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RECEIVED
OCT 30 2007
DEPARTMENT OF
WATER RESOURCES

**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. 94-00019

FOR WATER RIGHT NO.: A47-04177E

AFFIDAVIT OF DANIEL A. NEVALA

STATE OF IDAHO)
)ss.
County of Ada)

Daniel A. Nevala, being first duly sworn upon his oath and upon his personal knowledge and belief, deposes and states:

1. C. Tom Arkoosh and I are counsel for Tim and Karen Smalley in the above-captioned matter.
2. Our office filed a Petition for Injunctive Relief on or about August 28, 2001 alleging forfeiture, abandonment, and waste of water right 47-04177E, and seeking to enjoin

Marjory Chessmore (Bruce Walden's predecessor) and all others from diversion of the water described in water right 47-04177E.

3. The Final Hearing on the Petition for Injunctive Relief is set for January 2, 2008.

4. The parties to this action have stipulated on the Interim Administration of water right 47-04177E every year since 2002 and agreed to extend the terms of their Stipulation for the 2007 irrigation season pending resolution of the matter via the SRBA.

5. As further evidence that the parties intended to agree to resolve the matter before the SRBA, the Court filed a *Recommendation on Interim Administration* for 2007.

6. While notice may have been sent to our office, neither I nor Tom Arkoosh, were personally aware of the September 19, 2007 deadline to file objections for Basin 47 until after the deadline had passed.

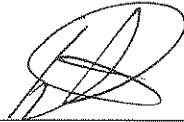
7. Further, due to the Final Hearing on Petition for Injunctive Relief being set for January 2, 2008 and the ongoing stipulation pertaining to the interim administration of water right 47-04177E, I believed that the parties were of the understanding that no objections would be filed.

8. As a result, I inadvertently failed to timely file a formal objection to water right 47-04177E.

9. My failure to timely file a formal objection to water right 47-04177E was not willful.

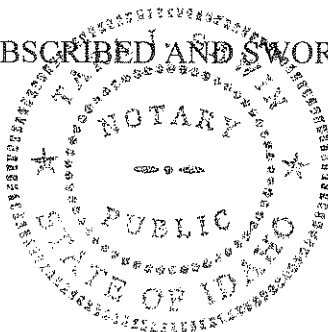
10. My failure to timely file a formal objection to water right 47-04177E was not done with any malice, evil intent, or bad motive or purpose.

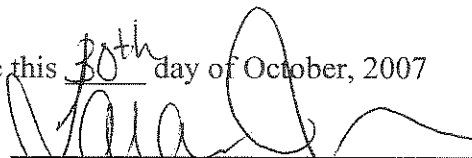
11. My failure to timely file a formal objection to water right 47-04177E was not done purposefully, intentionally, knowingly, deliberately, or without justifiable excuse.

A handwritten signature in black ink, appearing to be 'D. Nevala', is positioned above a horizontal line.

Daniel A. Nevala

SUBSCRIBED AND SWORN to before me this 30th day of October, 2007




NOTARY PUBLIC for Idaho

Residing at: Meridian, Idaho

My Commission Expires: 8/17/13

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of October, 2007, I served a true and correct copy of the foregoing document(s) on the person(s) listed below, in the manner indicated:

RECIPIENT(S)

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

☒ U.S. Mail, Postage Prepaid
☐ Overnight Courier
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Scott Campbell
Andrew Waldera
MOFFATT THOMAS BARRETT
ROCK & FIELDS CHTD.
P.O. Box 829
Boise, Idaho 83702-0829

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Daniel A. Nevala