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Paul L. Arrington, ISB #7198
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Boise, ID 83701-2139
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Attorneys for Pepin Corso-Harris

RECEIVED
SEP 02 2009
DEPARTMENT OF
WATER RESOURCES

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. 37-114C & 37-7609**
)
) **AFFIDAVIT OF PAUL L.**
) **ARRINGTON (Cattle Lack Ranch)**
)
)

STATE OF IDAHO)
) ss.
County of Twin Falls)

I, PAUL L. ARRINGTON, being first duly sworn upon oath, deposes and hereby states
as follows:

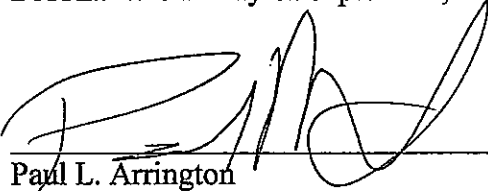
1. I am an attorney representing Pepin Corso-Harris. I am over the age of 18 and state the following based upon my own personal knowledge.
2. Pepin Corso-Harris has water right claims in the SRBA that were subject to prior licensing and transfer proceedings before the Idaho Department of Water Resources ("Department").
3. Water Right No. 37-114C was subject to Transfer No. 4909, a true and correct copy of which is attached hereto as Exhibit A. Water Right No. 37-114C was recommended

with the same quantity and field headgate remark as Transfer No. 4909. A true and correct copy of the recommendation is attached hereto as Exhibit B.

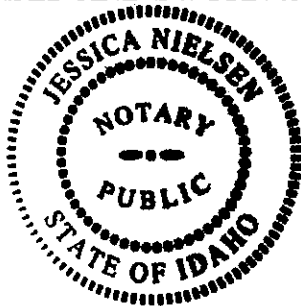
4. Water Right No. 37-7609 is based on a license, a true and correct copy of which is attached hereto as Exhibit C. Water Right No. 37-7609 was recommended with the same period of use and irrigation purpose of use as the license. A true and correct copy of the recommendation is attached hereto as Exhibit D.

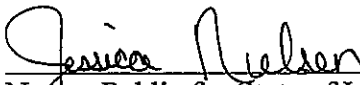
Further you affiant sayeth naught.

DATED this 1st day of September, 2009.


Paul L. Arrington

SUBSCRIBED AND SWORN to before me this 1st day of September, 2009.




Notary Public for State of Idaho
Residing at Twin Falls, Idaho.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 1st day of September, 2009, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to each of the following:

Scott L. Campbell
Tara Martens
Dylan B. Lawrence
Andrew J. Snook
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS
101 So. Capital Blvd., 10th Floor
P. O. Box 829
Boise, ID 83701

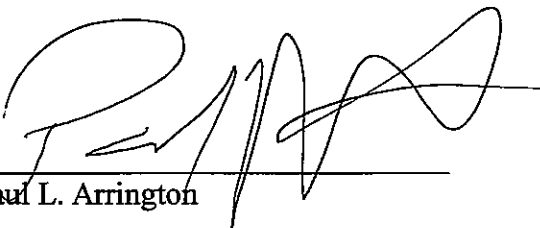
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front Street, 6th Floor
P. O. Box 83720
Boise, ID 83720-00098

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

Chief, Natural Resources Division
Office of the Attorney General
STATE OF IDAHO
P. O. Box 44449
Boise, ID 83711-2530

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail



Paul L. Arrington

Exhibit A

37-114C

Southern AJ

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

TRANSFER NO. 4909
WATER RIGHT NO. 37-00114B

This is to certify that: **MICHAEL A HARRIS**
PEPIN CORSO HARRIS
98 FRIEDMAN LANE
BELLEVUE ID 83313

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	* 12.52 CFS	532.0 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG WOOD RIVER	MALAD RIVER

Priority: 05/01/1886

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 36, Township 02N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
01N	18E	25	NESE 35	NWSE 40	SWSE 40	152
			SESE 37			152

Total number of acres irrigated:

152

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37, Big Wood River, and subject to the policies and procedures of Wood River Valley Irrigation District #45.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department at both the diversion from the river and the rediversion from the canal that will provide suitable control of the diversions.
- * 3. The portion of Right 37-00114B used for conveyance losses is 9.13 cfs. The remaining 3.39 cfs of Right 37-00114B is the authorized diversion at the field headgate.

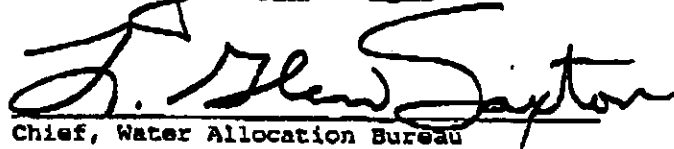
PAGE 2

TRANSFER NO. 4909
WATER RIGHT NO. 37-00114B

CONDITIONS OF APPROVAL AND REMARKS

4. Approval of Transfer 4909 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
5. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
6. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

Dated this 21st day of May, 1998.


Chief, Water Allocation Bureau

MEMORANDUM**TO:** File 37-00114**FROM:** Pam Skaggs/State Office**SUBJECT:** Transfer 4909**DATE:** May 18, 1998OK 

Transfer 4909 changes the recorded place of use under a portion of Right 37-00114 to reflect the current and actual place of use, splitting the right into Parts A & B.

This right has been used at the current property at least since 1979 according to previous research of the right by staff and watermaster records. The transfer only provides a correction to the record, no physical change, and review of the high rate of diversion identified. This right was overclaimed in the SRBA. Review by SRBA staff confirmed ownership of the transferred portion of the right by the applicant.

The transfer identifies 152 irrigated acres and a rate of 12.52 cfs. Both Chuck Brockway, for the applicant, and Allen Merrit, for the department, thoroughly evaluated the need for excess flow. (See file.) Region recommendations include the entire flow rate, identifying 9.72 cfs for conveyance purposes and 3.39 cfs as the field headgate requirement.. 20 acres in the corners are irrigated using a flood system at a rate of 0.0372 cfs/acre and the remaining 132 acres are irrigated by a pivot with sprinklers at 0.02 cfs/acre.

$$0.75 \text{ cfs} + 2.64 \text{ cfs} = 3.39 \text{ cfs}$$

$$12.52 \text{ cfs} - 3.39 \text{ cfs} = 9.72 \text{ cfs}$$

Season of use and diversion volume were adjusted to current standards. Recommended conditions include watermaster and irrigation district control, measuring devices/lockable controlling works, conveyance losses, right-of-way, irrigation overlap, and standard transfer conditions.

6/9/94

COMMUNICATION DOCUMENTATIONClaim No. A37-00114C, -07609

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Frank Hitchcock

December 7, 1995 9:39am

NAME:

MICHAEL A HARRIS

RE:

A37-00114C, -07609

✓ RECIEVED A37-00114C AS AN AMENDED CLAIM SOLICITED AS PART OF A TRANSFER BEING DONE BY TIS OFFICE. ENTERED THE CLAIM AND RECEIPTED THE FEES FOR THE ACREAGE DIFFERENCE. SENT DATA-ENTERED A RECORD TO THE CLAIMANT. SENT 11-29-1995.

A REVIEW OF THE PAPERWORK SHOWED ANOTHER CLAIM, A37-07609, THAT WAS NOT PART OF THE TRANSFER BUT WOULD NEED AN UPDATED ADDRESS AS NOTED IN THE RECIEVED CLAIM. COVER LETTER DONE, AMENDED CLAIM DONE AND SENT TO CLAIMANT WITH SAE. SENT 12-07-1995.

MICROFILMED
NOV 21 1996

SRBA

DIRECTORS REPORT 37-00114B

[Return to SRBA Home Page](#)

IWT072

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

Right Number: 37-00114B

```
*****
*
* THIS WATER RIGHT IS RECOMMENDED DISALLOWED *
*
*****
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Name and Address: DEAN R ROGERS INC
28 HILLSIDE RANCH RD
BELLEVUE, ID 83313

Source: Not Listed

Quantity: 15.00 CFS

Priority Date: 05-01-1886

Place of Use: See remarks

Other Provisions Necessary for Definition / Administration of this Water Right:

Recommended as Right Nos. 37-114C, 37-114F, 37-21369, 37-21370,
37-20995, 37-20996, 37-20997, 37-20998, 37-20999, 37-21000,
37-21001, 37-21002, 37-21002, 37-21003, 37-21004, 37-21005,
37-21006 and 37-21007:

Explanatory Material: Basis of Claim - Decreed

Recommended as Right Nos. 37-114C, 37-114F, 37-21369, 37-21370,
37-20995, 37-20996, 37-20997, 37-20998, 37-20999, 37-21000,
37-21001, 37-21002, 37-21002, 37-21003, 37-21004, 37-21005,
37-21006 and 37-21007: This is included for a claim that is
proposed to be disallowed because the right claimed is
recommended pursuant to another right. The remark indicates the
water right number of the other right that is proposed to be
recommended. If you are not mailed a notice of the
recommendation of the other right, then the other right is
recommended in another claimants name.

[Return to SRBA Home Page](#)

Exhibit B

02/13/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-114C

NAME AND ADDRESS: CATTLE LACK RANCH HOMEOWNERS ASSN
11 PURPLE SAGE LN
BELLEVUE ID 83313

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 12.520 CFS
532.00 AFY

This right when combined with all other rights shall provide no more than 3.5
afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 05/01/1886

POINT OF
DIVERSION:

T02N R18E S36 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	12.520 CFS 532.00 AFY

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S25	NESE	35.00	T01N R18E S25	NWSE	40.00
T01N R18E S25	SWSE	40.00	T01N R18E S25	SESE	37.00

152 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for
the definition of the rights or for the efficient administration of the water
rights as may be ultimately determined by the Court at a point in time no
later than the entry of a final unified decree. Section 42-1412(6), Idaho
Code.

The portion of Right 37-00114B used for conveyance losses is 9.13 cfs.
The remaining 3.39 cfs of Right 37-00114B is the authorized diversion at
the field headgate.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Use of water under this water right will be regulated by the watermaster of
State Water District No. 37, Big Wood River, and subject to the policies and
procedures of Wood River Valley Irrigation District #45.

The right holder shall maintain a measuring device and lockable controlling
works of a type approved by the Department at both the diversion from the
river and the redirection from the canal that will provide suitable control of
the diversions.

The right holder shall accomplish the change authorized by this transfer
within one (1) year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is
cause for the Director to rescind approval of the transfer.

Approval of Transfer 4909 does not grant any right-of-way or easement for
use of a delivery system owned by person(s) other than the right owner.

Exhibit C

WATER RIGHT LICENSE

THIS IS TO CERTIFY, that Michael A. Harris

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from April 1 to November 1	at 2.32 cfs and	420.0 acre feet
	from _____ to _____	at _____ cfs and	_____
	from _____ to _____	at _____ cfs and	_____

(both dates inclusive)

Description and location of place of use:

Top.	Range	NEV				NWA				SWA				Totals
		NW	WN	SE	EW	NW	WN	SE	EW	NW	WN	SE	EW	
1N	18E	25												140

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31 day of January 19 83.

Director

Exhibit D

02/13/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-7609

NAME AND ADDRESS: CATTLE LACK RANCH HOMEOWNERS ASSN
11 PURPLE SAGE LN
BELLEVUE ID 83313

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.320 CFS
420.00 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre for irrigation of the lands above.

PRIORITY DATE: 05/18/1977

POINT OF
DIVERSION:

T01N R18E S25 NWNESE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 11/01	2.320 CFS 420.00 AFY

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S25	NESE	38.00	T01N R18E S25	NWSE	34.00
T01N R18E S25	SWSE	34.00	T01N R18E S25	SESE	34.00

140 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License