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Department of Water Resources

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase Nos. 37-07454 and 37-07602
	)	
Case No. 39576	)	AFFIDAVIT OF
_____	)	ALLEN MERRITT
STATE OF IDAHO	)	
	)	ss:
COUNTY OF TWIN FALLS	)	

Allen Merritt, after being first duly sworn upon oath, hereby deposes and says as follows:

1. I am the Regional Manager of the Idaho Department of Water Resources' ("IDWR") Southern Regional office located at 1341 Fillmore Street, Suite 200, Twin Falls, Idaho 83301-3380.
2. My educational background includes an A.A. degree in mathematics from the College of Southern Idaho in 1971, a B.S. in civil engineering from the University of Idaho in 1973, and a M.S. in civil engineering from the University of Idaho in 1982.
3. I have been registered as a professional engineer in Idaho since 1982. To become

registered, I spent four years as an engineer-in-training and passed an eight hour examination.

4. From 1975 to 1976, I worked for IDWR's Southern Regional office as a Water Right Agent. My duties included reviewing applications, conducting beneficial use field examinations, drafting recommendations for the licensing of water rights, and other water resources related data collection.

5. From 1976 to 1979, I worked for IDWR's Southern Regional office as a Water Resource Analyst, except for a brief period in 1977 to 1978 when I returned to school. My duties included those of a Water Right Agent listed above and also expanded to include dam safety inspections for dams within the Region.

6. As referenced above, on December 19, 1977 I left IDWR and returned to the University of Idaho to work on my M.S. of civil engineering degree. During that period, I also worked as a graduate assistant for Professor Calvin Warnick and my duties included collection of field data for various graduate studies involving irrigation and power use. I also drafted and reduced data for various graduate projects. I was rehired by IDWR on June 1, 1978 as a Water Resource Analysis.

7. In June of 1979 I was promoted to Senior Water Resources Analyst. My duties included those of a Water Right Analyst but with more responsibilities. I conducted the more difficult field reviews and reviewed the work of others. I also drafted recommendations for approval of transfers and, at times, managed the office while the Region's Supervisor was absent. I also conducted construction inspections for the development of the Cyprus mines tailings and sediment retention dams.

8. From 1984 to 1988, I worked for IDWR's Southern Regional office as a Water Resource Engineer. My duties remained pretty much the same as for the Senior Water Resource Analyst position described above.

9. From 1988 to 1994, I worked for IDWR's Southern Regional office as a

Water Rights Supervisor of the Region's Adjudication Unit. My duties included, but were not limited to: supervising the adjudication functions of the Southern Region, including oversight of six staff assigned to the adjudication project. I also coordinated with others in the Adjudication Bureau of IDWR to formulate procedures for claims review. I personally assisted in taking thousands of claims and conducting hundreds of claim verifications and recommendations.

10. From 1994 to the present, I worked for IDWR's Southern Regional office as the Regional Manager. My duties include, but are not limited to: overseeing all activities, including personnel, salary and budgetary matters, at the Southern Regional Office. Among the matters I oversee are water right permitting and licensing actions, the office's Adjudication Unit and the coordination of various activities in the office.

11. I am familiar with many of the past and present practices within the IDWR Southern Regional office.

12. Attached hereto as Exhibit A is a true and correct copy of the Proof of Application of Water to Beneficial Use form from IDWR License File No. 37-07602.

13. In August 1978 when Exhibit A was signed and notarized, IDWR's Southern Regional office frequently scribed, typed or otherwise generally assisted water right holders by drafting forms, including Proof of Application of Water to Beneficial Use forms. This practice continues today noting that many water right or SRBA forms can now be electronically drafted for applicants/claimants review, signature and filing.

14. Exhibit A contains a date stamp indicating that it was filed with IDWR's Southern Regional office on August 2, 1978. Sheryl R. Merritt, who notarized Exhibit A, was an employee of IDWR's Southern Regional office in August 1978 and I also recognize her signature on Exhibit A. At that time, I was married to the same Sheryl R. Merritt but we have since divorced.

15. While I personally do not recall the circumstances concerning the

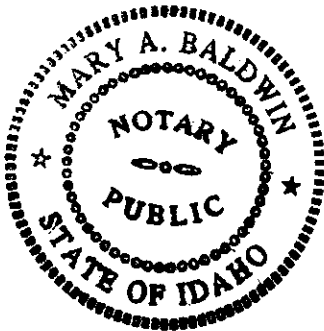
completion and filing of Exhibit A and probably was not involved, from my review of Exhibit A, I conclude that it is likely that IDWR Southern Regional office personnel assisted with the completion of Exhibit A. Exhibit A is typed in a manner similar to the way IDWR Southern staff typically typed forms at that time. Further, the permit holder, Steve Shaw, signed the form on the same date that it was filed with IDWR Southern Regional office and the notarization indicates that the form was signed by Steve Shaw in Twin Falls in the presence of an employee of IDWR's Southern Regional office at the time.

FURTHER YOUR AFFIANT SAYETH NAUGHT.
DATED this 27th day of May, 2003.



ALLEN MERRITT

SUBSCRIBED AND SWORN to before me this 27th day of May, 2003.





Notary Public in and for the State of Idaho
Residing at: Twin Falls, ID
My Commission Expires: 10/16/2004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of June, 2003, I caused a true copy of the foregoing AFFIDAVIT OF ALLEN MERRITT to be served by the method(s) indicated on the following:

Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 3rd Avenue North
Twin Falls, Idaho 83303
☐ U.S. Mail ☐ Fed Ex ☒ Hand ☐ Fax

Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Chief, Natural Resources Division
Office of the Attorney General
P. O. Box 44449
Boise, ID 83711-4449
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Leon and Iris Hubsmith
647 East 130 South
Dietrich, Idaho 83324
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax


DANA L. HOFSTETTER

EA4018.1\5580

Exhibit A

Form No. 42-217
1-18-1978

Identification No. 37-
Permit No. 37-7602

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Department of Water Resources
Southern District Office

1. a) Name of Permit Holder Steve Shaw
- b) Post Office Address Dietrich, Idaho 83324
2. Permit Number 37-7602
3. Date of Priority that you are prepared to establish 5-4-77
4. a) Source from which water was appropriated ground water
- b) Location of the point of diversion: NW 1/4 NE 1/4 Section 30
Township 6S, Range 19E, Boise Meridian, Other points of diversion:
5. a) The amount of water and use to which the water has been applied:
Amount 3.2 cfs for irrigation purposes from Mar 15 to Nov 15 incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
Amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre-feet per annum) (Month-Day) (Month-Day)
b) Total amount appropriated 3.2 cfs and/or acre-feet per annum
c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: amount applied for
6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use:
b) Describe the agreement or understanding by which you take water from the works:
7. a) Briefly describe the works for diverting and conveying the water to the place of use, (if from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) well (18" x 300'), 400 hp pump, 10" x 12" buried main lines, handline sprinklers
b) Describe the type and size of measuring device which you have installed at your point of diversion: Rockwell flow meter
c) Give well driller's name and address and the date the well was completed: Norman Ridinger, Dietrich, Idaho, Completed March, 1976.
8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use:

Exam typed 4/21/77

The foregoing is a true and certified copy of the document on file at the department of Water Resources.
Signed this 27th day of May 1977
John D. McVick

[illegible]

Total number of acres irrigated 160

8-2-78
(Date)

Steve Shaw
(Signature)

State of Idaho)
County of Twin Falls)

On this 2nd day of August, 1978, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Sheryl R. Nesbitt
Notary Public residing at
Twins Falls, Idaho

My commission expires 2/10/82

The foregoing is a true and certified copy of the document on file at the department of Water Resources.
Signed this 27th day of May 2003
[Signature]