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DEPARTMENT OF
WATER RESOURCES

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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 Nos. 01-23B, 01-297, 35-2543, 35-4246

Case No. 39576

**SECOND AFFIDAVIT OF
STEVEN T. HOWSER**

STATE OF IDAHO)
 ss:
County of Bannock)

Steven T. Howser, being first duly sworn on oath deposes and says:

1. My name is Steven T. Howser and I am currently the General Manager of Claimant Aberdeen-Springfield Canal Company (the "Company"). I have served in that capacity continuously since October 1998.

2. As manager of the Company, I oversee the day-to-day operations of the Company and its facilities, and am personally familiar with the Company's water rights, the diversion of water from the Snake River within Water District 01 and from the Company's ground water wells, the delivery to and beneficial use thereof by the Company's shareholders, together with all of the records

of the Company and the records of Water District 01 pertaining to the diversion and delivery of the Company's water rights.

3. I am personally familiar with the Company's Water Rights Nos. 01-23B, 01-297, 35-2543 and 35-4246, together with the Water Right Recommendation for each right set forth in the Amended Director's Report dated March 21, 2008. My Affidavit dated March 25, 2009, further describes the diversion and beneficial use of these water rights and their respective elements. This Second Affidavit is for the purpose of setting forth additional facts relating to the Objectors' Joint Motion for Summary Judgment dated March 27, 2009, asserting that "recharge for irrigation" should not be a purpose of use element for the Company's Water Right No. 01-23B which was "recommended" in each of the Director's Reports filed herein in 2005, 2006 and 2007.

4. Pursuant to the Company's combined Water Right Nos. 01-23B, 01-297, 35-2543 and 35-4246, the Company delivers water to 486 shareholders for the irrigation of 61,772.6 total acres within the Company's service area. As will be described specifically below, the diversion and delivery of water is for the purpose of irrigation and recharge for irrigation. Diversion of Water Right No. 01-23B provides water for surface water irrigation and also for the purpose of recharge for irrigation of a maximum of 17,161.6 acres determined by my calculations based upon review of the Company's records and maps, confirmed by the Department's and set forth in the "Recommended Water Right".

5. The Company has and continues to measure and maintain accurate records of the amount of surface water diverted from the Snake River into the Company's canals, the amounts delivered to shareholders for surface water irrigation within the service area and returns to the Snake River through waste ways or drains and is able to determine therefrom the amount of water that is recharged to ground water underlying the Company's service area. On average the Company

recharges to ground water up to 67% of the amount diverted into the canal system. Over the last 20 years the recharge amount ranges between 160,000 AF and 228,000AF and averages 180,000 AF. This recharge to the ground water underlying the Company's service area has and continues to establish and maintain the supply of ground water which provides recharge for irrigation for the Company's ground water rights and those of the Company's shareholders which have pending claims in Consolidated Subcase No. 35-2315, as further described below.

6. The Company's Water Right No. 01-23B was "recommended" in each of the Director's Reports filed herein in 2005, 2006 and 2007 for the purposes of irrigation and recharge for irrigation. This was pursuant to the *Settlement Agreement Regarding Aberdeen-Springfield Canal Company's Basin 01 Surface Water Rights and Consolidated SRBA Subcase No. 35-2315* dated June 2002 ("Settlement Agreement"). A copy of the Settlement Agreement is attached as Exhibit E to the *Affidavit of Travis L. Thompson in Support of Objectors' Joint Motion for Summary Judgment* ("Thompson Affidavit"). I was the Company's Manager at the time of this Settlement Agreement, was directly involved in the Company's objections filed to over 100 recommendations for ground water rights in Basin 35 submitted to the SRBA District Court by the Idaho Department of Water Resources ("Department") in Consolidated Subcase No. 35-2315. The Settlement Agreement resulted to resolve the objections to these ground water rights in Basin 35. Pursuant paragraphs 2 B.,C. of the Settlement Agreement the Director's Report recommended that the place of use be divided into acreage irrigated directly by surface water (including acreage with supplemental ground water) as of 1987; and acreage originally irrigated by surface water for which authorization to divert surface water for direct irrigation continues but for which the additional purpose of use "recharge for irrigation" was to be added as an "accomplished transfer" pursuant to Idaho Code §42-1425.

7. The change in the actual of use of water available under Water Right No. 1-23B to include recharge for irrigation occurred long prior to November 19, 1987, the date of the commencement of the Snake River Basin Adjudication by the Company and shareholders entitled to use water on land covered by Company shares to which the water has been made appurtenant.

8. At all times prior to and after November 19, 1987, the Company has diverted and delivered to the Company's shareholders as needed water available up to the authorized maximum quantity available under Water Right No. 1-23B consisting of up to 1,172.1 cfs for irrigation purposes and 389.5 cfs for recharge for irrigation. Water so delivered through the Company's canals and delivery systems results in the delivery of surface water to the Company's shareholders and recharge for irrigation from wells within the Company's place of use for irrigation of lands covered by shares of the Company. All of these wells were installed prior to 1987 and each of the respective ground water right claims in the SRBA were objected to by the Company on the basis that they were in fact using Company water recharged into the groundwater. These claimants, who were also Company shareholders over a long period of time prior to 1987, converted in part or in full their lands covered by Company shares to ground water irrigation from wells which were developed to supplement their surface water rights delivered by the Company. This was accomplished by these claimants and shareholders to provide for irrigation efficiencies and/or because of difficulties experienced by the Company at times in delivering full supplies to their head gates due to their locations on the system, particularly at peak demand.

9. In addition to the delivery of recharge for irrigation to the described Consolidated Subcase 35-2315 claimants, water has been delivered by the Company under Water Right 01-23B to provide irrigation for recharge to the Company's ground Water Right No. 35-4246, licensed with a priority date of 10/15/1934, and Water Right No. 35-02543, licensed with a priority date of 8/7/1958.

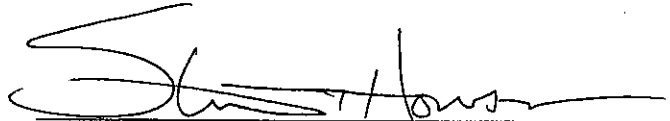
Water Right 35-4246 and Water Right 35-02543 utilize wells which have as their water supply recharge supplied by Water Right No. 01-23B used continuously from dates preceding the respective 1934 and 1958 priority dates under each right. The Company also operates four additional wells, three of which have all been in existence and operation long before 1987. These wells are unlicensed and operate as recovery wells pursuant to Idaho Code §42-228 and pump directly into the Company's canal system to supplement the supply of water available to shareholders in the bottom third of the delivery system when shortfalls occur.

10. All of the above-described wells of the Company and of the objected-to claimants in Consolidated Subcase No. 35-2315 have as their source of supply for irrigation water recharged to the ground water under the Company's Water Right No. 01-23B. To my knowledge no other water rights have been injured, nor are there water rights that have asserted any claim of injury as a result of the Company's delivery of recharge to these groundwater rights. Furthermore, there has been no enlargement of irrigated acres under Water Right No. 01-23B for the reason that the water delivered for recharge for irrigation is supplied to the same land covered by Company shares to which Water Right No. 01-23B is appurtenant.

11. None of the Objectors objected to the 2005, 2006 or 2007 Director's Reports which recommended "recharge for irrigation" under the Company's Water Right No. 01-23B. The Objectors filed Objections in 2008 only after an Amended Director's Report was issued on March 21, 2008, on the Company's water right claims following the Company's Amended Claims. The Amended Claims were filed for the limited purpose of resolving certain objections to the place of use filed by the State of Idaho Department of Lands, the BLM and the Company. The place of use maps had inadvertently included certain IDOL and BLM lands which were corrected by the Amended Claims which also corrected the total number of acres in the Company's place of use.

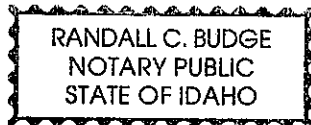
FURTHER, your Affiant saith not.

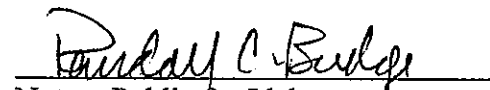
DATED this 15th day of April, 2009.


STEVEN T. HOWSER

Subscribed and sworn to before me, a Notary Public, this 15th day of March, 2009.

[SEAL]




Notary Public for Idaho
Residing at Pocatello, Id.
My commission expires 10/11/2012