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Department of Water Resources
Adjudication Bureau

Attorneys for Claimants Richard Douglas Baker and Cheryl K. Baker

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. 72-16786 and 72-16787
	)	
	)	AFFIDAVIT OF RICHARD L. BAKER
Case 38576	)	IN OF MOTION TO FILE LATE
	)	NOTICES OF CLAIMS
	)	

STATE OF IDAHO)
) ss
COUNTY OF CUSTER)

RICHARD L. BAKER, being first duly sworn upon his oath, deposes and says that:

1. My name is Richard ("Dick") L. Baker. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I was born in 1922. I have lived along the East Fork of the Salmon River ("East Fork") all my life.
3. My earliest recollections of the irrigated fields, diversions and ditches that I discuss in this affidavit are from 1930.
4. Richard Douglas ("Doug") Baker is my son and Cheryl K. Baker is my daughter-in-law. They own land that is irrigated with water diverted from the East Fork and a tributary to

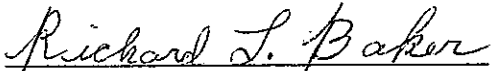
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the East Fork called Herd Creek. Doug and Cheryl Baker's land was previously owned by my wife, Betty, and I, and by Fred Gossi before us. I knew Mr. Gossi and observed his water diversion and irrigation methods.

5. The East Fork and Herd Creek diversions, ditches and irrigated fields I discuss in this affidavit were in place long before I was born.

6. From 1930 to the present, all the land now owned by Doug and Cheryl Baker has been irrigated for pasture. From 1930 to the present, this land has been flood irrigated with water diverted from the East Fork through diversions that have been designated as SEF-7, SEF-8 (now designated as SEF-7/8 after SEF-7 was consolidated into SEF-8) and SEF-9. The only significant change in these diversions has been that, in recent years, fish screens have been added at or near the diversions. Today, the SEF-9 ditch is the same size as it was in 1930. The SEF-7/8 ditch was enlarged when SEF-7 and SEF-8 were consolidated. Doug and Cheryl Baker divert the same quantities of water from the East Fork and from Herd Creek that Betty and I diverted, and Fred Gossi diverted before us, to irrigate their land.

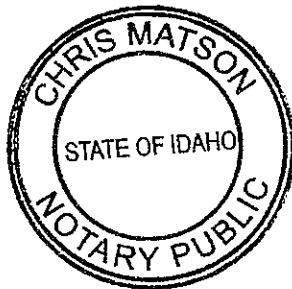
7. Doug and Cheryl Baker's irrigated fields are located within a canyon, at or only a few feet above the water level of the East Fork and Herd Creek. The soil in the ditches is very porous gravel and river rock. Seepage loss from the ditches has always been very high. Water lost through seepage returns to Herd Creek and/or the East Fork. For these reasons, the majority of the water diverted has always been lost to seepage.


RICHARD L. BAKER

STATE OF IDAHO)
)ss.
County of Custer)

On this 27th day of October, 2008, before me, the undersigned, a notary public in and for said state, personally appeared RICHARD L. BAKER, 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.



Chris Matson
Notary Public for Idaho
Residing at Challis
My Commission Expires: 7/28/2011