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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

Subcase No. 63-03618

**AFFIDAVIT OF MAYOR DAVID H.
BIETER IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

STATE OF IDAHO)
 : ss.
County of Ada)

DAVID H. BIETER, being first duly sworn upon oath, deposes and says:

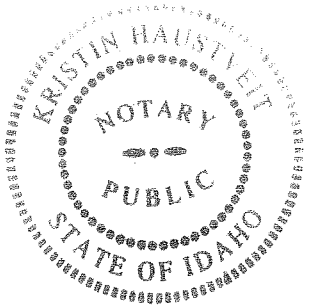
1. I am the Mayor of the City of Boise, Idaho, and as such have personal knowledge of the facts stated herein.
2. Attached hereto as Exhibit A is a true and correct copy of my August 13, 2004 remarks to the Idaho Environmental Forum regarding the cultural, economic, and environmental importance of the Boise River and the maintenance of adequate streamflow in the Boise River to sustain its value as a revered public resource.

FURTHER YOUR AFFIANT SAYETH NOT.



Honorable David H. Bieter, Mayor, City of Boise

SUBSCRIBED AND SWORN to before me this 12th day of October, 2007.



Notary Public for Idaho

Residing at

Boise Id

My Commission Expires

10/10/09

CERTIFICATE OF SERVICE

I, the undersigned, certify that on October 15, 2007, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Rules of Procedure, to the following person(s):

State of Idaho	Hand Delivery	☐
c/o Natural Resources Div. Chief	U.S. Mail	☒
Attorney General's Office	Facsimile _____	☐
PO Box 44449	Overnight Mail	☐
Boise, Idaho 83711-4449		
United States of America	Hand Delivery	☐
US Department of Justice	U.S. Mail	☒
Envir. & Nat. Resources	Facsimile _____	☐
550 West Fort Street, MSC 033	Overnight Mail	☐
Boise, Idaho 83724		
Director	Hand Delivery	☐
Idaho Dept. of Water Resources	U.S. Mail	☐
PO Box 83702	Facsimile: 208-342-4657	☒
Boise, Idaho 83724	Overnight Mail	☐
Scott L. Campbell	Hand Delivery	☐
PO Box 829	U.S. Mail	☒
Boise, Idaho 83701-0829	Facsimile _____	☐
	Overnight Mail	☐
Albert P. Barker	Hand Delivery	☐
Shelley M. Davis	U.S. Mail	☒
PO Box 2139	Facsimile _____	☐
Boise, Idaho 83701-2139	Overnight Mail	☐
Daniel V. Steenson	Hand Delivery	☐
S. Bryce Farris	U.S. Mail	☒
PO Box 2773	Facsimile _____	☐
Boise, Idaho 837017-2773	Overnight Mail	☐
Jerry A. Kiser	Hand Delivery	☐
620 West Hayes Street	U.S. Mail	☒
Boise, Idaho 83702	Facsimile _____	☐
	Overnight Mail	☐


Erika E. Malmen

August 13, 2004

Remarks to Idaho Environmental Forum

Mayor David H. Bieter
Barber Park

Good afternoon, and welcome to the Boise River.

I want to thank the Idaho Environmental Forum, Chris Meyer and the IEF Steering Committee for inviting me to join you on this glorious summer afternoon in the Treasure Valley. It's hard for me to believe all of you are here to listen to a politician talk for half an hour as the price of admission to float the river. So I'm guessing you just want to line up your rafts and tubes for some free hot air.

Like everyone who grew up in Boise or who has lived here for any length of time, I feel a strong connection to the Boise River. In fact, my Dad used to say, only a little tongue-in-cheek, that when it came time for him and his new wife to settle down and start a family, my Mother explained it very simply to him. "We can live anywhere in the country," she said, "as long as you can see the Boise River from there."

Growing up, my brothers and I did everything on the river: tube, swim, surf. After football practice, we'd cool off by jumping in the river. My family picnicked and played in our city's riverfront parks Julia Davis, Ann Morrison, Municipal and as the Greenbelt grew, it became a favorite place for me and my 1969 Schwinn one-speed, the same bike I ride today.

The Boise River has been as much a part of my life as my school, my church and my family. It wasn't until I left Boise and went away to college that I really understood that not everyone has a 23-mile-long park as we do with our Greenbelt. Not every community can boast of a healthy trout stream in the middle of downtown. Not many places can you walk a few steps from the city library, the public university, or an ordinary office building and see bald eagles and great blue herons in their natural habitat. Not everyone is blessed with a public resource like this one.

And let's be clear: The Boise River and all of the surface and ground waters of this valley constitute a public resource. The river is nothing less than our community's lifeblood. More than the Statehouse, the Boise Depot or even the Foothills, the Boise River is the icon of our city. Its health will largely determine the course and vitality of Boise's future.

Some years ago, a friend of my wife's family presented me with an old history of our community, titled "Boise: The Peace Valley," written by a Nampa teacher named Annie Laurie Bird. I say "history," but in many respects the book is an almost contemporaneous account of our community's founding and early growth; at the time Bird wrote, back in 1934, just 70 years had passed since the town site of Boise City had been laid out, and barely 50 years since the railroad had arrived. Many of the founders of our community were Annie Laurie Bird's personal friends.

Bird noted that this river has gone by different names at different times. The original 1814 history of the Lewis and Clark expedition called it Cop-pop-ah-ash. On later maps it was labeled Wihinast, or Skam-naugh, or Reed's River. Captain Bonneville's party was the one said to have christened it "Riviere Boise," or the Woody River.

That river is why there is a Boise; it's why people came here, stayed here, built here. And man, did they build. Not many people know this, but the transformation of this valley from a few hardscrabble miners and crusty trappers to a thriving, fertile agricultural region happened very quickly mostly during the eight-year period between 1863 and 1871. That transformation was profound, and it shapes our environment, our culture and even our politics to this day.

EXHIBIT

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We owe an enormous debt to those who came before us, the pioneer farmers and early irrigators who built the ditches, erected the dikes and shepherded this precious resource to make the desert bloom. We owe it to them, and more important, to ourselves and our children, to shepherd the resource wisely into the future.

I have to say that we've done an excellent job in that regard so far. If I can refer back again to when I grew up here: As much time as we kids spent in and around the Boise River, there were places we were told not to go. Our parents thought we shouldn't tube the river downstream of the Broadway Bridge because the river was too polluted. I have to admit, that didn't stop me from bridge surfing from the Eighth Street Bridge.

Today we're fortunate to have one of the cleanest major urban rivers in the country. It is not just a tremendous environmental benefit to our community, but a crucial economic asset as well. Boise's ability to attract and retain high-quality, high-wage employers is largely dependent on the quality of life that we can provide to their employees. The Boise River is intricately intertwined with that quality of life.

We see it not only in our parks and our Greenbelt, but in other local gems, both public and private, that have sprung up in recent years.

We see it in the Idaho Shakespeare Festival facility, where literature and culture come to life in the midst of a unique river riparian setting.

We see it in Ridge to Rivers, the collaborative partnership that capitalizes on our valley's one-of-a-kind landscape for recreation opportunities.

We see it in the "River Sweep," our annual Boise River cleanup, which will happen this year on Saturday, Sept. 18, thanks to the incredible efforts of Boise Parks and Recreation, Idaho Fish and Game, and Idaho Rivers United.

And finally, we see it the work of Trout Unlimited, which is working to create a new side channel of the Boise River, just upstream from us here, for the purposes of restoring spawning, rearing, and over-wintering fish habitat, all of which have been lost over time due to a changed river ecosystem.

These efforts and many others provide excellent examples of public agencies and private interests working together to protect the resource. Such cooperation is essential, because the river crosses numerous jurisdictional boundaries, even within our city limits.

The federal Bureau of Reclamation controls river flows, except during flood-control periods, when the Army Corps of Engineers is in the driver's seat. Boise Parks and Recreation assumes leadership for management of the river corridor from Barber Park to the Glenwood Bridge, but Ada County, Garden City and numerous private owners are in that mix. The U.S. Fish and Wildlife Service, Idaho Department of Fish and Game, the Environmental Protection Agency, the Idaho Department of Water Resources this river answers to many masters, not all of them with the same priorities.

In fact, those priorities are now undergoing the most radical change since the first ditches were dug in this valley. This is a river with many uses, and as the Treasure Valley grows to a projected 1 million people over the next few decades, those uses are likely to come into increasing conflict.

Agriculture, which built this valley, is rapidly being plowed under and paved over by expanding urbanization. Already, about 20 percent of Boise's drinking water comes from the river. High-

tech manufacturers such as Micron require pure water for their manufacturing processes. And as we know, our surface waters and our underground aquifers are not separate, but part of the same delicate system.

Our efforts at protecting the river must focus both on water quantity and quality. River flows must be large enough and clean enough to serve all of those various needs to provide irrigation, to preserve wildlife habitat, to serve industry and an increasing human population, to provide recreational opportunities.

To achieve that balance, we must preserve options and take the long view regarding river uses. That's why, earlier this year, I publicly opposed the Bureau of Reclamation's change in the way it issues water contracts, which put control of almost one-fourth of Lucky Peak Reservoir's storage capacity permanently in the hands of private entities. With that decision, unfortunately, the public will never again have the chance to evaluate whether its resource is being used appropriately. And I fear that will hurt us in the future.

In and around Boise, we have an excellent blueprint for management of the river: the Boise River Resource Management and Master Plan, which was developed by our Parks and Recreation Department and approved by the City Council five years ago. The plan calls for improvements to public safety, recreation, wildlife and fisheries habitat, riverbank stabilization, water quality and wetlands mitigation.

I'm pleased to say we're making steady progress in those areas. In the past year, for example, the city has planted more than a thousand plants in the river's riparian zone. We've upgraded lighting and signage along the Greenbelt. And this fall, we'll finish constructing a formal river takeout facility in Ann Morrison Park that will make floating the river safer and better protect the riverbank.

Yet as we work to preserve this irreplaceable resource, we must also look throughout the Boise River watershed, from its headwaters in the central Idaho wilderness to the confluence with the Snake River. Which means Boiseans must pay attention to the proposal by a Canadian mining company to construct a 500-foot-deep open pit cyanide leach heap gold mine near Atlanta, on the Middle Fork of the Boise River. It means Boiseans must care about clean water not just between here at Barber Park to Ann Morrison Park, where we tube and raft and fish and swim, but farther downstream, past Eagle and Star, where agricultural impacts have taken a great toll on water quality. It means we must all be careful what we spill or dump onto streets and parking lots and down storm drains, which empty directly into the Boise River. My good friend Eddy Trout over here will give you some pointers on that last one.

But "water quality" doesn't just mean what goes into the river; it also means what happens on the river. Many of you probably read or heard about the stepped-up enforcement by the Boise Police Department along the river in recent weeks. That action became necessary because of the alarming rise in problems associated with river floating and Greenbelt use: drunkenness, litter, fighting, public urination, drunken driving and various kinds of unsafe behavior.

This stretch of river is the most heavily used recreational water in the state in terms of sheer numbers of people. But it will be ruined unless we can preserve safety, sanitation and civility. Achieving that crucial goal is much more difficult because of the split jurisdiction, with Ada County operating Barber Park and the City of Boise managing the downstream stretches. It's just not working, and it's time to take a hard look at that arrangement. In the coming weeks and months, our Parks and Recreation board and staff will be reviewing this summer's enforcement actions and our priorities for recreational improvements. I'll be interested in hearing their suggestions on how to ensure that floating the river remains a safe, fun, family-friendly activity.

And we need to look for other ways for people of all ages and interests to enjoy the river. We're doing that with the planned Boise River Whitewater Park, which will give kayakers and boaters of all skill levels a nearby place to practice and demonstrate their sport. And it will also provide excellent fish habitat.

I'm also going to suggest that our Parks and Recreation staff look into creating another recreational opportunity on the Boise River: a designated river surfing spot, a place where kids and adults can tie up their boards to something other than trees and have a good time, like I did growing up, without endangering themselves or other river users.

You know, ever since the Idaho Environmental Forum announced that I'd be talking about the Boise River, my office has been getting calls from interest groups and the media, asking what sort of policy announcement I might make here today. Well, here it is:

As mayor, I'm going to speak out on behalf of the people of Boise, past, present and future, to make sure that this river is in no way diminished or violated. I'll look beyond the city limits to the threats to the river throughout its watershed. I'll be vigilant about any public or private development that impinges on the treasure of the Treasure Valley.

We all know about the severe hardships endured by settlers on the Oregon Trail, who traversed huge distances over barren landscapes with hardly any resources in hopes of finding a place they could call home. Annie Laurie Bird imagined those early pioneers, crossing the great desert and exclaiming, "A gray land, grim and forbidding! Of what use can it ever be! A desolate waste that must be traversed to reach a more promising land where people can live."

Well, they found that promising land, the "Peace Valley," the Treasure Valley, right here along this river.

Today, the bottom line, and the main point I want to leave you all with, is simply this: The Boise River doesn't belong exclusively to anyone. We must work hard to ensure that no single interest excludes the others that the river remains a public resource, in the broadest and most inclusive sense of the term.

Thanks again for coming out today, and I'll be happy to take a few questions before we hit the water.