

BLAIR GROVER, ESQ.
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 ISB #1494

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 No. 23-9B
	)	
Case No. 39576	)	
	)	AFFIDAVIT OF DAWN BLAKELY
	)	
	)	
	)	
STATE OF IDAHO)		
)ss		
County of Jefferson)		

COMES NOW, Dawn Blakely, being first duly sworn upon oath, deposes and states as follows:

1. He, his father, and grandfather owned and continue to own property at the mouth of Kelly Canyon and for more than 50 years have used all of the waters of Kelly Creek to irrigate property in the mouth of said canyon.

2. Kelly Creek is a very small stream and by late July or early August, has only enough water to run approximately 27 rain birds (sprinkler heads). Usually there is a early run off, and some of the waters of Kelly Creek run past affiant's diversion during the run off. The waters consistently recede from the spring run off until later in July or early August when affiant uses all of the waters and has personally done so for more than 40 years, just as his father before him.

3. Affiant was unaware of the claim made by Rex Maughn to the waters of Kelly Creek, or he would have made this objection much earlier.

Affiant understands Claim 23-9B will have a priority date the same as affiant. That will result in continual conflict and dispute because there is not enough water to fill even one of the two claims filed.

4. The above numbered claim is a complete surprise to affiant because affiant has used the water without interference, demand, or notice from any one of any alleged interest or right to the same. As set forth herein, as the irrigation season progresses, affiant has used all of the water as it comes out of Kelly Canyon. Affiant is the first and to affiant's knowledge, the only diversion of the waters of Kelly Creek.

5. Having just learned on Monday, November 8, 2004 of the above entitled claim, affiant has not had adequate time to investigate nor prepare adequately for a hearing, but certainly can do so.

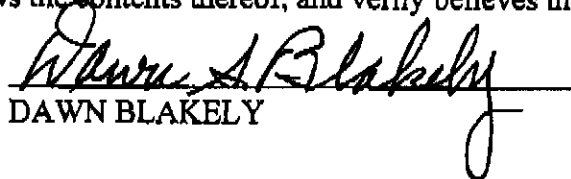
6. Affiant seeks either to have an expedited hearing so this motion to file a late objection can be heard by telephone conference on Wednesday, November 10, 2004 at 9:30 a.m. and/or the partial decree be delayed until there is a hearing on the motion and a trial on the water right.

DATED this 9th day of November, 2004.

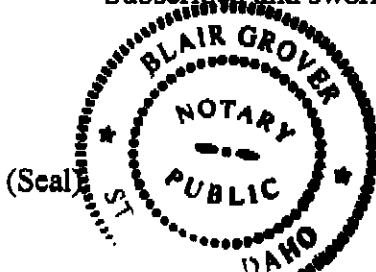

DAWN BLAKELY

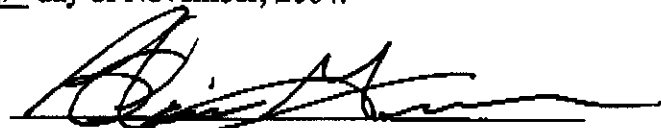
STATE OF IDAHO)
) ss
County of Jefferson)

DAWN BLAKELY, being first duly sworn on oath, deposes and says that he is the above named affiant, has read the foregoing affidavit, knows the contents thereof, and verily believes the same to be true.


DAWN BLAKELY

Subscribed and sworn to before me this 9th day of November, 2004.




Notary Public for Idaho
Residing at Rigby
Commission Expires: 10/24/2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the State of Idaho, with my office in Rigby, Idaho; that I served a copy of the foregoing document or pleading upon the following person(s) at the addresses below their names either by hand delivering, by facsimile transmission (Fax), or by mailing said document in the United States mail with the correct postage thereon, a true and correct copy thereof this 9th day of November, 2004.

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