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DEPARTMENT OF
WATER RESOURCES

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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 Nos.: 74-54

Case No. 39576

**AFFIDAVIT OF
ROBERT L. HARRIS IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

STATE OF IDAHO)
) ss.
County of Bonneville)

I, Robert L. Harris, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I am an attorney licensed to practice law in the state of Idaho. I am a member of the firm of HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C., and represent F. James Whittaker and Paula J. Whittaker in the above subcase.

COPY

2. Attached hereto are true and correct copies of the following documents referenced in the Memorandum in Support of Motion for Summary Judgment regarding the above subcase:

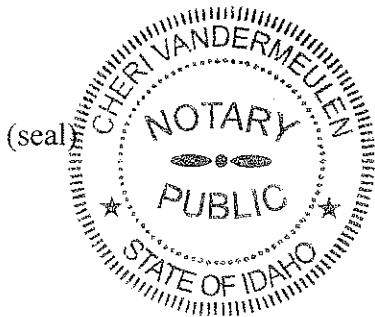
- a. Exhibit A: Copy of Relevant Lemhi Adjudication Report for Water Right 74-54.
- b. Exhibit B: Copy of Affidavit of James Whittaker.
- c. Exhibit C: Copy of Affidavit of Julia Russell.
- d. Exhibit D: Copy of Affidavit of Dan Smith.
- e. Exhibit E: Copies of Copy of Watermaster Reports for Big Timber Creek in Basin 74-W for 1979 through 1986, and from 2006.
- f. Exhibit F: Copy of Affidavit of Ed Peterson.
- g. Exhibit G: Copy of Affidavit of Ted Adams.
- h. Exhibit H: Copy of notarized letters from Chet Adams and Opal Adams.
- i. Exhibit I: Copy of Memorandum from IDWR file for 74-54.
- j. Exhibit J: Copy of Lemhi County Assessment Records for the claimed place of use of 74-54.
- k. Exhibit K: Aerial maps from 1946 and 2004.
- l. Exhibit L: Maps prepared by affiant by using using Geographic Information Systems (“GIS”) data from IDWR. The map superimposes the claimed 74-54 place of use over an aerial photograph, which affiant downloaded from IDWR’s interactive mapping tool available on its website. The aerial photo has a layer name of “adjudication photo”, but it is not entirely clear as to the exact date this particular photo was taken. In affiant’s experience with SRBA issues as it relates to aerial photography, typically, in other parts of the Snake River Plan, there

is an infrared aerial photo which IDWR relies heavily upon in its recommendations. In the Lemhi Basin, based on conversations affiant has had with IDWR personnel, there is a mosaic of aerial photos, but that most in the basin were taken in the late 1980s and early 1990s.

DATED this 14th day of March, 2008.

Robert L. Harris
Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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



Cheri Vandermeulen
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: July 7, 2009

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of March, 2008, I mailed the original and copies of this document, including all attachments, to the following persons:

1. Original to:

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

2. Copies to:

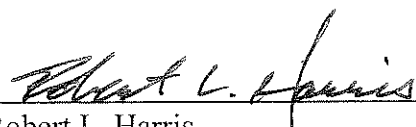
Leadore Land Partners, Ltd.
Represented by:
Josephine P. Beeman
409 W. Jefferson St.
Boise, ID 83702

Richard Foster
PO Box 55
Leadore, ID 83464

Kurt Bird
56 Lower Texas Creek Rd.
Leadore, ID 83464

Purcell Partnership
Purcell Ranch Partnership
c/o Allan/Betty/Kerry Purcell
98 Purcell Rd.
Leadore, ID 83464

Director of IDWR
PO Box 83720
Boise, ID 83720-0098


Robert L. Harris
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Attachments may be viewed in the repository
or legal file