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SEP 02 2009
DEPARTMENT OF
WATER RESOURCES

Attorneys for Tom O'Gara

**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. 37-2502, 37-7663, &**
) **37-7758**
)

) **AFFIDAVIT OF PAUL L.**
) **ARRINGTON (Tom O'Gara)**
)
)
)
)

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 Tom O'Gara. I am over the age of 18 and state the
following based upon my own personal knowledge.

2. Tom O'Gara 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. 37-2502 is based on License No. 21044, a true and correct copy
of which is attached hereto as Exhibit A. Water Right No. 37-2502 was recommended with the

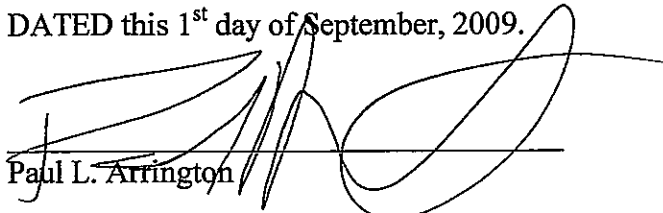
same quantity and place of use as License No. 21044. A true and correct copy of the recommendation is attached hereto as Exhibit B.

4. Water Right No. 37-7663 is based on a license, a true and correct copy of which is attached hereto as Exhibit C. Water Rights No. 37-7663 was recommended with the same season of use and purpose of use as the license. A true and correct copy of the recommendation is attached hereto as Exhibit D.

5. Water Rights No. 37-7758 is based on a license, a true and correct copy of which is attached hereto as Exhibit E. Water Right No. 37-7758 was recommended with the same season of use and purpose of use as the license. A true and correct copy of the recommendation is attached hereto as Exhibit F.

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

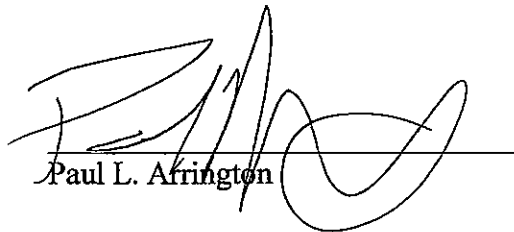

Paul L. Arrington

Exhibit A

State of Idaho

License and Certificate of Water Right

Water License No. 2109

Amount 5.0 cfs

Water District No.

Priority

THIS IS TO CERTIFY that made application for a permit to appropriate the public waters of the State of Idaho, dated , 19 49; that Permit No. was issued under said application; that Certificate of Completion of works, with a carrying capacity of 5.0 second feet, was issued thereunder on 19 49, showing that said works were completed on the 30th day of July, 19 49; and that on the 30th day of July, 19 49,

of , State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of a well, a tributary of flow, for the purpose of irrigation, under Use Permit No. 2104, of the Department of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 12 of Licenses at page 7561, on the 22 day of October, 19 62;

The right hereby confirmed dates from May 3, 19 49;

The Point of Diversion is located

in the SE 1/4 NE 1/4, Sec. 5, Tp. 1 S, R. 19 E, B. M. Blaine County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 5.0 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
1 S	19 E	5	SW 1/4 NE 1/4	16.11	20
			SE 1/4 NE 1/4	17.7	15
			NE 1/4 SE 1/4	40	40
			NW 1/4 SE 1/4	40	40
			SW 1/4 SE 1/4	40	40
			SE 1/4 SE 1/4	40	40
		8	NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			Total number of acres to be irrigated:		275

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 37 2502

22nd day of October, 19 62.

/s/ RALPH W. THOMAS
Deputy State Reclamation Engineer.

(SEAL)

Exhibit B

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

RIGHT NUMBER: 37-2502

NAME AND ADDRESS: THOMAS M O GARA FAMILY TRUST
C/O BRIAN BARSOTTI
PO BOX 370
KETCHUM ID 83340

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 5.000 CFS
938.00 AFY

PRIORITY DATE: 05/03/1949

POINT OF

DIVERSION: T01S R19E S5 SENE Lot 1 Within BLAINE County
Water diverted from Headgate #45 delivered through District Canal.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	5.000 CFS 938.00 AFY

PLACE OF USE: IRRIGATION in BLAINE County

T01S R19E S05 Lot 2 SWNE	19.00	T01S R19E S05 Lot 1 SENE	18.00
T01S R19E S05 NESE	40.00	T01S R19E S05 NWSE	41.00
T01S R19E S05 SWSE	41.00	T01S R19E S05 SESE	40.00
T01S R19E S08 NENE	30.00	T01S R19E S08 NWNE	39.00

268 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 268 acres in a single irrigation season. Combined Right Nos.: 37-597B, 37-590B, 37-501C, 37-501B, 37-115F, 37-2502.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Exhibit C

State of Idaho
Department of Water Resources
WATER RIGHT LICENSE

License of Water Right No. 37-7663 Priority August 25, 1977 Amount 0.10 cfs

THIS IS TO CERTIFY, that Frank Pierret
of Shoshone, Idaho, has complied with the terms and conditions of Permit
No. 37-7663 issued pursuant to Application for Permit dated August 25, 1977,
and has submitted proof to the Department of Water Resources on September 21, 1982,
that he has applied water to a beneficial use, an examination by the Department indicates that the works have a
capacity for the diversion of 0.10 cfs of water from a groundwater source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>November 1</u>	at <u>0.02</u> cfs and	<u>3.0</u> acre feet
Stockwater	from <u>January 1</u> to <u>December 31</u>	at <u>0.02</u> cfs and	<u>0.2</u> acre feet
Domestic (2 Units)	from <u>January 1</u> to <u>December 31</u> (both dates inclusive)	at <u>0.06</u> cfs and	<u>1.2</u> acre feet

Subject, however, to the condition that no more than 0.10 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
4.4 acre feet per year, said waters to be diverted within the SW 1/4, Section 15,
Twp 1S, Rge 19E in the County of Blaine

Description and location of place of use:

Twp.	Range	Sec.															Total
			NE1/4	NW1/4	SE1/4	SW1/4	NE1/4	NW1/4	SE1/4	SW1/4	NE1/4	NW1/4	SE1/4	SW1/4	NE1/4	NW1/4	
1S	19E	15													1		1

RECORDED

Total number of acres irrigated 1

DEC 16 1986

CONDITIONS OF APPROVAL

a. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

b. The right to the use of the water hereby confirmed is restricted and appurtenant to lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

c. Any water right confirmed in this license for hydropower purposes shall be junior and subordinate to all rights in the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this license and shall not give rise to any right or claim against any future rights to the use of water other than hydropower, within the State of Idaho initiated later in time than the priority of this license.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 4TH day of DECEMBER, 19 86.

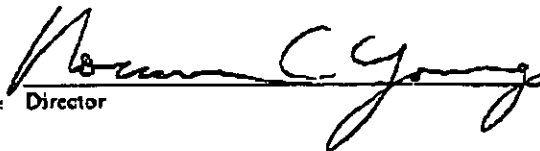


Director

Exhibit D

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

RIGHT NUMBER: 37-7663

NAME AND ADDRESS: THOMAS M O GARA FAMILY TRUST
112 PRICE LN
BELLEVUE ID 83313

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.100 CFS
4.40 AFY

PRIORITY DATE: 08/25/1977

POINT OF
DIVERSION: T01S R19E S15 SWSE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	1/01 12/31	0.060 CFS 1.20 AFY
IRRIGATION	04/01 11/01	0.020 CFS 3.50 AFY
STOCKWATER	1/01 12/31	0.020 CFS 0.20 AFY

PLACE OF USE: IRRIGATION in BLAINE County

T01S R19E S15 SWSE 1.00

STOCKWATER in BLAINE County

T01S R19E S15 SWSE

DOMESTIC in BLAINE County

T01S R19E S15 SWSE

1 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Exhibit E

State of Idaho.
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 37-7758 Priority February 6, 1979 Amount 3.50 cfs

THIS IS TO CERTIFY, that R. B. Bickert
of Coeur d'Alene, Idaho, has complied with the terms and conditions of Permit
No. 37-7758 issued pursuant to Application for Permit dated February 6, 1979
and has submitted proof to the Department of Water Resources on February 12, 1980
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 4.06 cfs of water from a groundwater source
tributary to ", and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>November 1</u>	<u>3.50</u> cfs and	<u>525</u> acre feet
	from <u>"</u> to <u>"</u>	<u>"</u> cfs and	<u>"</u>
	from <u>"</u> to <u>"</u>	<u>"</u> cfs and	<u>"</u>

(Both dates inclusive)

Subject, however, to the condition that no more than 3.50 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and appurtenant for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
525 acre feet per year, said waters to be diverted within the NE 1/4, Section 16, Twp. 1S, Rge. 19E
in the County of Blaine

Description and location of place of use:

Twp.	Range	Section	Acres	Total
1S	19E	16	175	175

Total number of acres irrigated 175

This right when combined with all other rights shall provide no more than 3.0
afa per acre for the lands above.
Point of Injection into Cain Creek: SE 1/4, Section 16, Twp. 1S, Rge. 19E
Points of Exchange from Chaney Creek: SE 1/4, NW 1/4, Section 16, Twp. 1S,
Rge. 19E
Use of water under this license is subject to control by the watermaster of
State Water District No. 37M, Little Wood River.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 22 day of
October, 19 81.


Director

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Exhibit F

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

RIGHT NUMBER: 37-7758

NAME AND ADDRESS: THOMAS M O GARA FAMILY TRUST
C/O BRIAN BARSOTTI
PO BOX 370
KETCHUM ID 83340

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 3.500 CFS
. 525.00 AFY

The rights listed below are limited to a total combined annual diversion volume of 2526 af. Combined Right Nos.: 37-2581, 37-2599, 37-2604, 37-2616, & 37-7758

PRIORITY DATE: 02/06/1979

POINT OF
DIVERSION:

T01S R19E S16 SESENW Rediversion Within BLAINE County

T01S R19E S16 SWNESW Within BLAINE County

T01S R19E S16 NESWSW Injection Within BLAINE County

T01S R19E S16 NWSESE Rediversion Within BLAINE County

Water diverted under this right is exchanged by injecting water diverted under this right into Cain Creek at the point of injection described above, and diverting an equal amount from Chaney Creek at the points of rediversion described above.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 11/01

QUANTITY
3.500 CFS
525.00 AFY

PLACE OF USE:

IRRIGATION in BLAINE County

T01S R19E S16	SWNE	0.70	T01S R19E S16	SWNW	2.00
T01S R19E S16	SENE	8.70	T01S R19E S16	NESW	38.00
T01S R19E S16	NWSW	1.60	T01S R19E S16	SWSW	2.00
T01S R19E S16	SESW	23.00	T01S R19E S16	NWSE	24.00
T01S R19E S16	SWSE	38.00	T01S R19E S16	SESE	37.00

175 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 721.7 acres in a single irrigation season. Combined Right Nos.: 37-2581, 37-2599, 37-2604, 37-2616, & 37-7758

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License