

Attorney for 7UD Ranches

[illegible]

1. That I am the attorney for the 7UD Ranches in the above-captioned subcase and that I have personal knowledge of the facts stated herein.

AFFIDAVIT OF COUNSEL

3. On February 7, 2006, Special Master Terrence A. Dolan issued an Order Setting Trial Scheduling Conference (41-8B) and Status Conference (41-8E) (hereinafter "Scheduling Order"), which stated that the responses permitted by the District Judge should be filed no later than March 6, 2006. A copy of the Scheduling Order was not mailed to counsel of record for 7UD Ranches. *See Certificate of Mailing.*

4. On Thursday, March 2, 2006, my office completed the appropriate form for filing a response on behalf of 7UD Ranches and a supplemental certificate of service was prepared.

5. In my office was a very large wall-mounted bookcase approximately fifteen (15) feet wide and four (4) feet tall. This bookcase was attached to the wall and abutted the ceiling. The bookcase had three rows of shelving and was filled with books and files. Approximately two (2) feet below the bookcase was a row of cabinets.

6. I placed the response on the cabinet in his office to be reviewed and mailed out for filing on the next day of Friday, March 3, 2006.

7. After business hours that night, the bookcase unexpectedly and without any notice fell off the wall and crashed onto the cabinets below. It broke in a number of locations and spilled its contents around my office. I had also located his computer on the same cabinets where the bookshelf had fallen.

8. When I arrived in my office on Friday, March 3, 2006, it was in disarray. Workers were called in to remove the broken bookshelf and cabinets and to repair the office. In the process, the contents of the office were boxed and temporarily stored in another part of the building.

9. The workers did not complete the repairs until late in the day on Monday, March 6, 2006. I spent time during Monday evening bringing boxes back into my office and

reorganizing his files. In this process, I discovered 7UD Ranches' response and immediately reviewed it for filing. 7UD Ranches' response was mailed for filing on the following morning of Tuesday, March 7, 2006. It appears that it may have been received by the Court on March 8, 2006.

10. On March 9, 2006, 7UD Ranches made an oral motion during a scheduling hearing for leave to file its late response. This memorandum and accompanying affidavit are filed in support for that motion.

11. The two-day delay in filing the response was unintended and solely caused by the unexpected and extensive damage caused by the collapsing bookshelf in my office.

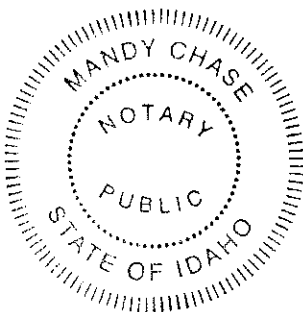
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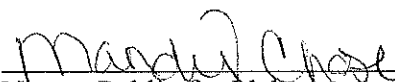
Dated this 28 day of March ~~30~~, 2006.



SCOTT J. SMITH
Attorney for 7UD Ranches

SUBSCRIBED AND SWORN to before me this 28 day of March, 2006.




Notary Public for Idaho
Residing at: Boise, Idaho
Commission expires: 4.24.06

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28 day of March, 2006, I caused a true, correct and complete copy of the foregoing document to be served by U.S. first-class mail, postage prepaid, upon the following, unless a different method of service is indicated:

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