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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.: 74-14981/74-321C

AFFIDAVIT OF GLENN A. SEABERG

STATE OF IDAHO)
)ss
County of Bonneville)

Glenn A. Seaberg, being first duly sworn, on his oath deposes and says:

1. I am a citizen of the United States and a resident of the State of Idaho, presently residing at PO Box 471, Salmon, Idaho 83467. I am over the age of eighteen (18) years, have personal knowledge of the facts set forth herein, and make this affidavit on the basis of such personal knowledge.
2. On or about December 2, 1994, my wife, Kathy E. Seaberg, and I, purchased a parcel of real property from Myra E. Miller, consisting of approximately 8 acres of land located in the northeast corner of the NENW, Section 15, T21N., R22E., in Lemhi County, Idaho. The Warranty Deed from Mrs. Miller was recorded December 16, 1994 in the Records of Lemhi County, Idaho, as Instrument No. 224902.
3. At the time we purchased the property, it had the appearance of having been irrigated pasture for a very long time. We were informed, and it appeared, that water had been brought from Lemhi River to this land for irrigation through the Andrews Ditch and we

have continued to irrigate the property in that manner every season since the time of our purchase.

4. When we acquired the property, we understood there was an appurtenant water right consisting of a portion of an old decreed right having a priority date of June 9, 1875, in the amount of approximately 1 and ½ inches (0.03 cfs) per acre.
5. Sometime in early 2000, we learned about the SRBA proceeding, and after doing some checking, were told we needed to file a claim, which we did on June 9, 2000. Our claim was assigned number A74-14981. We were thereafter advised by IDWR that we did not have a water right because one had not been decreed to our property in the Lemhi Adjudication proceeding which we understand to have occurred sometime between 1970 and about 1983. We then contacted Mrs. Myra E. Miller from whom we purchased the property and she seemed quite surprised to learn of the information given to us by IDWR. Mrs. Miller related to us that she and her husband had claimed a water right in the Lemhi Adjudication proceeding for our specific eight acres as well as other land they owned nearby back in 1971. At some point in time, an IDWR employee named Glen Saxton had told her and her husband, Clarence C. Miller, that their land did not need all the water they had claimed. The Millers disagreed with Mr. Saxton and when they learned a water right had not been recommended for some of their land, the Millers made numerous attempts to correct this error. Mr. Miller made most of the contacts with IDWR and others to correct the mistake, and a time came when Mrs. Miller understood from Mr. Miller that he had been successful in having the problem resolved so that all of the irrigated land owned by the Millers, including the eight acres now owned by the Seabergs, had the appropriate portion of the old 1875 priority water right decreed as appurtenant thereto. Because of the understanding Mrs. Miller had from her husband, she took no further action with respect to the water rights records related to our eight acres. Idaho Department of Water Resources subsequently recommended that our claim be disallowed.
6. Mr. Miller passed away a few months before Mrs. Miller sold us the eight acres we now own. Every neighbor with historical knowledge and all current and former ditch riders with whom we have discussed the matter, have assured us our eight acres has been irrigated from the Andrews ditch every irrigation season they can remember. Water has

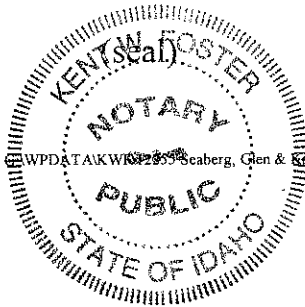
been diverted and used on our eight acres since long before the Lemhi Adjudication Proceeding, and ever since, so to continue to do so will not adversely affect or injure any of her water rights. It has cost us a great deal of time and expense to pursue this matter, but the value of our eight acres would be dramatically reduced without the water right that belongs to it.

DATED this 17th day of December, 2007.

Glenn A. Seaberg
Glenn A. Seaberg

SUBSCRIBED AND SWORN TO before me this 17th day of December, 2007.

Kent W. Foster
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires: 11/20/2010



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