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Attorneys for Helios Development, LLC

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

Water Right Nos. 37-212A, 37-2621,
 37-4337, 37-11885 and 37-8304

AFFIDAVIT OF PATRICK
 SIMPSON

STATE OF IDAHO,

) ss.

County of Blaine

PATRICK SIMPSON, being first duly sworn upon oath, deposes and states as follows:

1. My family owned and operated Warm Springs Ranch (the "Ranch") from 1952 through 2004. I managed the golf course for over twenty (20) years commencing in 1974 and I was involved in the management of the Ranch until 2004 and as such, I have personal knowledge of the facts stated herein. The Ranch holds several water rights for irrigation, fish propagation, aesthetic, recreation, wildlife and commercial purposes.

2. In or about 1952, my father built ponds for fish propagation. Water for the ponds was delivered using a head gate to divert water from Warm Springs' Creek into the ditch (See water right nos. 37-8304 and 37-4337). When we owned the Ranch, we used the ponds year-

round and we stocked the ponds with about 100 Rainbow trout that were approximately 12 inches or longer. We also stocked about 100 California Golden trout that were approximately 16 to 18 inches. These fish came from the Hagerman Valley and was stocked annually.

3. In or about 1953, we opened Warm Springs Ranch Restaurant (the "Restaurant"). In those days, the ponds were the main attraction for the Restaurant because guests would catch fish and the Restaurant would cook the fish for them. In addition, the Restaurant would serve fish from the ponds. At that time, I was still a boy, but it was my job to catch the fish for the Restaurant. On a busy night there would be around 30 people fishing for their dinner.

4. Several years later, after the Ranch ceased allowing guests to catch their dinner, we continued to stock the ponds for raising and rearing fish and for aesthetic purposes. During the time we owned the Ranch, the aesthetics of the ponds were enjoyed by Ranch guests as they entered and exited the Restaurant and dined on the patio.

5. In or about 1961, the Restaurant operated using water from a well located on the Ranch (the "Restaurant Well"). See water right no. 37-11885. From 1961 through 1998, water from this well was used for commercial purposes in the Restaurant including: cooking, drinking and washing dishes, linens and cleaning the interior and exterior of the Restaurant. The Restaurant Well also provided water to the golf shop.

6. The Restaurant Well was also used for irrigation purposes for the area immediately surrounding the Restaurant.

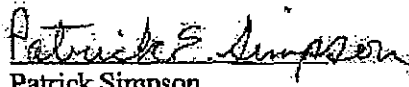
7. The Ranch also has an irrigation system ("Irrigation System") for the golf course. The source of this Irrigation System is a combined water right which includes: Warm Springs' creek (37-212A), Rockwell Bypass (37-20381), and a spring (37-2621) located on the property ("Combined Water Right"). In addition to the main golf course pump, the system included two

smaller pumps, one located in pond #1 and one located in pond #3 on Exhibit A attached hereto. These pumps were used to irrigate the area of the Ranch to the north of Warm Springs creek (including the No. 9 Green and approach) as well as some portions of the golf course south of the creek. This irrigation system also irrigated land north of Warm Springs' creek.

8. In regards to the Rockwell Bypass, sometime in 1988 my family purchased, and 25 inches (.50 cfs) was transferred to the Ranch, through diversion NO 06-P which became part of the combined water right.

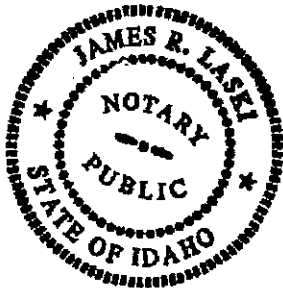
9. In regards to the spring water right which is part of the combined water right, during the 1960s through the 1980s there was a lot of water running from the spring. During the months of April, May and June there would be between 20 to 30 inches of water in the spring. However, sometime in the mid 1980s, when the drought started, the water from the spring decreased and would run only in May and June.

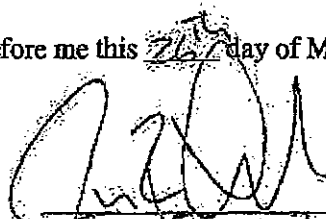
FURTHER YOUR AFFIANT SAYETH NAUGHT.


Patrick Simpson

STATE OF IDAHO)
) ss.
County of Blaine)

SUBSCRIBED AND SWORN before me this 26th day of March, 2009.




Name: James R. Laski
Notary Public for Idaho
Residing at Blaine, Idaho
My commission expires Aug 3, 2011

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 31st day of March, 2009, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

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From: Deb Erickson, Assistant to Kirstin K. Dutcher

Re: *SRBA Case No. 39576*
Twin Falls County Subcase No. 37-11885

Comments:

Attached is the Affidavit of Patrick Simpson. Thank you.

ORIGINAL WILL:

BE SENT BY MAIL

BE SENT BY FEDEX/OVERNIGHT COURIER

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X NOT BE SENT

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