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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Wilder Irrigation District, Objector

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 No. 39576

)
) Subcase Nos.: 63-32533
)
) AFFIDAVIT OF VERN E. CASE
)
)
)
)
)

I, VERN E. CASE, being first duly sworn upon oath, deposes and hereby states as
follows:

1. I am a member of the Board of Directors for both the Wilder Irrigation District ("Wilder") and the Riverside Irrigation District Ltd. ("Riverside"). I am over the age of 18 and state the following based upon my personal knowledge. I reside at 30895 Red Top Road, Wilder, ID 83676. I was born and raised in the Arena area of western Canyon County and have lived here for most of my life. My parents farmed land in this same area before me. I am a farmer and water user with land in Arena area under Wilder Irrigation District delivery and Riverside delivery. My home is less than a mile from the Aten property at issue in this subcase.

2. As a Board member for Wilder and Riverside, I am familiar with the operations of each irrigation district. I am also familiar with the drains within the irrigation districts and the diversions of private water rights out of the drains in the vicinity of my home and farm ground.

3. I am familiar with the water right claimed under water right number 63-32533, owned by Bill Aten, Joe Aten, Matthew Aten and Maria Morales (collectively referred to as "Aten"), which is diverted from the Case Drain. This water is used on about 6.7 acres of land just below and adjacent to the Riverside Canal. This land is just outside and immediately adjacent to the boundary of the Wilder Irrigation District.

4. Drain or waste water flows west from the Arena Drain to the Case Drain. Near where the Arena Drain turns into the Case Drains is a headgate. When opened, the headgate allows water to flow into the East Arena Drain (also known as the East Drain). Generally, drain or waste water in the East Arena Drain flows directly to the Riverside Canal. Wilder and the Boise Project have an obligation by contract to deliver waste water to Riverside. If the waste water in the East Arena drain is checked up before it enters the Riverside Canal, water will back up in the East Arena Drain and overflow into a pipe that conveys the waste water under the Riverside Canal and to the place of use on the Aten property. This is how water has been

delivered to this property by way of the headgate in the Case Drain and through the East Arena Drain, for as long as I have lived in this area.

5. Attached as Exhibit A to this affidavit is a photocopy of a portion of the plat map which is part of the records of the Wilder Irrigation District. This portion of the plat map depicts the location of the Aten point of diversion and place of use. In the upper right hand corner of the plat map, I have written "headgate for East Arena Drain" at the location of the headgate on the Case Drain. Water diverted at that headgate flows through the East Arena Drain – located in between the two squiggly shapes on the plat map. The area bounded by the squiggly lines is land that the Wilder Irrigation District records show is now owned by Florencio Hernandez, and was formerly owned by Aten. At the end of the East Arena Drain, I have written "Pipe under Riverside Canal" at the location of the pipeline that conveys waste water under the Riverside Canal to Aten's place of use on the property remaining in Aten's ownership, which is located immediately adjacent to the Riverside Canal. The Aten property is in a horseshoe shape, bounded on three sides by the Riverside Canal and on the west side by Case Lane.

6. Water in the Arena Drain, Case Drain and East Arena Drain is waste water that is gathered throughout the Wilder Irrigation District. All water delivered from the Case Drain by way of the East Arena Drain to the Aten property is waste water.

7. Bill Aten owns 0.6 shares of Riverside water that is delivered to the same property as water right 63-32533 through the Riverside Canal. This water is diverted out of the Riverside Canal at the point where Case Lane crosses the Riverside Canal, just upstream of pipeline diverting water under 63-32533. The Director's Report for water right 63-32533 includes a comment stating that the use of water pursuant to water right 63-52533 is "combined

with water from the Riverside Irrigation District.” Wilder does not object to Aten’s receipt and use of this Riverside water.

DATED this 31 day of July, 2009

FURTHER YOUR AFFIANT SAYETH NAUGHT

Vernon E. Case
Vern Case

SUBSCRIBED & SWORN to before me this 31 day of July, 2009.



Lisa Sweet
Notary Public in and for the State of Idaho
My Commission Expires: 2/13/2010

CERTIFICATE OF MAILING

I certify that on this ____ day of ____, 2009, I mailed the original and copies of this objection, including all attachments, to the following persons:

Bill Aten
21737 Case Ln.
Wilder, ID 83676

Joe Aten
Matthew Aten
Maria L. Morales
30588 Peckham Rd.
Wilder, ID 83676

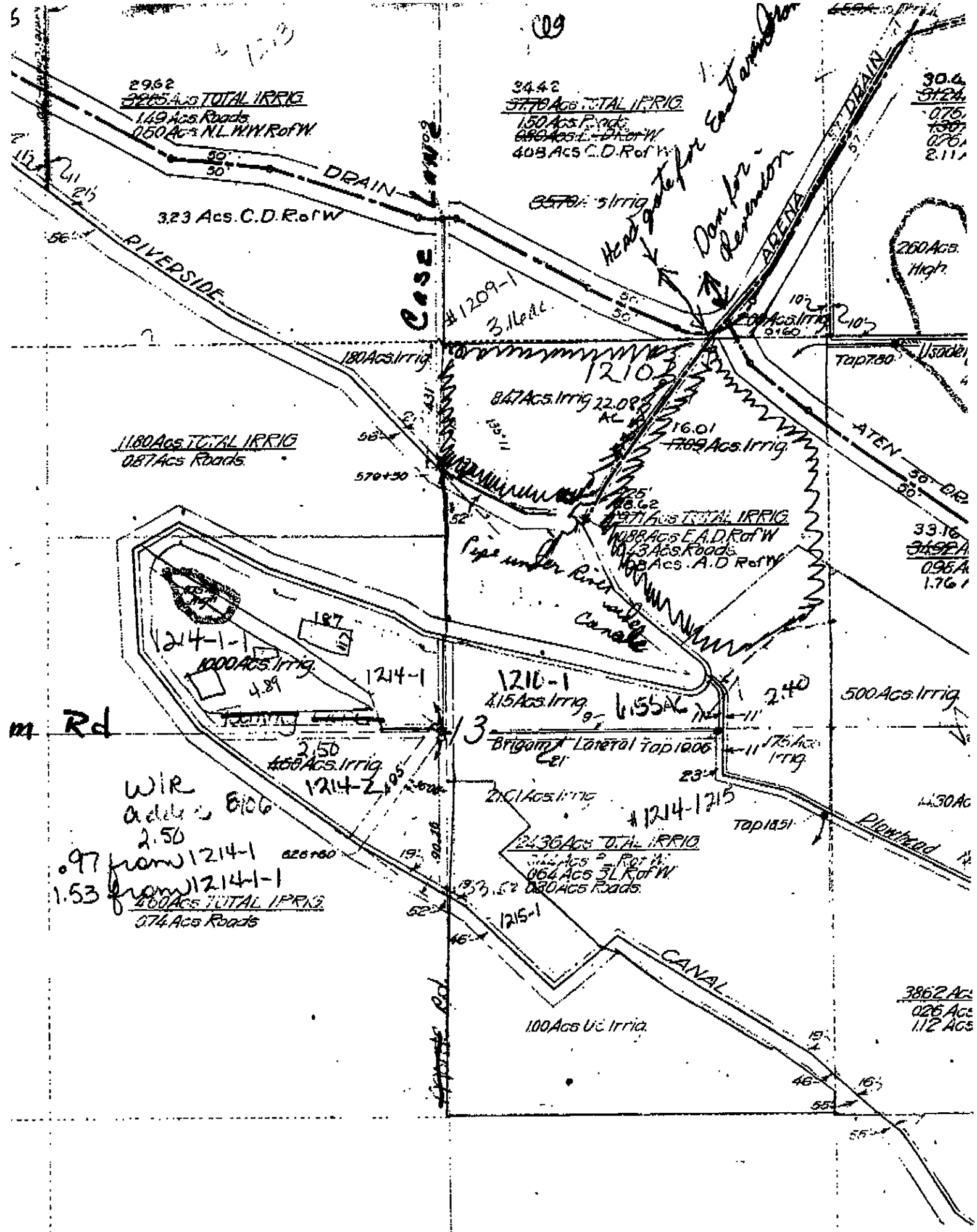
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Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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

Paul L. Arrington

EXHIBIT A



2962
3265.40 TOTAL IRRIG
149 Acs. Roads
050 Acs. N.L.W. Rof W

3442
3770 Acs. TOTAL IRRIG
150 Acs. Roads
080 Acs. L. Rof W
408 Acs. C.D. Rof W

30.4
3124
076
1307
076
2.11

1180 Acs. TOTAL IRRIG
087 Acs. Roads

1210-1
847 Acs. Irrig
22.08
16.01
7.89 Acs. Irrig

33.16
3498
095
1.76

1214-1-1
1000 Acs. Irrig
4.89
1214-1
2.50
458 Acs. Irrig
1214-2
2.50
458 Acs. Irrig

1216-1
4.15 Acs. Irrig
1.55 Acs.

500 Acs. Irrig

WIR
Add 8106
2.50

0.97 from 1214-1
1.53 from 1214-1-1
400 Acs. TOTAL IRRIG
074 Acs. Roads

1217-1
2436 Acs. TOTAL IRRIG
112 Acs. Rof W
064 Acs. 3L Rof W
080 Acs. Roads

3862 Acs
026 Acs
112 Acs