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DEPARTMENT OF
WATER RESOURCES

Scott J. Smith (ISB# 6014)
RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED
P. O. Box 1391/Center Plaza
Pocatello, Idaho 83204-1391
Telephone: (208) 232-6101
Facsimile: (208) 232-6109

Attorney for Robert E. Fuchs (Deceased) and Donna T. Fuchs

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) SUBCASES: 21-10557 and 21-13013
Case No. 39576) AFFIDAVIT OF KEITH BARNEY

State of Idaho)
ss:
County of Fremont)

KEITH BARNEY, after being duly sworn on oath, deposes and states as follows:

1. I am a citizen of the United States of America; a resident of Fremont County, Idaho; and of legal age. I have personal knowledge of the facts stated herein and am competent to testify of such as a witness in the above captioned matter.

2. My current address is Box ¹³²~~134~~, Golf Course Rd., Chester, Idaho. My telephone number is 208-624-3439. ^{2894 E. 700 N.}

3. My father was Earl Barney and my grandfather was Edgar Barney.

4. My grandfather Edgar Barney owned a ranch along the Snake River near Chester, Idaho. It is my understanding that the part of the ranch located to the east of the Snake River was within Sections 6 and 7 of Township 8 Range 42, and Section 12 of Township 8 of Range 41. The general outline of this portion of the ranch is outline in red on the attached map

(hereinafter "the Ranch"). The homestead is also indicated on the attached map (hereinafter "homestead").

5. I was born in 1945 and am currently 63 years old. I was born in my grandfather's home on the homestead. Although my father and mother lived in a home nearby, I lived with my grandfather in his home and was raised by him until his death in 1955. My current residence is only 3 or 4 miles from the home in which I was born.

6. While living with my grandfather, I had many ranch duties and became familiar with the Ranch and with the irrigation practices that occurred thereon. I recall that the Ranch had the best water rights and the most water of all properties in the area. We irrigated the entire Ranch and grew timothy hay, grain, and potatoes throughout the Ranch. There was also a large garden near the homestead. We also pastured cattle and some horses and ran a small dairy. I recall that the water used to irrigate the Ranch came through a ditch we all called the Silkey Ditch. Among my other responsibilities on the Ranch, I was responsible for removing the moss from that ditch.

7. I specifically recall my grandfather discussing how it was his goal to keep the Ranch together after his death and to ensure that my father, who had been working the Ranch with him, would get the Ranch after my grandfather's death. My grandfather also explained that he had deeded Lots 3 and 4 of Section 7 to my father as part of his plan to accomplish this goal. Notwithstanding this transfer, my grandfather continued to control all aspects of the entire Ranch including the small parcel deeded to my father.

8. The general boundaries of the parcel identified as Lots 3 and 4 of Section 7 which were deeded to my father are outlined in yellow on the attached map.

9. I have recently reviewed the deed dated 4/10/1947 transferring Lots 3 and 4 from my grandfather to my father. This deed states that it also transfers 100 inches of what is identified as "Silkie Decreed Water." I never heard my grandfather or my father ever use the term "Silkie Decreed Water." However, I know that my grandfather and father never referred to the water in the Silkey Ditch as the "Silkie Decreed Water." In fact, I am also sure that the "Silkie Decreed Water" was not a reference to any water in the Silkey Ditch because I specifically recall hearing my grandfather and father discuss on several occasions that my grandfather had not transferred, and my father had not received, any of the water in the Silkey Ditch in conjunction with Lots 3 and 4. My grandfather and my father did not intend for any of the water in the Silkey Ditch to be transferred with Lots 3 and 4. Rather, it was the intention of both by grandfather and my father that it be reserved to be used on the rest of the Ranch.

10. It is my understanding that the water in the Silkey Ditch which had been used on Lots 3 and 4 was later transferred by my grandfather to the northern end of the Ranch. Had he given that water to my father, I don't see how my grandfather could not have done that transfer.

11. When my grandfather passed away, my grandmother ended up selling the Ranch to Bill Tanner who I understand was Donna Fuchs' father and Bill Fuchs' grandfather.

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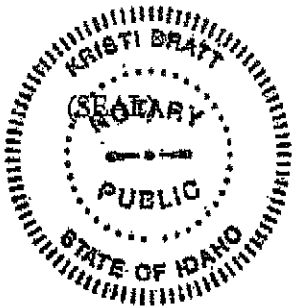
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FURTHER SAITH AFFIANT NAUGHT.

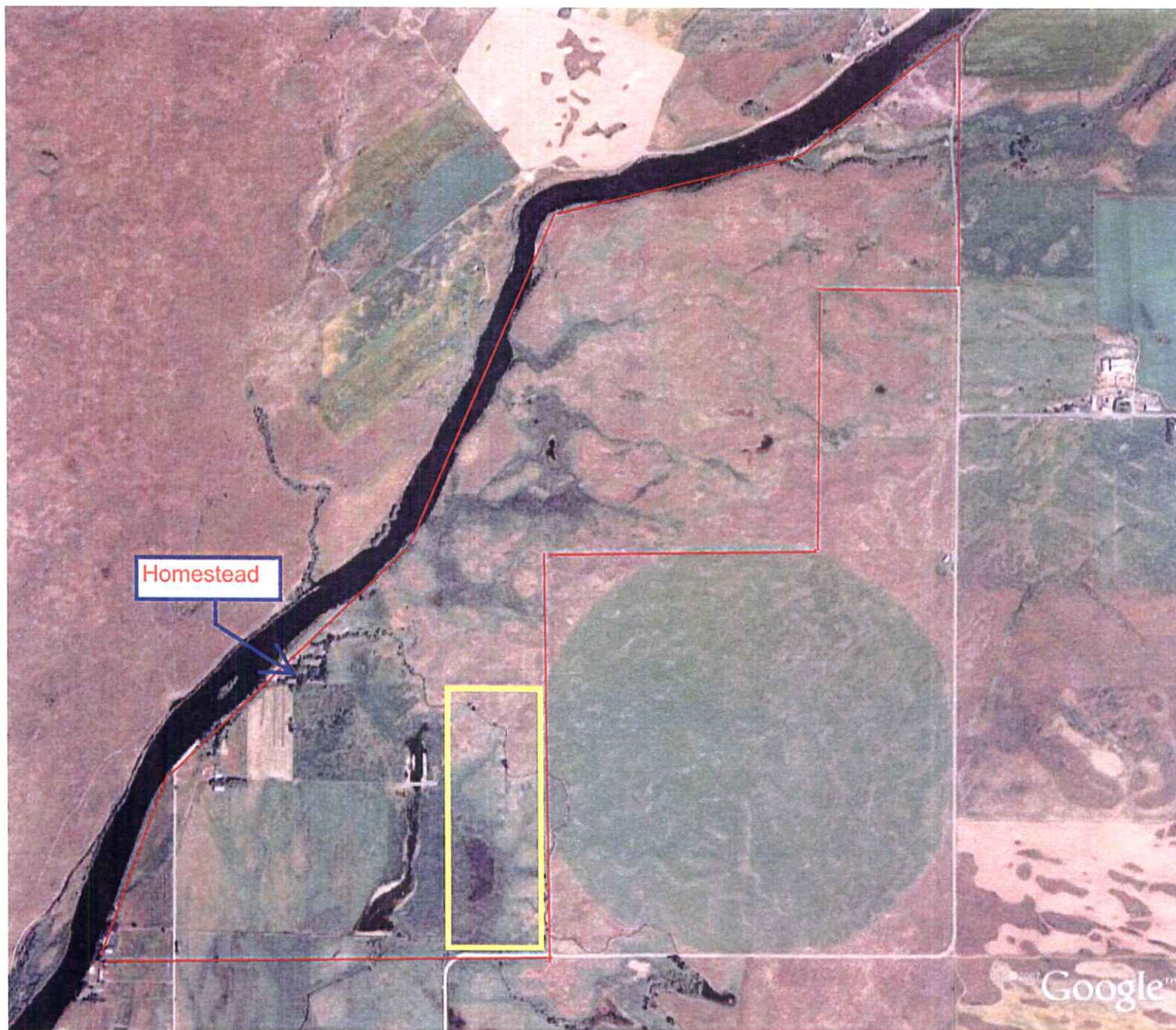
DATED this 14 day of January, 2008.

Keith Barney
KEITH BARNEY

SUBSCRIBED AND SWORN TO before me this 14 day of January, 2008.



Kristi Bratt
NOTARY PUBLIC FOR IDAHO
Residing at: St. Anthony
My Commission Expires: 12-15-2012



Homestead

Google

CERTIFICATE OF SERVICE

I hereby certify that on the 14 day of January, 2008, 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:

1. Original to:

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

2. Copies to:

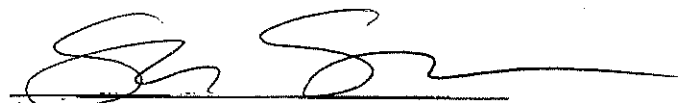
Director of IDWR
P.O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

US Department of Justice
Environment & Natl' Resources
550 West Fort Street, MSC 033
Boise, Idaho 83724

George Nedrow
1361 N 3125 East
Ashton, Idaho 83420

Robert L Harris
Representing: RLF I LLC, et al
P.O. Box 50130
Idaho Falls, Idaho 83405


SCOTT J. SMITH