. Idaho St. Boise, ID 83702-5627	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Tim Conrads 75 S. Pronghorn Rd. Boise, ID 83716	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail
Darla Bateman 404 E. Indian Creek Rd. Boise, ID 83716	☒ ☐ ☐ ☐ ☐	U. S. Mail Hand Delivered Overnight Mail Facsimile E-mail

Michael C. Creamer