

been so employed with IDWR since 1988.

2. From 1988 to 1991, I was a Water Rights Field Examiner. My duties as a Field Examiner included the on-site investigation and analysis of water rights and water right diversion and distribution systems, and the reporting of my findings on appropriate IDWR-approved forms.

3. Since 1991, I have been a Senior Water Rights Agent with the Adjudication Bureau of IDWR. My duties as a Senior Water Rights Agent include the taking, investigation, analysis and recommendations of claims to water rights made in the Snake River Basin Adjudication for IDWR.

4. My specific duties have included the review and analysis of claims made by Lava Lake Land and Livestock, LLC in the SRBA. I have worked on these claims since approximately early in 2007.

5. After my review and analysis of these claims, I conclude that the partially decreed water rights contain errors as follows:

- A. Water Right No. 37-11950 contains language pertaining to "enlargement" rights claimed pursuant to I.C. §42-1426. This language should be removed, as 37-11950 was recommended with a priority date of May 1, 1964 - earlier than the May ²⁰~~21~~, 1971 ^{KKC} date after which the permitting process set forth pursuant to I.C. §42-202 must be followed. Accordingly, the basis of right no. 37-11950 is "beneficial use" and the language attached to "enlargement" rights claimed and recommended pursuant to I.C. §42-1426 is therefore

inappropriate.

- B. Water Right no. 37-2688 also contains language pertaining to “enlargement” rights claimed pursuant to I.C. §42-1426. This language should be removed, as 37-2688 was similarly recommended with a priority date before May ²⁰~~21~~, ^{KKC} 1971.
- C. Water Right Nos. 37-2545A and 37-2545B were claimed and recommended as two water rights. They should have both been recommended and decreed as part of the same water right: no. 37-2545. The diversion rate of 9.30 cfs for which water right no. 37-2545 was licensed was not claimed or recommended in the SRBA and instead the water rights have been decreed with a total diversion rate of 6.06 cfs. If the claimants amend their claim to request the licensed diversion rate, and are able to substantiate the diversion rate of 9.30 cfs, I would be prepared to recommend the water right with a 9.30 cfs diversion rate.
- D. It is my understanding, based upon conversations with Lava Lake Land Livestock’s engineer, Chuck Brockway, Jr., that water right no. 37-07600, along with the other water rights to which this affidavit is addressed (37-2545A, 37-2545B, 37-2688, 37-2715, 37-7600, 37-11950) and water right nos. 37-1156, 37-2715, 37-7072, 37-11936, 37-22116, and 37-22117 (claimed by Lava Lake Land and Livestock, LLC in the SRBA) are all used in a common distribution system within a “permissible place of use” and have

been so used since at least 1986. If the claimant is able to properly substantiate this information, I would be prepared to recommend all of the water rights as being used within the permissible place of use.

6. I was not involved in the taking or investigation of Lava Lakes' claims. However, it is my belief that if the water right decrees are set aside so that IDWR can further investigate them, and the claimant is able to provide IDWR with additional appropriate information, then IDWR will be able to recommend the water rights as requested by the claimant.

Further your affiant sayeth naught.


Kelly K. Christensen

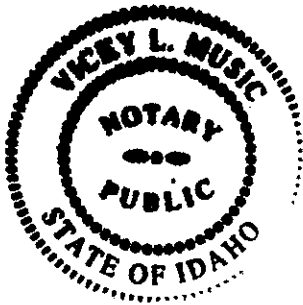
STATE OF IDAHO)

)ss.

County of Ada)

On this 18th day of July, 2008, before me, the undersigned, a notary public in and for said state, personally appeared KELLY K. CHRISTENSEN, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

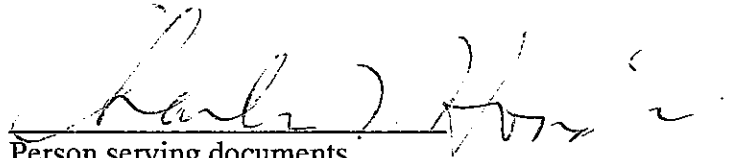


Vicki L. Music
Notary Public for T. Dahl
Residing at Baker, ID
My Commission Expires: 11/27/2012

CERTIFICATE OF SERVICE

I certify that on September 10th, 2008, I served copies of this document, including all attachments by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098



Person serving documents