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RECEIVED

AUG 25 2008

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 Numbers: See Attachment
A

**AFFIDAVIT OF RONALD D.
CARLSON IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT**

STATE OF IDAHO)
)
COUNTY OF BONNEVILLE) ss.

1. My name is Ronald D. Carlson. I graduated from Firth High School. I also worked on and help manage our family farm near Firth, Idaho which is irrigated by surface water. I still own and manage the farm, which is within and served by the Snake River Valley

Irrigation District. I attended the University of Idaho. I hold a Bachelor of Science Degree and a Master of Science Degree in Agricultural Engineering from the University of Idaho. My engineering specialty area was hydrology and irrigation. I am a Professional Engineer and Land Surveyor licensed and in good standing in the State of Idaho. My expertise is as an engineer, Watermaster and the Regional Manager of the Idaho Department of Water Resources ("Department"). My engineering specialty area is hydrology and irrigation. In September 1972, I was hired as a hydrologist by the Idaho Department of Water Administration. The Idaho Department of Water Administration was later named the Idaho Department of Water Resources. ("the Department"). In 1973, I moved to Idaho Falls and managed the Dam Safety Program for the Department's Eastern Region Office. In 1974, I became the District Engineer, a title that in later years was changed to Regional Manager, a position I held until I retired in 2006.

2. In 1978 I was elected Watermaster for Water District 1 and continued in that position until my retirement in 2006. I was the Watermaster for Water District 01 and the Regional Manager for the Department's Eastern Region Office for nearly three decades. I served under the direction of four different Directors over a 36 year period while working at the Department. I retired in 2006.

3. Water District 01 is the largest water district in the state and is the largest water district and administers water from the Snake River and its tributaries from the Wyoming border downstream to Milner Dam. The Watermaster of Water District . authorizes the distribution of over 8,000,000 acre-feet of Snake River water annually to nearly 1.2 million acres of land located along the Snake River and its tributaries from Ashton to Bliss, Idaho. The last diversion

or lands entitled to receive water within Water District 01 is at Milner Dam, which is located just downstream from Burley, Idaho.

4. Since the implementation of a new computerized accounting system in 1978, water distribution and regulation in Water District 01 occurs 365 days a year.

5. Water distribution in Water District 01 requires data for every diversion every day of the year. Most of this data is collected using the Bureau of Reclamation's Hydromet system which allows real-time collection of stage-discharge data. Over 90% of the water diverted in Water District 01 is monitored by this automated system. Periodically, Water District 01 deputy watermasters verify this information collecting data. The smaller diversions that are not part of the Hydromet System are manually collected. Water District 01 retrieves the electronic data from the BOR's receive site and manually inputs other data in the Water District 01 electronic database which can be accessed as needed by the Water District 01 computer allocation and accounting program.

6. Once the data for a given day are input into the Water District 01 computer accounting program, water is allocated to the water rights that divert natural flow from the Snake River and tributaries and storage water in the reservoir system by priority date. Of the total amount of water delivered, the available natural flow is allocated by priority with the remaining balance allocated to storage water. So long as that water right holder has storage water available, then they can continue to divert. However, if that water right holder does not have storage water available, then they are shut off if their natural flow rights are not in priority. The accounting is run every day using the preliminary uncorrected data that are available. Accordingly, it is the

Water District 01 computerized program that calculates after the fact what portion of the water delivered to the headgate is natural flow and what portion is storage. Because the natural flow available for delivery and the amount of deliveries vary daily through the irrigation season, the final accounting with corrected data is typically not completed until several weeks after the end of the calendar year and long after the irrigation season ends

7. The Watermaster's records for Water District 01 are a compilation of all of the daily deliveries, which reflect, among other things, the daily distribution of water throughout the year. After 1978, the Watermaster's published records show which priority dates were on in various reaches of the river every day of the year. Prior to 1978, the Watermaster did not collect or publish data for the period of year when the river was not under regulation because he did not keep delivery records unless he was cutting rights and had placed the river "under regulation."

8. I am familiar with the water right claims listed on Attachment A and helped the Ground Water Districts evaluate these claims and to prepare their objections to these claims. Attached hereto as Exhibit A is a table that summarizes the water rights which are the subject matter of the Ground Water Users' objections.

9. During the time I was Watermaster of Water District 01, I never delivered water to water right nos. 1-10034, 1-10225, 1-10237, 1-10238, 1-10239, 1-10240, 1-10241, 1-10482 and 1-10483. There is no evidence that water has ever been delivered to these water rights. The Recommendations for these water rights are in error and contrary to the facts. These water rights should not exist and therefore should be disallowed.

10. For the other water rights, listed on Attachment A and on Exhibit A that are based on prior decrees or licenses, the Director's Report filed in the SRBA recommended a period of use as the full irrigation season without any clarifying remarks. If these water rights are decreed in the SRBA without remarks clarifying that they are high water rights not available for the full irrigation season, then these water rights will not accurately reflect the historical beneficial use made under these water rights. Further, there should also be a remark that states that their supply is spring runoff and snow melt. Without these remarks they could seek to enlarge the quantity of water that has been historically available by curtailing junior ground water rights. This would result in a quantity and certainty beyond the historic extent of beneficial use arising from the establishment of these rights.

11. Based on my review of the Water District 01 records and my knowledge gained through being Watermaster of Water District 01 for 29 years, the following facts are established:

- a. The records of Water District 1 confirm the fact that no water has ever been delivered under claim nos. 1-10034, 1-10225, 1-10237, 1-10238, 1-10239, 1-10240, 1-10241, 1-10482 and 1-10483 Therefore these claims should be disallowed.
- b. Water right nos. 1-209 and 1-210 held by Twin Falls Canal Company and North Side Canal Company totaling 3,400 cfs require all natural flow water available below Blackfoot after June or early July in most years. Thereafter, no water is available to deliver to any other junior water rights in the reaches of the river located below Blackfoot.
- c. High water rights (or flood water rights) with priority dates junior to October 11, 1900 are primarily dependent on spring runoff and snow melt.

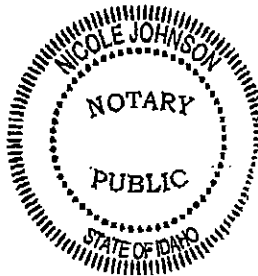
DATED this 22nd day of Aug, 2008.

By: Ronald D. Carlson
RONALD D. CARLSON

SUBSCRIBED AND SWORN to before me by Ronald D. Carlson this 22nd day of Aug, 2008.

Nicole Johnson
Notary Public

Commission Expires: June 7, 2012



CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of Aug, 2008, the above and foregoing document(s), was served by email to those with email addresses and by placing a copy in the U.S. Mail, postage prepaid and addressed to the following:


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ATTACHMENT A
SUBCASE LIST

1-4
1-5
1-6
1-7
1-8
1-9
1-10
1-13
1-14
1-16
1-17
1-211A
1-211B
1-212
1-213
1-214A
1-214B
1-219
1-2050
1-2061
1-10034
1-10225
1-10237
1-10238
1-10239
1-10240
1-10241
1-10482
1-10483

EXHIBIT A

Affidavit of Ronald D. Carlson

Exhibit A to Carlson Affidavit

Priority Date (Year)	Priority Date (month & date)	Claimant	Water Right/Subcase No.	Basis of Claim	Objection
1895	2/6	Southwest Irr Dist	01-00023A	Decree	1
1900	10/11	Twin Falls CC	01-00209	Decree	
1900	10/11	North Side CC	01-00210	Decree	
1903	3/26	Burley Irr Dist	01-00211B	Decree	1, 2
1903	3/22	USDI-BOR	01-00211A	Decree	1
1905	10/7	North Side CC	01-00212	Decree	1
1908	6/16	North Side CC	01-00213	Decree	1
1908	8/6	Burley Irr Dist	01-00214B	Decree	1, 2
1908	8/6	USDI-BOR	01-00214A	Decree	1
1909	8/6	USDI-BOR	01-00219	Decree	1
1911	3/15	USDI-BOR	01-10034	Beneficial Use	1
1915	12/22	Twin Falls CC	01-00004	Decree	1
1915	12/23	North Side CC	01-00005	Decree	1
1916	11/14	Milner Irr Dist	01-00017	Decree	1
1920	8/16	North Side CC	01-00016	Decree	1
1921	3/30	AFRD #2	01-00006	Decree	1
1926	5/18	Amalgamated Sugar Co (The)	01-10483	Beneficial Use	1
1939	4/1	Twin Falls CC	01-00010	Decree	1, 2
1939	4/1	Burley Irr Dist	01-00007	Decree	1
1939	4/1	Minidoka Irr Dist	01-00008	Decree	1
1939	4/1	Milner Irr Dist	01-00009	Decree	1
1939	4/1	Falls Irr Dist	01-00013	Decree	1
1939	4/1	A & B Irr Dist	01-00014	Decree	1
1939	4/1	Andersen	01-00015	Decree	1
1940	4/1	USDI-BOR	01-10482	Beneficial Use	1
1951	3/22	Hobson	01-02073	Beneficial Use	1
1956	6/11	USDI-BOR	01-02061	License	1, 2
1968	7/11	Milner Irr Dist	01-02050	License	1
1968	7/11	A & B Irr Dist	01-10237	Beneficial Use	1, 2
1968	7/11	A & B Irr Dist	01-10238	Beneficial Use	1, 2
1968	7/11	A & B Irr Dist	01-10239	Beneficial Use	

Exhibit A to Carlson Affidavit

Priority Date (Year)	Priority Date (month & date)	Claimant	Water Right/Subcase No.	Basis of Claim	Objection
1968	7/11	A & B Irr Dist	01-10240	Beneficial Use	1, 2
1978	4/1	A & B Irr Dist	01-10241	Beneficial Use	1, 2
1985	4/1	A & B Irr Dist	01-10225	Beneficial Use	1, 2
1987	4/1	Call Farms Partnership	01-10390	Beneficial Use	1
(1) The Director's Recommendation fails to identify and distinguish the water supply associated with this water right. The claimed right is entitled to be filled only by high surface water runoff from snow melt or rain. Its source of supply is not from base flow (ground water) to the Snake River. Conditions are required to prevent enlargement of the source of supply.					
(2) This right has never been delivered and should be disallowed.					