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MAY 29 2009
DEPARTMENT OF
WATER RESOURCES

Kenneth R. and Tammie Walters

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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
Case 39576

)
)
) Subcase Nos. 77-14306, 77-14307,
) 77-14308, 77-14309, 77-14310,
) 77-14311, 77-14312, 77-14313, and
) 77-14314
)

) AFFIDAVIT OF DANA L. HOFSTETTER
)
_____)

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Dana L. Hofstetter, being first being duly sworn upon oath, deposes and says:

- (1) I am Dana L. Hofstetter, counsel of record in this matter for Kenneth R. and Tammie Walters (the "Walters").
- (2) Water Right Nos. 77-4089 and 77-4219 cover historic irrigation on the Walters' property. The two rights together are used to divert water from streams via historic

ditches to the same irrigated place of use. Both beneficial use rights were claimed with the same priority date of September 1, 1925. Both rights should have the same priority as the historic diversion system delivers the water by gravity from upgradient locations to the same irrigated place of use.

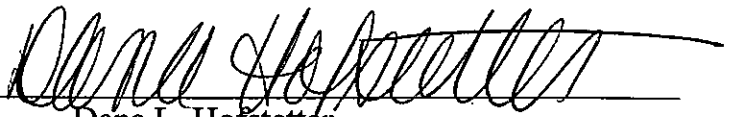
(3) The Idaho Department of Water Resources ("IDWR") has split the instream stock water uses claimed under 77-4089 and 77-4219 and has given them separate water right numbers from the irrigation uses under 77-4089 and 77-4219. In the process of reviewing the November 28, 2008 Amended Director's Report and Director's Reports, I overlooked that certain of the instream stock water right splits had been recommended with a priority of March 1, 1943, instead of September 1, 1925, as claimed. It is believed that the instream stock water uses should have the same priority date as the related irrigation rights as the historic irrigation of this property would have been for stock pasture.

(4) Attached hereto as Exhibit A is a true and correct copy of a January 8, 1985 Affidavit of John H. Carrey that I located in the IDWR online water right file for 77-4219. This Affidavit substantiates the September 1925 priority date for the Walters' water rights.

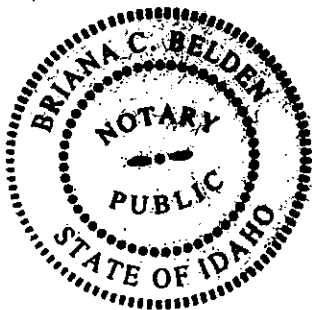
(5) Further, it has come to my attention that the recommended place of use and point of diversion for split 77-14309 is somewhat incorrect and should have been objected to.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 27th day of May, 2009.


Dana L. Hofstetter

SUBSCRIBED AND SWORN to before me this 27th day of May, 2009.




Notary Public in and for the State of Idaho
Residing at: Meridian
My Commission Expires: 01.16.13

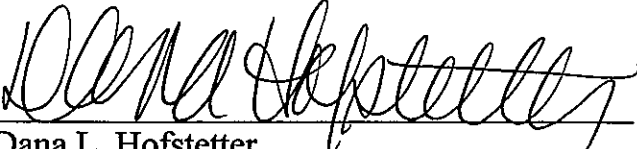
CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing document this 27th day of May, 2009, by U.S. Mail postage pre-paid to:

IDWR Director
P.O. Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449


Dana L. Hofstetter

AFFIDAVIT

State of Idaho
County of Idaho

John Carrey being duly sworn, disposes and says that the water rights on Shorts Bar Ranch from Reservior Creek, a tributary to West Fork of Lake Creek, were first established on Sept. 1925.

John Carrey has been a native of this county for 71 years years and was residing on this property at said time.

Let it be shown that this affidavit is made for the purpose and with the intent of clarifying the first substantial water rights on Shorts Bar Ranch Property, from this said stream.



Melitta M. Heath
Notary Public
For State of Idaho.
Residing at Riggins.
my Commission expires
5-17-88

Sworn to before me this:

John H. Carrey
8th day of January 1985.

RECEIVED
JUN 24 1985

Department of Water Resources
Western Regional Office

MICROFILMED

EXHIBIT

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