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IN THE THIRD JUDICIAL DISTRICT COURT,

SALT LAKE COUNTY, STATE OF UTAH

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IN THE MATTER OF THE GENERAL  
DETERMINATION OF RIGHTS TO THE  
USE OF WATER, BOTH SURFACE AND  
UNDERGROUND, WITHIN THE  
DRAINAGE AREA OF THE UTAH LAKE  
AND JORDAN RIVER IN UTAH, SALT  
LAKE, DAVIS, SUMMIT, WASATCH,  
SANPETE, AND JUAB COUNTIES IN  
UTAH

Utah County Division  
Spanish Fork Canyon Subdivision  
Strawberry Valley Project Return Flow

**MEMORANDUM IN SUPPORT OF  
JOINT MOTION TO CONFIRM AND  
DECREE PROPOSED  
DETERMINATION 51-1-1**

Civil No. 360057298 (51-1-1)

Judge Paul Parker

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Kent L. Jones, P.E., Utah State Engineer, Central Utah Water Conservancy District, Magna Water District and South Farm LLC, Provo River Water Users Association, Strawberry High Line Canal Company, Strawberry Water Users Association, and the United States Bureau of Reclamation (collectively “Parties before the Court”), jointly submit this Memorandum in

Support of the Joint Motion to Confirm and Decree Proposed Determination 51-1-1. The Motion seeks a decree confirming and decreeing the “Proposed Determination and Recommendation of the Rights to the Use of Return Flow from Water Imported From the Uinta Basin to Utah Valley By the Strawberry Valley Project, Utah County Division, Area No. 51, Book 51-1-1” (Proposed Determination).

**I. PARTIES BEFORE THE COURT AND COUNSEL**

The following are the Parties before the Court and their counsel:

Kent L. Jones, P.E., Utah State Engineer  
*Counsel:* L. Ward Wagstaff  
Norman K. Johnson  
Michael M. Quealy  
Emily E. Lewis  
Benjamin J. Jensen

Central Utah Water Conservancy District  
*Counsel:* Steven E. Clyde  
Edwin C. Barnes

Magna Water District and South Farm LLC  
*Counsel:* J. Craig Smith  
David B. Hartvigsen  
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Provo River Water Users Association  
*Counsel:* Christopher E. Bramhall  
Anthony W. Schofield  
Peter C. Schofield

Strawberry High Line Canal Company  
*Counsel:* John H. Mabey, Jr.  
David C. Wright

Strawberry Water Users Association

*Counsel:* Shawn E. Draney  
Keith A. Call  
Scott M. Martin  
D. Jason Hawkins

United States Bureau of Reclamation

*Counsel:* Thomas K Snodgrass, United States Department of Justice  
Daniel D. Price, Assistant U.S. Attorney  
Christopher Rich, U.S. Department of the Interior, Office of the Solicitor  
Susannah Thomas, U.S. Department of the Interior, Office of the Solicitor

Although the parties listed here are the only parties before the Court, other parties in the Utah Lake-Jordan River General Adjudication area are bound by these proceedings and this decree. Pursuant to the Court's order dated October 12, 2007, notice of the action was published in local newspapers, and approximately 10,000 water right claimants in the Utah Lake-Jordan River drainage area were served with direct notice by mail. Following that notice, 606 claimants filed Statements of Interest and received copies of the Proposed Determination. *See* Affidavits of Service, filed August 21, 2009. By order dated January 22, 2010, this Court ordered a notice to those claimants who filed Statements of Interest informing them that they would only receive copies of documents filed in the case if they entered an appearance before the Court. The Parties before the Court, listed here, are the only parties who notified the Court that they wished to participate actively in this action. Parties who did not enter an appearance were able to follow the proceedings by attending the court hearings or monitoring the case progress on the court website. In addition, key documents from the litigation, including this Motion, Memorandum in Support, and the proposed Interlocutory Decree, have been posted on the State Engineer's website. Therefore, the parties listed here are the only parties that chose to participate actively

in the litigation, but the other parties that received notice but chose not to participate actively will be bound by this Interlocutory Decree.<sup>1</sup>

## **II. BACKGROUND**

In 2001, the Strawberry Water Users Association (SWUA) and the Strawberry High Line Canal Company (SHLCC) initiated this case by filing joint petitions in the Utah Lake-Jordan River General Adjudication and in the Uinta Basin General Adjudication respectively. *Strawberry Water Users Ass'n v. Bureau of Reclamation*, 2006 UT 19, ¶ 3, 133 P.3d 410. In the petitions, SWUA and SHLCC raised several issues, including certain respective claims to the SVP imported return flow. *Id.* at ¶ 27. Both district courts dismissed the petitions, and SWUA and SHLCC appealed. *Id.* at ¶ 6.

In its decision, the Utah Supreme Court discussed how Utah law has addressed issues regarding in-basin return flow, *id.* at ¶ 50, but noted that the question of imported return flow “does not appear to have been squarely addressed by this court,” *id.* at ¶ 58. The Court’s remand included instructions to this Court to address the issue of imported return flow. *Id.*

On remand, this Court issued a minute entry dated October 12, 2007, directing the State Engineer to prepare a mailing list for specified categories of water right claimants in the Utah Lake - Jordan River drainage that might be affected by this action, and requiring SWUA and SHLCC to give notice of the pending action to those water right claimants. The Court also directed the State Engineer to prepare and distribute a Proposed Determination recommending

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<sup>1</sup> If another party were to seek to participate at this late stage of the case, it would be barred from contesting the Proposed Determination because it failed to file a timely objection. *See* Utah Code Ann. § 73-4-11(3).

how this Court should recognize rights to imported return flow. Pursuant to that order, SWUA and SHLCC published notice and served approximately 10,000 water right claimants in the Utah Lake-Jordan River drainage area with direct notice of the action. Following that notice, 606 claimants responded by filing Statements of Interest. In April 2009, the State Engineer published the Proposed Determination, attached as Exhibit 1, and served it on the claimants who had filed Statements of Interest. The Proposed Determination was designated 51-1-1, being in Area 51, Spanish Fork Subdivision (-1), and Strawberry Valley Project Return Flow (-1). It included a notice that objections must be filed with the Court within 90 days from the date of service. *See Proposed Determination, Exhibit 1, at Notice Page.*

Three objections to the Proposed Determination were filed. The United States filed an objection that it withdrew on May 25, 2012. SWUA and SHLCC filed a Joint Objection and Statement of Support, which they withdrew on October 30, 2014. One objection contesting the substance of the Proposed Determination was filed jointly by Lake Bottom Irrigation Co., Magna Water District, Payson City, Salem City, South Farm L.L.C., and Spanish Fork City. Lake Bottom Irrigation Co., Payson City, Salem City, and Spanish Fork City subsequently withdrew from the objection, leaving Magna Water District and South Farm L.L.C. (collectively “Magna-South Farm”) as objectors. The Central Utah Water Conservancy District (CUWCD) filed a response to the Magna-South Farm Objection.

A number of the parties before the Court challenged whether Magna-South Farm had standing to pursue its objection. The Utah Court of Appeals resolved that question in favor of Magna-South Farm and remanded the case to this Court for resolution of the merits. *Magna Water Co. v. Strawberry Water Users Association*, 2012 UT App. 184, ¶ 20, 285 P.3d 1.

On August 12, 2013, Provo River Water Users Association (PRWUA) filed a motion to intervene, which the Court granted on September 27, 2013. On June 5, 2014, the State Engineer, CUWCD, SWUA, SHLCC, PRWUA, the United States Bureau of Reclamation, and Magna-South Farm filed a joint motion to dismiss the Magna-South Farm Objection, pursuant to a stipulation (Stipulation), attached as Exhibit 2. This Court dismissed the Magna-South Farm Objection by order entered June 17, 2014.

The Proposed Determination is therefore uncontested and is ready for the Court's consideration.

**III. THE PARTIES BEFORE THE COURT REQUEST THAT THE COURT CONFIRM AND DECREE THE PROPOSED DETERMINATION, SUBJECT TO THE STIPULATION.**

The Utah statutes require that when a proposed determination is uncontested, the district court shall confirm and decree it:

If no contest on the part of any claimant shall have been filed, the court shall render a judgment in accordance with such proposed determination, which shall determine and establish the rights of the several claimants to the use of the water of said river system or water source.

Utah Code Ann. § 73-4-12. Because the respective objections have been withdrawn or dismissed, the Proposed Determination is now uncontested.

The Magna-South Farm Objection was dismissed pursuant to the Stipulation among the

Parties before the Court. The Stipulation, however, did not amend the Proposed Determination. Rather, it specifically provided that the Proposed Determination should be confirmed and decreed as written, subject to the stipulations of the parties. *See* Stipulation at 2 (Exhibit 2) (“The parties before the Court in the pending litigation agree that the Proposed Determination . . . may be confirmed and decreed by the Court as written, subject to the following stipulations.”).

The Parties before the Court request that the Court incorporate the substantive provisions of the Stipulation into the Interlocutory Decree, as shown in the accompanying (proposed) Interlocutory Decree.

Although this Decree is styled an interlocutory decree, it is not interlocutory in the usual sense of addressing only some of the issues in a particular case; rather, it is interlocutory in the sense that it does not address all the water rights within the Utah Lake-Jordan River General Adjudication area. It is final as to issues that could have been raised in a timely objection to contest the Proposed Determination.

Because the Proposed Determination is now uncontested, the Parties before the Court respectfully request the Court to issue a decree that confirms and decrees the Proposed Determination as written, subject to the Stipulation.

Dated this 15<sup>th</sup> day of December, 2014.

SEAN D. REYES  
Utah Attorney General

/s/ L. Ward Wagstaff  
L. WARD WAGSTAFF  
NORMAN K. JOHNSON  
MICHAEL M. QUEALY  
EMILY E. LEWIS  
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Assistant Attorneys General  
*Attorneys for Utah State Engineer*

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/s/ Edwin C. Barnes (with permission)  
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*Attorneys for Central Utah Water Conservancy District*

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Kathryn J. Steffey  
*Attorneys for Magna Water District and South Farm LLC.*

KIRTON McCONKIE

/s/ Christopher E. Bramhall (with permission)  
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*Attorneys for Provo River Water Users Association*



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Shawn E. Draney

Keith A. Call

Scott H. Martin

D. Jason Hawkins

*Attorneys for Strawberry Water Users Association*

SAM HIRSCH, Acting Assistant Attorney General

/s/ Thomas K. Snodgrass (with permission)

Thomas K.. Snodgrass

U.S. DEPARTMENT OF JUSTICE

Environment and Natural Resources Division

Natural Resources Section

Daniel D. Price, Assistant U.S. Attorney

UNITED STATES ATTORNEY'S OFFICE

*Attorneys for United States of America, Dept. of  
Interior, Bureau of Reclamation*

**CERTIFICATE OF MAILING**

I certify that I caused to be delivered a copy of the **Joint Motion to Confirm and Decree the Proposed Determination 51-1-1, the Memorandum in Support of Joint Motion to Confirm and Decree the Proposed Determination 51-1-1, and the proposed Interlocutory Decree, Proposed Determination 51-1-1** by electronic means, this 15<sup>th</sup> day of December, 2014, to the following:

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Susannah Thomas  
U.S. DEPARTMENT OF THE INTERIOR  
Office of the Solicitor  
125 South State Suite 6201  
SALT LAKE CITY, UT 84138

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U.S. DEPARTMENT OF JUSTICE  
Environmental and Natural Resources Division  
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DENVER CO 80294

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/s/ L. Ward Wagstaff

**EXHIBIT 1**

**PROPOSED DETERMINATION**



JON M. HUNTSMAN, JR.  
*Governor*  
GARY R. HERBERT  
*Lieutenant Governor*

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

### Division of Water Rights

MICHAEL R. STYLER      KENT L. JONES  
*Executive Director*      *State Engineer/Division Director*

#### **TO WATER USERS IN THE UTAH LAKE - JORDAN RIVER GENERAL ADJUDICATION AREA WHO HAVE FILED A STATEMENT OF INTEREST IN THE MATTER OF THE RIGHTS TO THE USE OF RETURN FLOW FROM WATER IMPORTED FROM THE UINTA BASIN TO UTAH VALLEY BY THE STRAWBERRY VALLEY PROJECT**

In accordance with Chapter 73-4, Utah Code Annotated and the Order of the Third Judicial District Court dated October 16, 2007, the Utah State Engineer has prepared the State Engineer's Proposed Determination and Recommendation of the Rights to the Use of Return Flow from Water Imported from the Uinta Basin to Utah Valley by the Strawberry Valley Project.

In response to an earlier notice that was mailed to you and published in local newspapers, you filed a Statement of Interest form requesting further notice in this action. This Proposed Determination and Recommendation is delivered to you electronically or by mail pursuant to your Statement of Interest.

The Proposed Determination and Recommendation contains the State Engineer's recommendation to the court concerning the rights to the use of the return flow from the imported Strawberry Valley Project water. It also includes a Notice to Water Users that explains the requirements for filing an objection and gives directions for obtaining additional copies of the Proposed Determination and Recommendation. It is your responsibility to review the Proposed Determination and Recommendation. If you are dissatisfied with the Proposed Determination and Recommendation, you may file an objection in accordance with the instructions in the Notice to Water Users.

If you have questions regarding this Proposed Determination and Recommendation you may call Teresa Wilhelmsen of the Division of Water Rights at (801) 537-3119 or L. Ward Wagstaff of the Utah Attorney General's Office at (801) 538-7227.

KENT L. JONES, P.E.  
State Engineer  
P.O. Box 146300  
1594 West North Temple  
Salt Lake city, Utah 84114-6300

IN THE THIRD JUDICIAL DISTRICT COURT,  
SALT LAKE COUNTY, STATE OF UTAH

IN THE MATTER OF THE GENERAL DETERMINATION  
OF THE RIGHTS TO THE USE OF ALL THE WATER, BOTH  
SURFACE AND UNDERGROUND, WITHIN THE DRAINAGE  
AREA OF UTAH LAKE AND JORDAN RIVER IN UTAH,  
SALT LAKE, DAVIS, SUMMIT, WASATCH, SANPETE, AND  
JUAB COUNTIES IN UTAH

**PROPOSED DETERMINATION AND  
RECOMMENDATION OF THE RIGHTS TO THE  
USE OF RETURN FLOW FROM WATER IMPORTED  
FROM THE UINTA BASIN TO UTAH VALLEY  
BY THE STRAWBERRY VALLEY PROJECT**

UTAH COUNTY DIVISION  
AREA NO. 51

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY  
STATE OF UTAH

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHTS TO THE USE  
OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE  
DRAINAGE AREA OF UTAH LAKE AND JORDAN RIVER IN UTAH, SALT LAKE,  
DAVIS, SUMMIT, WASATCH, SANPETE, AND JUAB COUNTIES IN UTAH

UTAH COUNTY DIVISION (Area 51)

Salt Lake County Civil No. 360057298 (51-1-1)

**NOTICE TO WATER USERS:**

This is your copy of the State Engineer's Proposed Determination and Recommendation of the Rights to the Use of Return Flow from Water Imported from the Uinta Basin to Utah Valley by the Strawberry Valley Project. The Division of Water Rights has prepared this Proposed Determination and Recommendation as directed by the Third Judicial District Court in Salt Lake County, Utah. Additional copies are available on the Division of Water Rights web site at [www.waterrights.utah.gov/strawberryreturnflow](http://www.waterrights.utah.gov/strawberryreturnflow).

You are hereby notified that under section 73-4-11 of the Utah Code, any person who claims a water right that might be affected by the Strawberry Valley Project return flow who is dissatisfied with the Proposed Determination and Recommendation may file an objection. An objection must be in writing and duly verified on oath. The claimant must file the objection in the Third Judicial District Court in Salt Lake City, 450 South State Street, P.O. Box 1860, Salt Lake City, Utah, 84114, within ninety (90) days after being served with a copy of the Proposed Determination and Recommendation. Service is effective on the date the Proposed Determination and Recommendation is mailed, hand delivered, or delivered by electronic means to the address provided by the claimant. The claimant should also file a copy of the objection with the Division of Water Rights at the address below.

THE INITIAL HEARING ON THE PROPOSED DETERMINATION AND  
OBJECTIONS WILL BE HELD **AUGUST 21, 2009, 9:00 AM**, AT THE THIRD  
JUDICIAL DISTRICT COURT IN SALT LAKE CITY, UTAH.

Norman K. Johnson  
L. Ward Wagstaff  
Michael M. Quealy  
Assistant Attorneys General  
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Utah Attorney General  
Attorneys for the Utah State Engineer

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[www.waterrights.utah.gov](http://www.waterrights.utah.gov)

# STATE ENGINEER'S PROPOSED DETERMINATION AND RECOMMENDATION OF THE RIGHTS TO THE USE OF RETURN FLOW FROM WATER IMPORTED FROM THE UINTA BASIN TO UTAH VALLEY BY THE STRAWBERRY VALLEY PROJECT

## INTRODUCTION

The Strawberry Valley Project (SVP) is a U.S. Bureau of Reclamation project that collects and stores water from the Strawberry River and its tributaries in the Uinta Basin in Utah under Water Rights Nos. 43-3001, 43-3102, 43-1259, and 51-2259. Water Rights Nos. 43-3001, 43-3102, and 43-1259 are in the name of the United States in the amounts of 100,000 acre-feet, 60,000 acre-feet, and 6,779 acre-feet respectively. Underground Water Right No. 51-2259 is in the name of the Strawberry Water Users Association in the amount of 7.0 cubic feet per second. With the exception of Water Right 51-2259, water diverted under the SVP water rights is released from storage in the Uinta Basin and conveyed through tunnels, canals, and natural streams into Utah Valley in the Utah Lake - Jordan River drainage system, where it is used for SVP purposes. After such use, return flows from SVP diversions eventually commingle with water in Utah Lake.

Consistent with the Utah Supreme Court's instructions in *Strawberry Water Users Association v. Bureau of Reclamation*, 2006 UT 19, the Third Judicial District Court will address the following issue pursuant to Utah Code Ann. § 73-4-24 in this general adjudication of water rights: Whether the SVP is entitled to a credit under Utah law allowing subsequent use, either directly or by exchange, of the identifiable return flow from the additional water imported from the Uinta Basin under the SVP water rights after the return flows have commingled with the water naturally tributary to or occurring in Utah Lake. In an order dated October 16, 2007, the Third Judicial District Court directed the State Engineer to prepare a proposed determination and recommendation to the court as part of the Utah Lake and Jordan River General Adjudication. This is the State Engineer's Proposed Determination and Recommendation as to whether the SVP is entitled to use, directly or by exchange, the return flow from the imported SVP water. The underlying SVP water rights will be formally adjudicated as part of the regular general adjudication procedure at a later date.

## UTAH LAW

Utah law defines the right to use return flow in general. It encourages the efficient use of water and discourages waste. An appropriator may recapture and use return flow from water applied to the appropriator's land if the return flow has not left the land or control of the appropriator and if the appropriator has an authorized beneficial use for the water. If the water leaves the approved place of use and commingles with naturally occurring waters, the appropriator loses the right of recapture.

Imported water is not naturally tributary to the import basin and the importer has the right at any time to cease importation. Except for the importation, neither the imported water nor its return flow would be present in the import basin. Utah law holds that non-tributary water and its return flow are distinct from tributary water and are not a source of water for appropriations of tributary water, even if the non-tributary water is commingled in natural streams with tributary water. State Engineer administrative practice has allowed an importer to claim return flow from imported water and to use the water by exchange where the return flow can be documented and quantified and where the exercise of that exchange does not impair other water rights. Water projects have been designed in reliance on the right to claim and exchange return flows from imported water.

An analogous situation to the recovery of imported water return flow is groundwater recharge and recovery, which is governed by Utah statutes. For example, among the statutory requirements for groundwater recharge and recovery are that the use of the recovered groundwater must be consistent with an approved water right application, the recharge and recovery water is accounted for separately from naturally occurring groundwater, a recovery permit may be issued only to the holder of the recharge permit or its assigns, and ongoing monitoring and accounting reports are required.

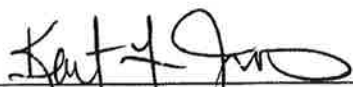
## RETURN FLOW FROM SVP IMPORTED WATER

The imported SVP water is not naturally tributary to the Utah Lake - Jordan River drainage and would not be present therein but for its importation. The SVP is the appropriator and importer of the SVP water, and therefore retains the right to put that water to beneficial use, including the portion of the return flow that can be quantified as additional, non-tributary water in the Utah Lake - Jordan River drainage. While return flow from sources within the Utah Lake - Jordan River drainage returns to the stream system to which it is naturally tributary, the imported SVP water does not return to its tributary stream system in the Uinta Basin. If the SVP can account for the quantity and location of the return flow and obtain approval of the necessary water right applications, the SVP may be entitled to use the return flow water directly or by exchange in accordance with the following conditions:

1. The imported water is public water subject to Utah law, including the appropriation procedure and the requirement that beneficial use is the basis, measure, and limit of the right to the use of the water. Return flow from imported water is subject to the laws governing the appropriation of water in Utah and is subject to administration by the State Engineer.
2. The SVP bears the burden of (1) proving that the return flow is attributable to the imported water, and (2) accounting for the quantity of imported water return flow in the Utah Lake - Jordan River drainage. The SVP may assert its rights to the return flow of the imported SVP water only to the extent it can demonstrate the quantity and location of that return flow using engineering and hydrologic analysis acceptable to the State Engineer, including an accounting of the quantity of the return flow each year.
3. All aspects of the use of the return flow must be covered by an approved water right application. If the diversion, beneficial use, place of use, and other aspects of the use of the return flow are allowed by the underlying water rights, the SVP need not file a further water right application. If any of those aspects are not already covered by the underlying water rights, the SVP must obtain an approved water right application for the proposed use. An application to use the SVP water by exchange must fulfill the requirements of Utah law governing such applications.
4. The SVP return flow is a separate source within the Utah Lake - Jordan River drainage and has increased the supply of water in the import basin. The SVP's right to recover and use the return flow from the imported SVP water is superior to any rights acquired by water users who may have otherwise benefitted from the increased water supply. The imported water is subject to distribution and priority calls in the Uinta Basin, where it is diverted, but it is not subject to priority calls in the Utah Lake - Jordan River drainage, where it is used. Tributary water that is used in exchange for SVP return flow may be subject to priority calls in the Utah Lake - Jordan River drainage.
5. The underlying SVP water rights are subject to the requirements and limits of beneficial use under Utah law. As long as the SVP continues to import and use water based on its underlying water rights, it retains the right to use the SVP return flow directly or indirectly by exchange.

This Proposed Determination and Recommendation does not cover every circumstance or question that might arise in the administration of the SVP return flows. The fundamental legal principle is that the SVP, as appropriator and importer of the SVP water, retains the right to use the SVP return flow directly or by exchange, even after the return flow has commingled with water occurring naturally in the Utah Lake - Jordan River drainage. As other issues arise in the administration of the SVP water rights and return flow, they will be addressed in accordance with Utah law.

DATED this 14<sup>th</sup> day of April, 2009.

  
Kent L. Jones, P.E.  
Utah State Engineer



**EXHIBIT 2**  
**STIPULATION**

L. WARD WAGSTAFF, No. 5554  
NORMAN K. JOHNSON, No. 3816  
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IN THE THIRD JUDICIAL DISTRICT COURT,

SALT LAKE COUNTY, STATE OF UTAH

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IN THE MATTER OF THE GENERAL  
DETERMINATION OF RIGHTS TO THE  
USE OF WATER, BOTH SURFACE AND  
UNDERGROUND, WITHIN THE  
DRAINAGE AREA OF THE UTAH LAKE  
AND JORDAN RIVER IN UTAH, SALT  
LAKE, DAVIS, SUMMIT, WASATCH,  
SANPETE, AND JUAB COUNTIES IN  
UTAH

Utah County Division  
Spanish Fork Canyon Subdivision  
Strawberry Valley Project Return Flow

**STIPULATION**

Civil No. 360057298 (51-1-1)

Judge Paul Parker

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**PARTIES TO THE STIPULATION**

Utah State Engineer

Central Utah Water Conservancy District

Magna Water District and South Farm, LLC

Provo River Water Users Association

Strawberry High Line Canal Company

Strawberry Water Users Association

United States Department of Interior, Bureau of Reclamation

### **STIPULATION**

The parties before the Court in the pending litigation agree that the Proposed Determination and Recommendation of the Rights to the Use of Return Flow from Water Imported from the Uinta Basin to Utah Valley by the Strawberry Valley Project (Proposed Determination) may be confirmed and decreed by the Court as written, subject to the following stipulations.

1. The Proposed Determination applies to the use of return flows from waters imported into the Utah Lake-Jordan River Basin by the Strawberry Valley Project (SVP) and others, and is not binding precedent elsewhere in the State of Utah.
2. For applications to use imported return flow that are either pending but unapproved as of the date the Proposed Determination is confirmed by the court, or filed subsequent thereto, the State Engineer will include in any order approving such an application the quantification methodology that is used to calculate the amount of imported water return flow annually available under the water right. The quantification methodology is a computational estimate of the actual amount of return flow water available as a result of the importation into the basin. The order approving the application shall constitute final agency action.

3. Applications to use imported return flow are subject to the requirements of the Utah Administrative Procedures Act (UAPA). The following provisions are intended to be consistent with UAPA and apply in conjunction with UAPA.

A. The applicant may seek modifications in the quantification methodology approved in the initial order through subsequent applications, which will be processed in accordance with UAPA.

B. Alternatively, the State Engineer may, through notice of agency action conforming with Utah Code Section 63G-4-201(1)(a), initiate review of the quantification methodology if, in the State Engineer's judgment, facts or circumstances related to the use of imported water return flows change such that the quantification methodology requires review and possible adjustment. In an action initiated by the State Engineer under this paragraph, any final order issued will be made pursuant to UAPA. Any final order issued in connection with such administrative proceedings may modify only the quantification methodology, and only the quantification methodology would be subject to de novo review under UAPA.

C. This Stipulation does not waive standing requirements under UAPA.

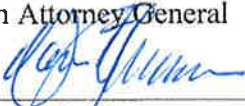
4. For applications to use imported return flow that are approved prior to the date the Proposed Determination is confirmed by the court, Paragraph 4 of the Proposed Determination does not apply retroactively to amend the approval of such applications, including any conditions of approval.

5. The Proposed Determination does not address the question of ownership or title to SVP imported return flow or any portion thereof as between the Strawberry Water Users Association,

Strawberry High Line Canal Company, and the United States, who reserve all rights with respect to this issue.

6. The parties to the pending litigation will request the Court to dismiss the Objection of Magna Water District and South Farms, LLC.

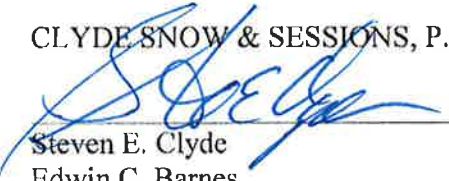
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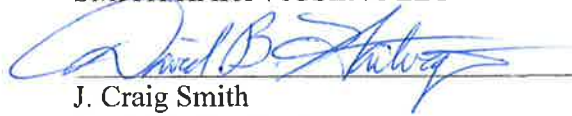
CLYDE SNOW & SESSIONS, P.C.



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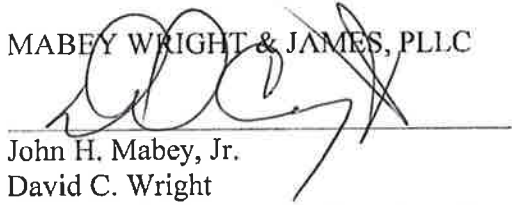
KIRTON McCONNIE



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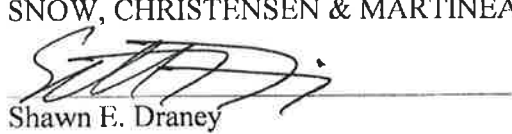
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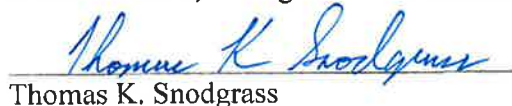
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Date June 2, 2014

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