

R.C. Stone
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Idaho State Bar #1890
Attorneys for City of Burley

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	)	Subcase No. <u>1-7082</u>
	)	
Case No. 39576	)	AFFIDAVIT OF R.C. STONE IN
	)	SUPPORT OF MOTION FOR
	)	RELIEF FROM PARTIAL DECREE
	)	

STATE OF IDAHO)
) ss
County of Cassia)

R.C. STONE, having been first duly sworn, deposes and states:

1. I am the attorney for the City of Burley in the above-entitled action.
2. Since the entry of the partial decree of September 14, 2007, I have been involved in extensive negotiation with Andrea Courtney and Michael Holliday of the Idaho Department of Water Resources.
3. We have concluded that Claim No. 1-7082 is a claim which substantially duplicates that of Claim No. 01-4058.
4. Historical investigation has established that this was a single use, but that 01-4058 claimed a priority date based upon beneficial use of June 1, 1996. 1-7082 claimed a

1 priority date based upon a permit of February 24, 1983.

2 5. IDWR has disallowed Claim No. 01-4058. Though we were able to provide
3 evidence of use prior to 1983, the Department is reluctant to recommend the claim.

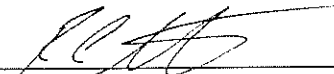
4 6. In the course of negotiation, we investigated whether the difference between
5 the priority dates would make any practical difference in delivery of water upon either of the
6 claims. It was determined that it did not make a significant difference.

7 7. I have been advised that IDWR is ready to issue a license on 1-7082, however,
8 there will be changes from the permit upon which the partial decree entered.

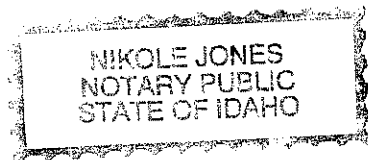
9 8. It is the desire of the City of Burley that the partial decree entered relative to 1-
10 7082 be consistent with the license to be issued.

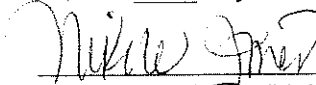
11 DATED this 13 day of February, 2008.

12 PARSONS, SMITH & STONE, LLP

13
14 
15 R.C. Stone
16 Attorneys for City of Burley
17 137 West 13th Street
18 P.O. Box 910
19 Burley, ID 83318

20
21 SUBSCRIBED and sworn to before me, this 13th day of February, 2008.



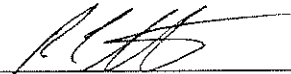

Notary Public for Idaho
Residing at Burley, ID
My commission expires 9/3/2010

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3 CERTIFICATE OF DELIVERY

4 I hereby certify that on the 13 day of February, 2008, I served a copy of the
5 foregoing Affidavit of R.C. Stone in Support of Motion for Relief from Partial Decree upon
6 the following in the manner listed below:

7 IDWR x Via United States Mail
8 P.O. Box 83720 — Via Facsimile
9 Boise, Idaho 83720-0098 — Via Overnight Carrier
— Via Hand Delivery

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11 PARSONS, SMITH & STONE, LLP

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LAWYERS
BURLEY, IDAHO