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DEC 08 2006
DEPARTMENT OF
THE DISTRICT CLERK

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) AFFIDAVIT OF CHARLES KANE
)
) SUBCASE NO: 21-10019
)

STATE OF UTAH)
)ss.
County of Salt Lake)

Charles Kane, being first duly sworn, upon his oath, pursuant to Idaho Code §36-105 DD(2)(d) states and alleges as follows:

1. Affiant is the owner of Water Right 21-10019.
2. Affiant purchased Water Right 21-10019 from Perry Val Deitrich in September of 2000.
3. Affiant maintains residences in Sandy, Utah and Island Park, Idaho.
4. On July 6, 2005 Affiant received a letter from the Idaho Department of Water Resources requesting evidence to support the priority date claimed.
5. On August 25, 2005, Affiant provided a "Notice of Water Right," filed by William R. Bowers, which established that the date of priority was properly claimed as June 27, 1898.
6. On September 2, 2005 Affiant received a letter from Trent Galbraith stating that Mr. Bowers had failed to show up to defend himself during the proceedings leading up to the Rexburg Decree, and that unless Affiant

provided additional evidence he would not be given the June 27, 1898 priority date established by the "Notice of Water Right."

7. On September 15, 2005, Affiant sent a response to Mr. Galbraith asking for additional information to assist affiant in responding to the request for more information, specifically with regards to facts related to the Rexburg decree and Mr. Bower's alleged failure to defend himself.
8. Affiant received no response to his September 15, 2005 request for additional information.
9. During the winter of 2005 and 2006 Affiant resided mainly at his residence in Sandy, Utah due to the weather in the Island Park area and health issues.
10. In February of 2006, Affiant underwent bypass surgery in Salt Lake City and remained in the hospital for one week.
11. The director's report was mailed by Idaho Department of Water Resources, to Affiant's Island Park, Idaho address.
12. Affiant did not receive the director's recommendation packet before going in for surgery and as a result Affiant was unaware of May 26, 2006 the deadline to file an objection to the recommendation.
13. After surgery in February of 2006, Affiant spent three months in rehabilitation in Salt Lake City.
14. Affiant first discovered the envelope containing the director's recommendation packet in late June or early July of 2006 at Affiant's Island Park residence, prior to that date Affiant did not know that a

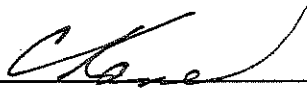
director's recommendation had been filed or that there was any deadline to respond to the director's recommendation.

15. As soon as possible after discovering that the director's recommendation had been issued, Affiant contacted an attorney so that an objection could be filed.

16. The objection was filed as soon as possible after Affiant discovered that a partial decree had been entered.

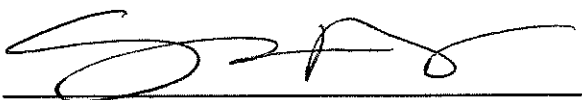
17. Further this Affiant sayeth not.

DATED this 29 day of NOVEMBER 2006.

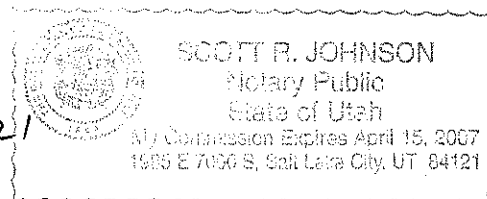


Charles Kane
3761 Hwy 87
Island Park, ID 83429

SUBSCRIBED AND SWORN to before me this 29 day of November, 2006



Notary Public for UTAH
Residing at: 1985 E 7000 S. SLC UT 84121
My commission expires: 4/15/2007



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DEC 08 2006
DEPARTMENT OF
WATER RESOURCES

AFFIDAVIT OF KNOWLEDGE AND FACTS

STATE OF IDAHO)
County of Madison) ss.

Perry Val Dietrich, being first duly sworn, upon his oath, pursuant to Idaho Code §36-105 DD(2)(d) states and alleges as follows:

1. Affiant is the former owner of Water Right 21-10019.
2. Affiant filed a Notice of Claim to a Water Right on June 23rd, 1988 with the SRBA Court.
3. Affiant's parents purchased all of the water associated with Water Right 21-10019 on November 8th, 1965.
4. Affiant, by knowledge, information and belief states that Affiant's parents were provided with a Notice of Water Right, filed by William R. Bowers, as evidence of the water that Affiant's parents purchased on November 8th, 1965.
5. Affiant, by knowledge, information and belief states that the water associated with Water Right 21-10019 was used each year by Affiant's parents, until affiant's parents passed title to Water Right 21-10019 to Affiant.

6. Affiant states that the water associated with Water Right 21-10019 was used each year by Affiant, until Affiant passed title to Water Right 21-10019 to Charles Kane.
7. Affiant states that the Notice of Water Right, filed by William R. Bowers on June 27, 1898, was provided to Affiant as evidence of the validity of the use and rights to the water associated with Water Right 21-10019.
8. Affiant states that a true and correct copy of the Notice of Water Right, filed by William R. Bower on June 27, 1898 is attached hereto as Exhibit "A."
9. Further this Affiant sayeth not.

DATED this 31 day of October, 2006.


 Perry Val Dietrich
 885 S. 5000 W
 Rexburg, Idaho 83440

SUBSCRIBED AND SWORN to before me this 31st day of October, 2006


 Notary Public for Idaho
 Residing at: _____
 My commission expires: _____

State of Idaho
 Residing in Rigby
 Commission Expires: 07-15-2009

RECEIVED

AUG 16 2004

Department of Water Resources
 Eastern Region

NOTICE OF WATER RIGHT.

STATE OF IDAHO,

County of Bannock }

TO ALL CONCERNED, NOTICE IS HEREBY GIVEN:

In That William R. Bowers, of Idaho

Bannock County of Idaho

hereby claim the use of the waters of Bear River

to the extent of One cubic feet per second.

And, It is intended to divert said water up or near the point where a copy of this notice is posted, and more especially described as follows: As he diverted from said Bear River at

South of Bear one half mile South from Falls.

(The above description gives legal subdivisions of land as described the place with reference to some prominent landmarks.)

3d. The purpose for which said water is intended to be used is Domestic and

Agricultural

The place of intended use is Lake, Fremont County, Idaho

4th. It is intended to divert said water by means of Ditch and dam

The general course of the proposed canal is South

The length of the proposed canal is three fourths of a mile

and proposed to use said water for irrigating the following described land:

NE 1/4 Sec. 37, Twp. 16 North, Range 43 East, Boise Meridian.

5th. It is intended to leave the works for diversion and use of said water an open ditch unenclosed within years. (This must be within five years.)

WITNESSE two John, Fremont County, Idaho

this 27 day of June, 1908

William A. Powers

STATE OF IDAHO,

County of Fremont,

William A. Powers

being first duly sworn, deposes and says that he is of lawful age and is the owner of the Water Right mentioned in the foregoing notice and which bears 20 cubic feet per second. That the statements in said notice are true, and that the original notice, of which the foregoing is a true copy, was posted in a conspicuous place at or near the place of intended diversion (as provided by law) on the 27 day of June, 1908, at 10 o'clock AM.

Subscribed and sworn to before me this 27 day of June, 1908.

W.A.

Witness my hand and official seal at Boise, Idaho, this 27th day of June, 1908.

Filed for record this 30 day of June, 1908.

By

Deputy.

Witness my hand and official seal at Boise, Idaho, this 30th day of June, 1908.

EXHIBIT A