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Attorneys for Magic Irrigators, Inc.

RECEIVED

JUN 16 2010

**DEPARTMENT OF
WATER RESOURCES**

6-15

**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

)
) **Case No. 47-17541**
)
) **AFFIDAVIT OF KENNETH P. ELKIN**
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)

KENNETH P. ELKIN, being first duly sworn upon oath, deposes and states as follows:

1. I am over the age of 18 and state the following based upon my personal knowledge.
2. My address is 4900 North 716A East, Buhl, Idaho.
3. I am the Vice President of Magic Irrigators, Inc. and have held this position since 1988.
4. I have been involved with the SRBA process for Magic Irrigators' water right claims 47-2384 and 47-2415 since 1987, when we purchased the farm. In 1988, I filed an amended to the claims to change the owner of the water right. At the time, I did not realize that

we were supposed to file a separate claim for any enlargement acres associated with these water rights. Based upon information from IDWR, it was my understanding and direction that the Company was supposed to claim all irrigated acres under our existing water rights. It was not Magic Irrigators' intent to file an incorrect claim or not file an appropriate water right claim for acres that had been irrigated prior to 1987 but not covered by water rights 47-2384 and 47-2415.

5. Both water rights 47-2384 and 47-2415 are diverted through the same diversion works operated and maintained by Magic Irrigators. We have always diverted water through the same diversion system to the respective place of use under these two water rights.

6. We did not realize that the Company would have to file a separate claim for enlargement acres until the recommendation for water right 47-2269 was issued by IDWR in 2007 and it did not include any of the enlargement acres. Magic Irrigators filed objections to the recommendations and proceeded to hire legal counsel to research the matter and file the present motion to file late notice of claim.

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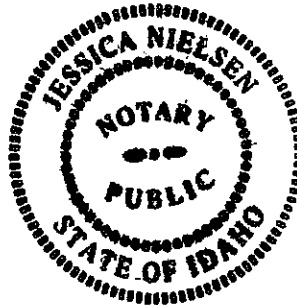
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 8th day of June, 2010.

Kenneth P. Elkin
KENNETH P. ELKIN

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

On this 8th day of June, 2010, before me, a Notary Public for said County and State, personally appeared KENNETH P. ELKIN, known or identified to me the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same



Jessica Nielsen
NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls
My commission expires: 4/3/12

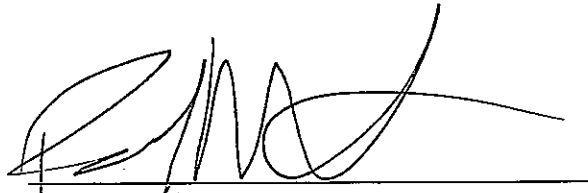
CERTIFICATE OF SERVICE

I certify that on this 15th day of June, 2010, I served a copy of the foregoing **AFFIDAVIT OF KENNETH P. ELKIN**, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

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


Paul L. Arrington