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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 No. 37-00899B

Case No. 39576

**AFFIDAVIT OF
CHARLES G. BROCKWAY**

STATE OF IDAHO)
 :SS
County of Twin Falls)

CHARLES G. BROCKWAY, first being duly sworn, deposes and says as follows:

1. I am a licensed Professional Engineer within the state of Idaho.
2. Brockway Engineering, PLLC, an engineering firm of which I am a member, has been hired by Harry S. Rinker, Claimant, to provide various consulting and technical services with regard to his water rights in Basin 37 and elsewhere.
3. No objection to the recommended disallowance of Water Right No. 37-00899B, was originally filed for the reason that it was originally believed that this right was replaced

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and/or included in other water rights involved in Water Transfer Nos. 69269 and 69271, approved during the year 2005.

4. Subsequent to the initial period for filing objections to the recommendation for this right it was discovered that the rights were not included in Water Transfer Nos. 69269 and 69271, and that the original right from which the right identified in this motion is derived, was identified as a "saved and developed" right "independent and perpetual... and independent of and prior to all other rights on Big Wood River, save and except similar saved and developed water rights" by the Decree entered in the matter of *Barker vs. Coffin*, in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Lincoln, which Decree is dated August 22nd, 1951. A copy of that Decree is attached hereto as **EXHIBIT A**.

5. The recommended disallowance of Water Right Nos. 37-00899B did not take into account the status of this right as a "saved and developed" right with its resulting independence and priority, which status was unknown to the Claimant at the time permitted for objection to the recommendation expired.

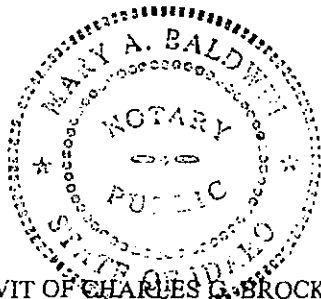
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this ____ day of October, 2008.



CHARLES G. BROCKWAY

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





NOTARY PUBLIC
Residing at: Twin Falls, Id
My commission expires: 10/16/2010

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