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DEPARTMENT OF
WATER RESOURCES

UNITED STATES OF AMERICA

DAVID W. GEHLERT
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Environmental and Natural Resources Division
U.S. Department of Justice
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Attorney for the United States of America

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In In Re SRBA	)	Subcase No.: 01-00211A, 01-00214A.
	)	01-00219, 01-02061, 01-10034, 01-10482
Case No. 39576	)	and 01-10526
	)	
	)	AFFIDAVIT OF DAVID W. GEHLERT
_____	)	

STATE OF COLORADO	)
	)ss.
City and County of Denver	)

AFFIDAVIT

I, DAVID W. GEHLERT, being of lawful age and having been first duly sworn,
state the following:

1. I make the following statements based upon personal knowledge and I am competent to testify thereto.
2. I have been an attorney with the U.S. Department of Justice for more than fifteen years. For the past eleven years, the majority of my work has involved water law. Over the past eight years I have represented the United States in SRBA subcases involving the Bureau of

Reclamation.

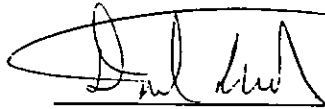
3. I attest that the following documents were obtained by me personally or by others at my direction and are true and correct copies of the original documents:

Exhibit

Description

1 Letter from David Gehlert to Candice McHugh dated August 25, 2008

DATED this 24th day of September, 2008.



David W. Gehlert

SUBSCRIBED AND SWORN to before me this 24th day of September, 2008



Katherine M. Svinarich
Notary Public for Colorado
Residing at: DENVER
My Commission Expires: 4/5/2011



U.S. Department of Justice

Environment and Natural Resources Division

DWG
90-6-2-63c

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VIA E-MAIL

August 25, 2008

Candice M. McHugh
RACINE, OLSON, NYE, BUDGE & BAILEY, CHTD.
101 South Capitol Blvd., Suite 208
Boise, ID 83702

Re: Discovery in SRBA subcases 01-211A, 01-214A 01-219, 01-2061, 01-10034, 01 10382,
01-10526.

Dear Ms. McHugh,

I received an e-mail from you on August 19, 2008 regarding the United States' discovery responses in the above captioned cases. The following day, I received your Motion to Compel Discovery Responses. It is unfortunate that we did not have a reasonable opportunity to resolve this matter without involving the Court.

Our discovery response offered to make documents available for you to inspect and copy. To my knowledge you made no effort to make arrangements to inspect the documents prior to filing the Motion to Compel. Having reviewed your Motion, I continue to believe that our response was in full compliance with the Idaho rules.

The Motion to Compel specifically seeks a response to Interrogatory No. 6, which requests that the United States describe "precisely and in detail, the history, the development, and the use of the water rights that are the subject of this action." Pursuant to I.R.C.P. 33(c), the United States is not required to compose a history of the water rights. Rather we need only identify the records from which such history may be derived and allow you a reasonable opportunity to review and copy those records. Our discovery complied with that direction by offering to make available documents in our possession that relate to the history, development and use of the water rights.

We remain willing to make those documents available to you and hope that review of those documents will obviate the need to proceed further before the Court. Please call me at your earliest convenience if you wish to make arrangements to review the responsive documents.

Sincerely,

David Gehlert
Trial Attorney