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16845.0014

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. 37-07584

**AFFIDAVIT OF ANDREW J. WALDERA IN  
SUPPORT OF MOTION TO FILE LATE  
OBJECTION AND REQUEST FOR  
EXPEDITED HEARING**

STATE OF IDAHO   )  
                                  ) ss.  
COUNTY OF ADA   )

Andrew J. Waldera having been duly sworn upon oath, deposes and states as follows:

1.       I am one of the attorneys providing legal services to Newfoundland Partners (hereinafter "Newfoundland") in the above-captioned matter.

2. I have knowledge of the files in this matter, and I make this affidavit based upon personal knowledge.

3. I make this affidavit in support of Newfoundland's Motion to File Late Objection and Request for Expedited Hearing.

4. On November 14, 2007, Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris, and the Big Wood Canal Company (hereinafter "Concerned Water Users") filed objections to multiple water rights, including Newfoundland's water right number 37-12130.

5. Neither Newfoundland nor I were served with notice of Concerned Water Users' objections to the water right.

6. Newfoundland and I did not become aware of Concerned Water Users' objection until December 18, 2007 during the investigation of a series of similar objections filed against Sinclair Oil Corporation's (Sun Valley Company) water rights.

7. The Concerned Water Users objected to Newfoundland's water right asserting that:

Under Idaho Code 42-1501, aesthetic, wildlife and recreation are not beneficial uses authorized by the Idaho legislature or Constitution to be held in the name of private entities. If such uses are allowed, the right cannot carry a priority date earlier than the first date that the legislature authorized that beneficial use to be held by a private party.

8. The objection period for Basin 37 ended on November 14, 2007, which was the same day in which Concerned Water Users filed their objections at issue in this case.

9. After discovering the existence of Concerned Water Users' objections, and out of concern for potential law of the case ramifications, my office worked diligently to prepare Standard Form Responses for 66 of the Concerned Water Users' objections.

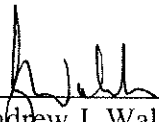
10. After preparing and filing the above-referenced responses, my office next turned its attention to the review of approximately 190 water rights held among Concerned Water Users to determine whether their water rights are subject to any of the same objections raised by them, or others.

11. This extensive water right review process is time consuming and ongoing. At present, this office is awaiting receipt of approximately 150 water right back files that are not available on the Idaho Department of Water Resources' website.

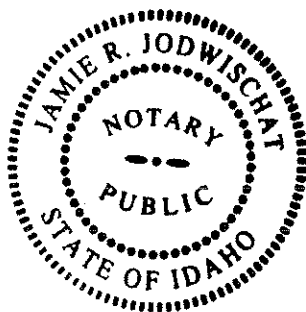
12. To date, no initial hearings have been scheduled, no schedule for trial has been entered, and no settlements between any of the parties have occurred.

Further your affiant sayeth naught.

DATED this 7th day of March, 2008.

  
\_\_\_\_\_  
Andrew J. Waldera

SUBSCRIBED AND SWORN to before me this 7th day of March, 2008.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at Nampa  
My Commission Expires 5-23-12

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2008, I caused a true and correct copy of the foregoing **AFFIDAVIT OF ANDREW J. WALDERA IN SUPPORT OF MOTION TO FILE LATE OBJECTION AND REQUEST FOR EXPEDITED HEARING** to be served by the method indicated below, and addressed to the following:

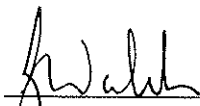
|                                     |                                                                    |
|-------------------------------------|--------------------------------------------------------------------|
| Director                            | <input checked="" type="checkbox"/> (X) U.S. Mail, Postage Prepaid |
| IDAHO DEPARTMENT OF WATER RESOURCES | <input type="checkbox"/> ( ) Hand Delivered                        |
| 322 E. Front St., 6th Floor         | <input type="checkbox"/> ( ) Overnight Mail                        |
| P.O. Box 83720                      | <input type="checkbox"/> ( ) Facsimile                             |
| Boise, ID 83720-0098                |                                                                    |
| Fax: (208) 287-6700                 |                                                                    |

|                                   |                                                                    |
|-----------------------------------|--------------------------------------------------------------------|
| Chief, Natural Resources Division | <input checked="" type="checkbox"/> (X) U.S. Mail, Postage Prepaid |
| Office of the Attorney General    | <input type="checkbox"/> ( ) Hand Delivered                        |
| STATE OF IDAHO                    | <input type="checkbox"/> ( ) Overnight Mail                        |
| P.O. Box 44449                    | <input type="checkbox"/> ( ) Facsimile                             |
| Boise, ID 83711-4449              |                                                                    |
| Fax: (208)                        |                                                                    |

|                                         |                                                                    |
|-----------------------------------------|--------------------------------------------------------------------|
| UNITED STATES DEPARTMENT OF JUSTICE     | <input checked="" type="checkbox"/> (X) U.S. Mail, Postage Prepaid |
| Environment & Natural Resource Division | <input type="checkbox"/> ( ) Hand Delivered                        |
| 550 W. Fort St., MSC 033                | <input type="checkbox"/> ( ) Overnight Mail                        |
| Boise, ID 83724                         | <input type="checkbox"/> ( ) Facsimile                             |
| Fax: (208)                              |                                                                    |

|                                                                                                                                                            |                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Albert P. Barker                                                                                                                                           | <input checked="" type="checkbox"/> (X) U.S. Mail, Postage Prepaid |
| BARKER, ROSHOLT & SIMPSON, LLP                                                                                                                             | <input type="checkbox"/> ( ) Hand Delivered                        |
| P.O. Box 2139                                                                                                                                              | <input type="checkbox"/> ( ) Overnight Mail                        |
| Boise, ID 83701                                                                                                                                            | <input type="checkbox"/> ( ) Facsimile                             |
| Fax: (208) 344-6034                                                                                                                                        |                                                                    |
| <i>Attorneys for Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, and Pepin Corso-Harris</i> |                                                                    |

|                          |                                                                    |
|--------------------------|--------------------------------------------------------------------|
| Maxine and A.W. Molyneux | <input checked="" type="checkbox"/> (X) U.S. Mail, Postage Prepaid |
| 1174 Gannett-Picabo Rd.  | <input type="checkbox"/> ( ) Hand Delivered                        |
| Bellevue, ID 83313       | <input type="checkbox"/> ( ) Overnight Mail                        |
| <i>Claimants</i>         | <input type="checkbox"/> ( ) Facsimile                             |

  
\_\_\_\_\_  
Andrew J. Waldera