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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

Case No. 39576

Water Right Claim A29-11371

**AFFIDAVIT OF
DAN ROWLAND**

STATE OF IDAHO

County of Bannock

: ss.

DAN ROWLAND, after first being duly sworn on oath, deposes and states as follows:

1. I am a citizen of the United States of America and a resident of Power County, Idaho. I am currently 44 years of age and am competent to be a witness.

2. If called upon to testify, I can testify to the following, all of which are within my own personal knowledge or based upon my professional judgment.

3. I am the son of Connie Rowland and Thomas E. Rowland.

4. In July 1970, my mother and father purchased the property at 1254 West Syphon Road, Pocatello, Idaho, which is the property at issue in this matter. The property is 13.1 acres, which for convenience purposes has been divided in what we have come to refer as the Lower Pasture and the Upper Pasture. The Lower Pasture is 7.2 acres and the Upper Pasture is 5.9 acres.

5. I have lived on the property ever since it was purchased by my parents.

6. The property has been irrigated with water diverted from a spring located on the property, which is more fully described in the Notice of Claim filed for Water Right No. A29-11371.

7. My father passed away in 1980. During his life, my father irrigated the entire property, encompassing both the Lower Pasture and the Upper Pasture, every irrigation season.

8. After my father passed away, my mother and I were able to continue the yearly irrigation of the Lower Pasture during every irrigation season up and through the current year.

9. One or two years after my father passed away (which would have been 1981 or 1982), my mother leased the Upper Pasture and the Lower Pasture for the pasturing of horses to a couple of gentlemen named Roger Seaton and Don Manning. I recall that they leased both pastures through 1985. During this time, the Lower Pasture *and* the Upper Pasture were irrigated at their insistence.

10. After this lease terminated, my mother and I found it difficult without my father's help to continue with the yearly irrigation of the Upper Pasture. Consequently, we decided that we would limit our yearly irrigation efforts to the Lower Pasture and make sure that the Upper Pasture was irrigated as needed but at least every few years. We thought this was a prudent plan, particularly in light of the drought this area was facing and the fact that horses were not on the Upper Pasture every year.

11. I began working as a truck driver in the early part of 1987 which often takes me away for long periods of time during the irrigation season. Because of my truck driving schedule that year, we were unable to irrigate the Upper Pasture in 1987. This would explain why the 1987 aerial map relied upon by IDWR shows only the Lower Pasture being irrigated.

12. From 1989 to 2001, my mother leased the Lower Pasture and Upper Pasture to a gentleman named Mike Larkin for the pasturing of horses. For the first four years of the lease, we irrigated both the Lower Pasture and the Upper Pasture.

13. For the next eleven years from 1993 through 2004, we irrigated the Lower Pasture every year and irrigated the Upper Pasture when necessary and at least ever few years. Because of my mother's age, I was primarily responsible for irrigating the pastures, which became dependent in some degree upon my truck driving schedule.

14. I specifically remember that I was able to irrigate both the Lower Pasture and the Upper Pasture in 1993, 1994, 1998, and 2000. Although the Upper Pasture may have received only a single sprinkling in each of these years, it was nevertheless irrigated.

15. The Upper Pasture hasn't been irrigated the last few years because of breaks/leaks in the pipes that have needed to be repaired. We hired a welder in 2004 who welded and repaired the pipes for use during the upcoming 2005 irrigation season.

16. We intend to irrigate both the Lower Pasture and the Upper Pasture this 2005 irrigation season.

[Remainder of page intentionally left blank.]

17. Although IDWR has already recommended the 7.2 acres of the Lower Pasture, I believe that our right to also irrigate the 5.9 acres of the Upper Pasture of our property has been preserved through our irrigation over time of both pastures. Consequently, I believe that IDWR should recommend my claim of 13.1 acres for Water Right No. A29-11371.

FURTHER SAITH AFFIANT NAUGHT.

Dated this _____ day of April, 2005.

DAN ROWLAND

Subscribed and sworn to before me this _____ day of April, 2005.

Notary Public for Idaho
Residing at _____
My commission expires _____

CERTIFICATE OF MAILING

I certify that on the 29 day of April 2005, I mailed the original and copies of the attached document to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2702

AND

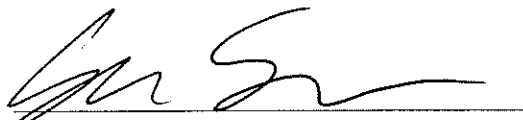
VIA FACSIMILE: 208-736-2121

2. Copies to:

Director of IDWR
P.O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 4449
Boise, Idaho 83711-4499

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, Idaho 83724


SCOTT J. SMITH