

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. 29-4491 and 29-13557
	)	
Case No. 39576	)	
	)	AFFIDAVIT OF
	)	ERNEST CARLSEN
	)	
_____	)	

State of Idaho)
) ss.
County of)

Ernest Carlsen, being first duly sworn, deposes and states as follows:

1. My name is Ernest Carlsen. I am a Water Right Supervisor with the Adjudication Bureau of the Idaho Department of Water Resources ("IDWR" or the "Department"). This affidavit is based on my own personal knowledge.

2. My work address is Idaho Department of Water Resources, 900 North Skyline Drive, Suite A, Idaho Falls, Idaho 83402. I reside in Idaho Falls, Idaho.

3. My educational background is as follows: Bachelor of Science in Biology.

4. My Department of Water Resources work experience includes the following: Began working for IDWR in June 1976 as a Water Resource Agent, conducting licensing field exams and processing permit and transfer applications. Promoted to Water Resource Analyst in 1978 and as the representative from Eastern Region started attending administrative hearings and drafting Memorandum Decisions on protested applications. From 1987 to present I have been the Water Right Supervisor for the Snake River Basin Adjudication program in Eastern Region. In this position I oversee the various SRBA activities by four technical and two clerical staff. I

also conduct field investigations and prepare Preliminary Director's Reports on the more technical water claims filed in the SRBA.

5. On March 4, 2005, I spoke with Mr. Moon concerning the above water right claims. Mr. Moon was upset because the quantity of water for irrigation on 29-13557 was less than the quantity of water for irrigation on 29-4491. Mr. Moon stated the Department needed to rectify this discrepancy since it was not consistent with the agreement reached between the parties on April 22, 2004, during settlement negotiations to resolve the objection filed by Jennie Winter. I advised Mr. Moon in my opinion it was not the Department's responsibility. Department staff could explain the civil procedure for requesting a partial decree be set aside. However Department staff could not represent him.

6. Charles and Jenny Winter (the "Winters") filed a Motion to Amend their claim no. 29-4491 and this motion was heard on February 3, 2004. The motion was granted. I prepared the Amended Director's Report that was filed February 6, 2004. The Amended Director's Report increased the rate of diversion for irrigation from 0.03 cfs to 0.06 cfs changing the total diversion rate to 0.08 cfs when including stock water. Objections to the Amended Director's Report were due March 19, 2004. No objections were filed.

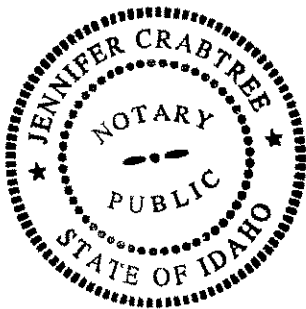
7. I recommended the increased amounts for water right no. 29-4491 based on the Department's standard of allowing up to 0.03 cfs per acre for irrigation of 5 acres or less. Documents in the claim file indicated the place of use had already been identified as two acres. It seemed reasonable that there had been times when 27 gallons per minute was available for diversion for irrigation purposes. I did not consult with Mr. Ruberry concerning these changes. I concluded information in the claim file was sufficient to file the Amended Director's Report without conducting another on site inspection.

8. I understand that the parties reached an agreement on Mr. Moon and Ms. Sluder's water right 29-13557 at the initial hearings held on April 22, 2004. There were numerous initial hearings held on April 22, 2004, and at the time parties were in negotiations on 29-13357 I was consulting with other claimants concerning their objections and consequently was not involved in the settlement negotiations for 29-13557.

DATED this 29 day of March, 2005.


ERNEST CARLSEN
Senior Water Resources Agent, IDWR

SUBSCRIBED AND SWORN to before me on this 29 day of March, 2005.




Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 9/23/09