

1. I am an attorney duly licensed to practice law in the state of Idaho. I am one of the attorneys representing Pioneer Irrigation District in the above-referenced matter. I have access to the client's files in this matter, and make this affidavit based upon my personal knowledge.

2. Attached hereto as Exhibit A is a true and correct copy of IDWR's recommendation of water right 63-32580 in the SRBA.

3. Attached hereto as Exhibit B is a true and correct copy of Mason's Notice of Claim to 63-33392, and of the SRBA District Court's order granting Mason Creek Ditch Company's motion to file that late claim, both of which I obtained from the SRBA District Court website.

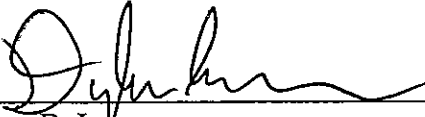
4. Attached hereto as Exhibit C is a true and correct copy of relevant excerpts of the deposition transcript of the 30(b)(6) deposition of IDWR.

5. Attached hereto as Exhibit D is a true and correct copy of Mason Creek Ditch Company's Notice of Claim to water right 63-32580.

6. Attached hereto as Exhibit E is a true and correct copy of relevant portions of supplemental discovery responses provided by Pioneer to Mason Creek Ditch Company in accordance with Idaho Rule of Civil Procedure 26(e). While Pioneer's initial response to Interrogatory No. 3 accurately characterized Pioneer's understanding at that time, in light of subsequent analysis of flows within the Caldwell Highline Canal, Pioneer has supplemented its response to that interrogatory to more accurately characterize its current understanding and position.

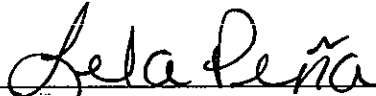
7. Attached hereto as Exhibit F is a true and correct copy of relevant portions of discovery responses provided by the Franklin Ditch Co.

Further your affiant sayeth naught.

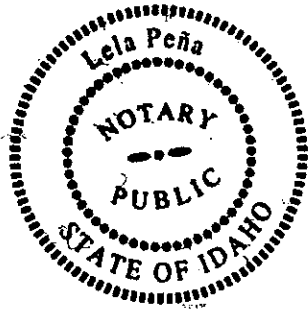


Dylan B. Lawrence

SUBSCRIBED AND SWORN to before me this 1st day of October, 2010.



NOTARY PUBLIC FOR IDAHO
Residing at Boise
My Commission Expires 5-31-2012



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of October, 2010, I caused a true and correct copy of the foregoing **AFFIDAVIT OF DYLAN B. LAWRENCE IN OPPOSITION TO MASON CREEK DITCH COMPANY'S MOTION FOR SUMMARY JUDGMENT** to be served by the method indicated below, and addressed to the following:

Mason Creek Ditch Company
Represented by:
Albert P. Barker
Shelley M. Davis
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Franklin Ditch Company
Represented by:
Daniel V. Steenson
Jon C. Gould
RINGERT CLARK CHARTERED
P.O. Box 2773
Boise, ID 83701

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Martin Galvin
P.O. Box 115
Middleton, ID 83644

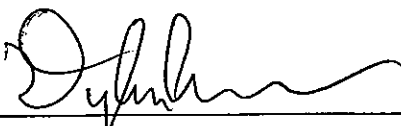
- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

John J. McEvoy
1703 N. KCID Road
Caldwell, ID 83605

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

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

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile



Dylan B. Lawrence

EXHIBIT A

**To the Affidavit of Dylan B. Lawrence in Opposition to
Mason Creek Ditch Company's Motion for Summary Judgment**

In Re SRBA Case No. 39576

Subcase Nos. 63-00166A, 63-00166B, 63-00167A,
63-00167B, 63-00179A, 63-00179C, 63-32580

EXHIBIT B

**To the Affidavit of Dylan B. Lawrence in Opposition to
Mason Creek Ditch Company's Motion for Summary Judgment**

In Re SRBA Case No. 39576

Subcase Nos. 63-00166A, 63-00166B, 63-00167A,
63-00167B, 63-00179A, 63-00179C, 63-32580

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Went. Number: 03-33392
Date Received:
Receipt No:
Received By:

DISTRICT COURT SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JUN 18 2010
By [Signature] Deputy Clerk

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) MASON CREEK DITCH CO. Phone (208) 208-459-0428
Mailing Address C/O Richard Bicandi, 1905 Mason, Caldwell, ID ZIP 83605
Street or Box City State

2. Date of Priority (Only one (1) per claim) 6/1/1869
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (X) (a) Wastewater/Five Mile Creek/Drain
which is tributary to (b) Boise River

4. a. Location of Point of Diversion is: Township 04N, Range 02W, Section 16
SW 1/4 of SW, 1/4 Govt. Lot, BM., County of Canyon

Parcel (PIN) no.
Additional points of diversion if any:
If available, GPS Coordinates

b. If instream flow, beginning point of claimed instream flow is:
Township, Range, Section, 1/4 of, 1/4
Govt. Lot, BM., County of
ending point is: Township, Range, Section, 1/4 of, 1/4
Govt. Lot, BM., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.
Diversion dam in Five Mile Creek/Drain. Five Mile is also shown on some maps of this area alternatively as Fifteen Mile or Ten Mile Creek/Drain.

6. Water is claimed for the following purposes:

For Irrigation purposes from 3/15 to 11/15 amount 17 or _____
(both dates are inclusive MM-DD) (cfs) (acre feet)
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 17 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use: same as 63-179C and 63-32580

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

SEE ATTACHED EXHIBIT "A" SHOWING ENTIRE PLACE OF USE

Twn	Rng	Sec	NE				NW				SW				SE				Totals		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			

Parcel (PIN) no(s). _____ Total number of acres irrigated 1937

10. In which county (ies) are lands listed above as place of use located? CANYON

11. Do you own the property listed above as place of use? Yes () No (X) If your answer is No, describe in Remarks below the authority you have to claim this water right.

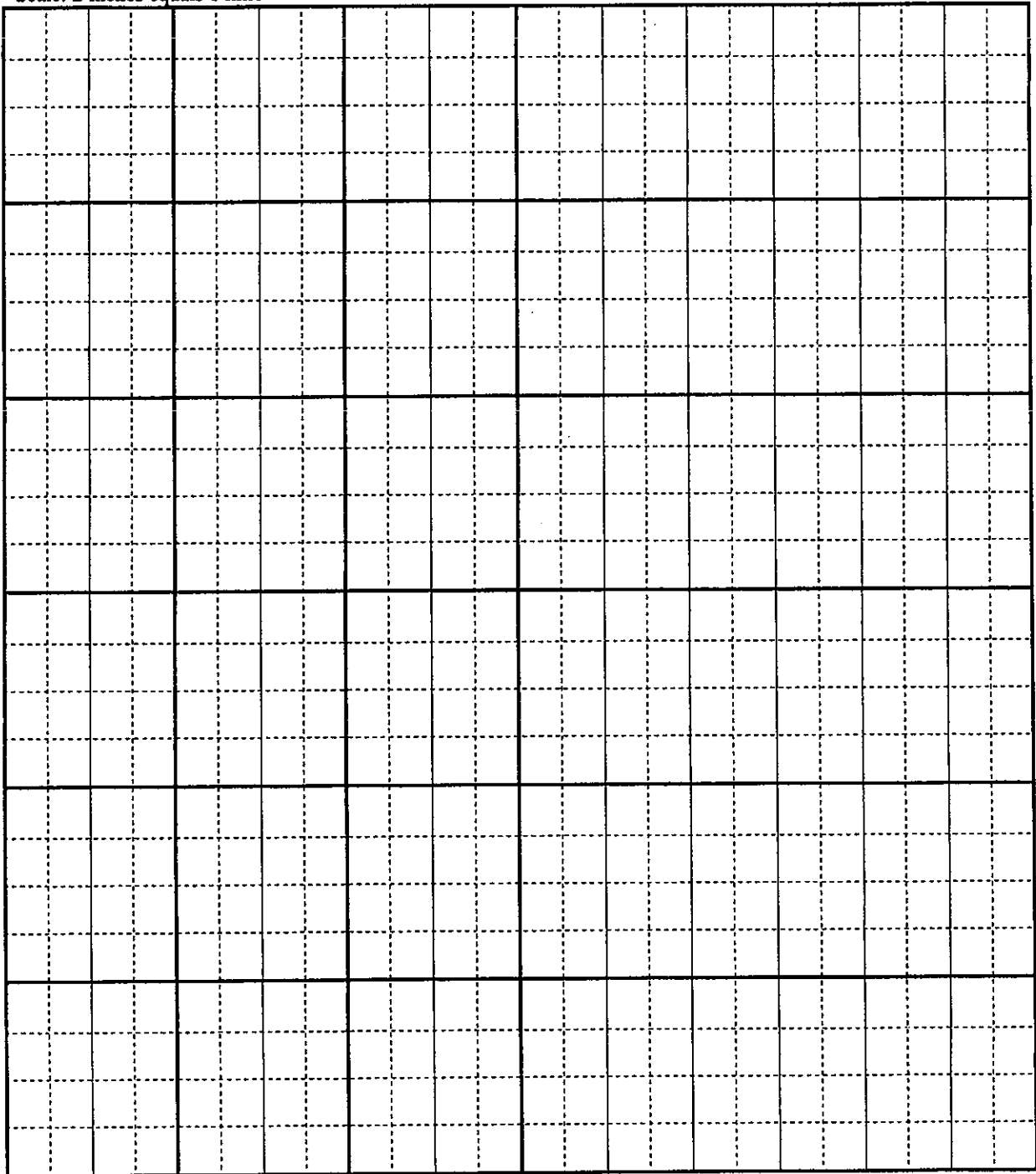
12. Describe any other water rights used at the same place and for the same purposes as described above. 63-179C; 63-32580 or None ()

13. Remarks: This claim is based upon historical use.
Mason Creek Ditch Company is a delivery entity which holds the water for delivery to its Shareholders who own the land described as the Place of Use. U.S. v. Pioneer Irrigation District

The Boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. § 42-202B(2) and authorized pursuant to I.C. § 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources.

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 Inches equals 1 mile



14. Basis of Claim (Check One) Beneficial Use (X) Posted Notice () License () Permit () Decree

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do () do not () wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____
_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am a Director _____ of Mason Creek Ditch Company _____,
Title Organization

that I have signed the foregoing document in the space below as
Director _____ of Mason Creek Ditch Company _____,
Title Organization

and that the statements contained in the forgoing document are true and correct.

Signature of Authorized Agent Mantien Galvin Date 6-17-10

Title and Organization Director, Mason Creek Ditch Company

16. Notice of Appearance:

Notice is hereby given that I, Albert P. Barker, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature [Signature] Date 6-17-10
Address 1010 W. Jefferson Street, Suite 102
Boise, Idaho 83702

BOISE RIVER NENENE Sec. 24 Township 04N Range 02W CANYON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	A	
04N	02W	7		SWSE	10		SESE	11							
				8	SWSW	9									
				17	SWNE	40									
			18		NENW	40		NWNW	40		SWNW	40		SENE	4
				NESW	40		NWSW	40		SWSW	40		SESE	4	
				NWSE	40		SWSE	40		SESE	40				
				NENE	40		NWNE	40		SWNE	40		SENE	4	
				NENW	37		NWNW	30		SWNW	40		SENE	4	
				NWSW	40		SWSW	40							
			19		NESE	13									
				NENE	40		NWNE	40							
				NENW	40		NWNW	40							
		03W		11		SWSE	22		SESE	21					
					12	SESE	12								
				13		NENE	40		NWNE	26		SWNE	25		SENE
			NENW		26		NWNW	25		SWNW	26		SENE	2	
		14		NESW	26		NWSW	25		SWSW	40		SESE	2	
			NESE	40		NWSE	25		SWSE	25		SESE	3		
			NENE	22		NWNE	22		SWNE	22		SENE	2		
			NENW	40		NWNW	40		SWNW	20		SENE	4		
			NESW	29		SESE	16								
			NESE	22		NWSE	21								
		24		NENE	20										

Total Acres: 1937

Conditions of Approval:

1. THIS RIGHT IN CALDWELL HIGH LINE CANAL.

Dates:
Licensed Date:

EXHIBIT A

DISTRICT COURT-SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho

SEP 21 2010

By _____

**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)	Subcase: 63-33392
)	
Case No. 39576)	ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM
)	
)	


On June 18, 2010, Mason Creek Ditch Company, by and through counsel, Albert P. Barker, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on September 21, 2010. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated: September 21, 2010.



ERIC J. WILDMAN
 Presiding Judge
 Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on September 21, 2010, with sufficient first-class postage to the following:

MASON CREEK DITCH CO

Represented by:

ALBERT P BARKER

1010 W JEFFERSON, STE 102

PO BOX 2139

BOISE, ID 83701-2139

Phone: 208-336-0700

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

ORDER

Page 1 9/21/10

FILE COPY FOR 02333

Deputy Clerk

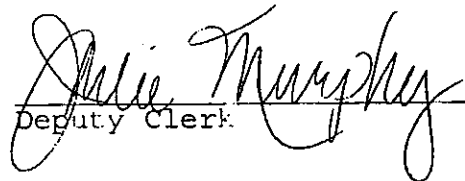
A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line. The signature is positioned to the right of the typed name "Deputy Clerk".

EXHIBIT C

**To the Affidavit of Dylan B. Lawrence in Opposition to
Mason Creek Ditch Company's Motion for Summary Judgment**

In Re SRBA Case No. 39576

Subcase Nos. 63-00166A, 63-00166B, 63-00167A,
63-00167B, 63-00179A, 63-00179C, 63-32580

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) Subcase Nos.
Case No. 39576) 63-00166A, 63-00166B
) 63-00167A, 63-00167B
) 63-00179A, 63-00179C
) 63-32580
)

RULE 30(b)(6) DEPOSITION OF JAN SHURTE

Moffatt, Thomas, Barrett, Rock & Fields, Chartered
101 South Capitol Boulevard, 10th Floor
Boise, Idaho

Friday, September 17, 2010
Beginning at 9:00 o'clock a.m.

QnA COURT REPORTING, LLC
Jeana Reiner, CSR, RPR
Idaho Certificate No. 711
776 East Riverside Drive, Suite 200
Eagle, Idaho 83616
Web: www.qnacourtreporting.com
E-mail: realtimema@msn.com
(ELECTRONIC COPY) Telephone: (208) 484-6309
30(b)(6) DEPOSITION OF JAN SHURTE (TAKEN 09.17.10)

1 whether what they are talking about is that other water
2 right, that Back Slough water right that we discussed
3 previously?
4 A. I don't know. I don't know what they -- I
5 don't know why Carter was -- I just don't know.
6 Q. Again, I'm not trying to get you to make
7 anything up. I just want to know what you know.
8 A. Yeah. And I don't want to do that, so --
9 Q. Aside from maybe some cleanup items towards the
10 end, I think I'm ready to move from Franklin to Mason,
11 if that's all right with you.
12 Since we're at a logical breaking point, do you
13 want to take another break or do you want to keep
14 plowing through?
15 A. No. I'm fine, as long as everybody else is.
16 Q. Everyone looks like they are having a great
17 time.
18 A. Yeah, they do.
19 Q. So Mason Creek Ditch Company -- and you know,
20 when we started with Franklin, I asked you a little bit
21 about just the type of organization. Is it your
22 understanding that Mason Creek Ditch Company is,
23 generally speaking, the same type of organization as
24 Franklin? Any differences between them, anything like
25 that?

1 A. You know, I don't know their bylaw and so I
2 don't know that there is any differences. I don't know
3 about either one of them and their bylaws.
4 MR. LAWRENCE: Why don't we just go ahead and
5 pull out the recommendation.
6 (Exhibit No. 12 was marked for identification.)
7 BY MR. LAWRENCE:
8 Q. So do you recognize the document what we've
9 just marked as Exhibit 12?
10 A. Yes, I do.
11 Q. And is it just the SRBA recommendation for
12 water right 63-179C?
13 A. Yes, it is.
14 Q. And am I correct in remembering that Pioneer
15 also filed a competing claim to this water right; is
16 that your recollection?
17 A. Yes, that's true.
18 Q. So as far as, again, resolving and competing
19 claims and who owns the water right, was it the same
20 process for this one that you described in the context
21 of the Franklin recommendations?
22 A. Yes, it was.
23 Q. And just backing up a little bit, is this a
24 recommendation that was also prepared by David
25 Tuthill?

1 A. Yes, it was.
2 Q. Did you have any role in preparing this
3 recommendation at all?
4 A. No.
5 Q. Well, staying up there towards the top of the
6 recommendation, we have the source as Boise River and
7 the quantity as 36.2 cfs; correct?
8 A. Correct.
9 Q. So by making this recommendation, is it the
10 Department's position that 36.2 cfs of Boise River water
11 have historically been delivered to and used by the
12 Mason Creek Ditch Company?
13 A. It was what was decreed in the Boise River. I
14 would have to look at reports to -- you know,
15 historically delivered -- you know, I can't say for sure
16 that I know it was historically delivered every year.
17 So that's why I'm having a hard time answering that
18 question.
19 Q. That's fair enough. But by making the
20 recommendation, though, is it fair to say that it's
21 implicit that at least the Department believes that at
22 some point in time, particularly given the very early
23 priority date on this water right --
24 A. Yes.
25 Q. -- that 36.2 cfs has made it to and been used

1 by the Mason Creek Ditch Company?
2 A. I think that's a fair statement.
3 Q. Just overall. I'm not asking you to focus on a
4 particular year or anything.
5 A. Yes.
6 Q. So why don't we actually turn back to Exhibit
7 2, the map.
8 A. Okay.
9 Q. Do you have an understanding of how -- and
10 maybe you can walk me through on the map. If water is
11 diverted from the Boise River into the Highline,
12 theoretically, how does it make it to the Mason Creek
13 Ditch Company land?
14 A. And that I do not have an understanding of,
15 because we are only responsible for where it comes out
16 at the point of diversion.
17 Q. So once it's in the Highline, then that's it?
18 A. Yeah, that's it. That's the way it is with
19 everything. I mean, everything dealing with the point
20 of diversion.
21 Q. Yes. Let's go down to the point of diversion a
22 little bit. So we have the point of diversion. Do you
23 agree that that point of diversion designated there is
24 the Highline Canal?
25 A. Yes, that is the Caldwell Highline Canal.

1 Q. And then, again, towards the bottom, we have
2 the explanatory remark about there being an accomplished
3 change in point of diversion; correct?
4 A. Right.
5 Q. Now, I know I asked this in the Franklin
6 context, but do you have any knowledge about the
7 circumstances of this change in point of diversion?
8 A. I do not.
9 Q. And just staying on the same topic there, we
10 have basically the last remark on the recommendation,
11 "This right in Caldwell Highline Canal Trans No. 29."
12 Is it safe to assume that "Trans 29" refers to Transfer
13 29?
14 A. Yes. And I think that was a remark that was
15 left over from the water right or from the claim,
16 actually.
17 Q. Do you know anything about Transfer No. 29?
18 A. Yes. That's where one cfs was transferred to
19 the Canyon County Canal Company, Canyon County Ditch
20 Company, something like that.
21 Q. Yeah. That's my recollection as well. So we'd
22 agree that that does not explain how --
23 A. No.
24 Q. -- how this point of diversion changed?
25 A. Exactly.

Page 77

1 Q. And you're not aware of any other old transfer
2 that deals with this issue?
3 A. No, I'm not.
4 (Exhibit No. 13 was marked for identification.)
5 BY MR. LAWRENCE:
6 Q. So we've just given you Exhibit 13; is that
7 correct?
8 A. Yes, it is.
9 Q. And can you summarize for me what this is?
10 A. This is a copy of the Stewart Decree, which
11 includes 63-179 to Mason Creek Ditch Company.
12 Q. And so I know that this is not the best quality
13 copy in the world, but can you try and make out what it
14 identifies at that time point of diversion in the
15 Stewart Decree?
16 A. Yes. It's also identifying -- here, I'll read
17 it. "Diverted at a point on the south bank thereof near
18 the center of the east line of Section" -- and I believe
19 that's "18, Township 4 North, Range 2 West."
20 Q. I think that might be 16. Let me see. I
21 have --
22 (Exhibit No. 14 was marked for identification.)
23 BY MR. LAWRENCE:
24 Q. So that's Exhibit 14. And I'm not asking you
25 to authenticate it or anything like that, but I'll just

Page 78

1 represent that that is a transcription of the Stewart
2 Decree that's in the appeal record from the District
3 Court to the Idaho Supreme Court, and I think it's a
4 little bit clearer. So can you just read for me what
5 the point of diversion says there?
6 A. Okay. It says, "Diverted at a point on the
7 south bank thereof near the center of the east line of
8 Section 16, 4 North, 2 West."
9 Q. In looking back at the true Stewart Decree,
10 Exhibit 13, that looks like --
11 A. Yeah, I believe that's right. Yeah.
12 Q. So if we could flip back again to Exhibit 2,
13 which is the map, can you show me or explain about where
14 the point of diversion would be that's identified in the
15 Stewart Decree?
16 A. Let's see. Well, if you just go on the south
17 bank of the river, near the center of the east line of
18 Section 16, it occurs -- like it would be like
19 approximately right in there.
20 Q. So we're talking about this is kind of the
21 north part of the east chunk of the Franklin Ditch
22 Company place of use, the Section 16 that's there?
23 A. Uh-huh.
24 Q. And then each section line is exactly a mile;
25 correct?

Page 79

1 A. Correct.
2 Q. It's been an accomplished transfer between the
3 Stewart Decree and the SRBA recommendation of somewhere
4 in the neighborhood of three to four miles; is that
5 correct?
6 A. Yeah. And approximately about three miles;
7 three to four miles. Now, remembering that the map
8 we're looking at right now, the river could have been in
9 a different place back in 1906.
10 Q. As we know from Transfer No. 29, or whatever it
11 was, that we were talking about.
12 A. Right.
13 Q. But, again, the Department doesn't have any
14 knowledge as to how that happened?
15 A. Not that I can see.
16 Q. Now, with that being the case, I mean, does the
17 Department or did the Department in this case
18 investigate what is the basis for this water right to be
19 diverted into the Highline Canal? I mean, is that
20 something that the Department looked for and just
21 couldn't find, or because it had been going on, they
22 just thought, "Well, this will be okay. We'll recommend
23 it in the Highline"?
24 A. I'm sure during the discussions and in looking
25 at the file, it's pretty clear that it's diverted

Page 80

1 through the Highline. And I think that with -- now, I
 2 don't know, because Dave had the meetings, but in
 3 looking at the files, I would have gathered that right
 4 away.
 5 Q. Yeah. Now, I know like in the context now,
 6 these days of applying for a new water right, that it's
 7 always a big deal if you are the applicant but you don't
 8 own the point of diversion, submitting proof that you
 9 have the authority to divert the water. Does the
 10 Department do anything like that in the SRBA, or has it
 11 historically; that if someone is claiming a point of
 12 diversion that's not owned or operated by them, that
 13 they do produce some sort of documentation to show that
 14 that's appropriate?
 15 A. It depends. It depends on if it appears to be
 16 a problem when you are reviewing that claim.
 17 Q. Has the Department determined that?
 18 A. In the past we have, yes. I have actually seen
 19 water rights that we have determined that -- yes, I have
 20 seen those.
 21 Q. But did you think in this context it was
 22 probably -- when David Tuthill prepared this, he
 23 probably was just -- and, you know, recognizing I'm
 24 asking you to speculate to a certain extent here, but
 25 probably what he did was just, you know, look at water

Page 81

1 master records that show this being diverted into the
 2 Highline and probably assumed, "Well, this is okay.
 3 We'll just recommend this."
 4 A. I definitely think that's what he looked at,
 5 because in the water distribution book it does have
 6 these water rights as coming out of the Caldwell
 7 Highline Canal. And plus, there was other documents in
 8 there.
 9 Q. And as far as the place of use goes -- I mean,
 10 I know we've covered this ground in terms of Franklin,
 11 but is it safe to assume that the general process that
 12 you discussed there also applies here, that sort of back
 13 and forth with the claimant and --
 14 A. Yes, it was.
 15 Q. So, again, with place of use, it's relying
 16 primarily on information provided by Mason Creek Ditch
 17 Company to help draw the boundaries and identify where
 18 irrigation occurs?
 19 A. That's correct, yes.
 20 Q. I don't really have any other questions at this
 21 point on this particular recommendation. Is there
 22 anything through the course of our discussion that
 23 something else comes to mind or one of your answers has
 24 changed or anything like that?
 25 A. Not at this point.

Page 82

(Exhibit No. 15 was marked for identification.)
 2 BY MR. LAWRENCE:
 3 Q. That is Exhibit 15 that we just handed you; is
 4 that correct?
 5 A. Yes, it is.
 6 Q. Can you describe for me what this document is?
 7 A. Yes. This is the Department's recommendation
 8 for 63-32580 to Mason Creek Ditch Company for water out
 9 of the Mason Creek.
 10 Q. Now, if I remember correctly, this is one you
 11 prepared; is that right?
 12 A. Yes, that's correct.
 13 Q. Can you, before we get into the details and the
 14 particular elements, just summarize for me what the
 15 process was in preparing this recommendation?
 16 A. When I prepared this recommendation, I made
 17 claimant contact. Well, I call it claimant. It's water
 18 user contact with Mason Creek and the ditch company. I
 19 believe I spoke to Dorothy Bicandi and Richard both.
 20 And I also studied maps, had them submit maps to me,
 21 showing where the points of diversion were, had them
 22 submit information to me concerning the sizes of the
 23 ditches and the diversion ditches and submit affidavits
 24 to me concerning the priority date. And then submit
 25 information to me concerning the number of acres

Page 83

1 irrigated from this actual diversion point rather than
 2 all of Mason Creek Ditch Company.
 3 That's it in a little nutshell.
 4 Q. Were you the only person who worked on it at
 5 the Department or did anybody else work on it with
 6 you?
 7 A. No. I was the only person that worked on this
 8 one.
 9 Q. Did you visit the diversion on Mason Creek --
 10 or there are actually two points of diversion. So did
 11 you conduct any sort of a field exam? Or was it all
 12 photos and information from the claimant?
 13 A. It was all photos and information from the
 14 claimant. I did not do a field exam.
 15 Q. Now this is a beneficial use claim; correct?
 16 A. That's correct.
 17 Q. Is it customary or common for the Department,
 18 for a beneficial use claim specifically, to not perform
 19 a field exam at some point?
 20 A. It is more common now than it used to be. And
 21 the reason for that is because there is a lot fewer of
 22 us. And a lot of the time we don't have time to conduct
 23 field exams. And so, if we can get enough information
 24 from the water user, and if we can see it on the map,
 25 and using that type of information, we don't conduct a

Page 84

EXHIBIT D

**To the Affidavit of Dylan B. Lawrence in Opposition to
Mason Creek Ditch Company's Motion for Summary Judgment**

In Re SRBA Case No. 39576

Subcase Nos. 63-00166A, 63-00166B, 63-00167A,
63-00167B, 63-00179A, 63-00179C, 63-32580

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number
Date Received:
Receipt No:
Received By:

63- 32580
11/20/2006
C# 82713

RECEIVED

NEW CLAIM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

NOV 29 2006
DEPARTMENT OF
WATER RESOURCES

1. Name of Claimant(s)

MASON CREEK DITCH CO Phone: (208)459-0428

C/O RICHARD BICANDI
1905 MASON
CALDWELL ID USA 83605

2. Date of Priority: 06/01/1869

3. Source: MASON CREEK Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot		County	Type
04N	02W	19	NW	NW	CANYON	
04N	02W	19	SE	NW	CANYON	

5. Description of diverting works:

DIV. DAM IN MASON CREEK

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	17	

7. Total Quantity Appropriated is:
17 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot		Use	Acres		
04N	02W	7	SE	SE	IRRIGATION	11		
			SW	SE	IRRIGATION	10		
							Section Acres	21
04N	02W	8	SW	SW	IRRIGATION	9		
							Section Acres	9
04N	02W	17	SW	NE	IRRIGATION	40		
			NE	NW	IRRIGATION	40		
			NW	NW	IRRIGATION	40		
			SW	NW	IRRIGATION	40		
			SE	NW	IRRIGATION	40		
			NW	SW	IRRIGATION	40		
			NW	SE	IRRIGATION	40		
			SW	SE	IRRIGATION	40		
			SE	SE	IRRIGATION	40		
			NE	SW	IRRIGATION	40		
			SW	SW	IRRIGATION	40		
			SE	SW	IRRIGATION	40		
							Section Acres	480
04N	02W	18	NE	NE	IRRIGATION	40		
			NW	NE	IRRIGATION	40		
			NE	SE	IRRIGATION	13		
			NE	NW	IRRIGATION	37		
			NW	NW	IRRIGATION	30		
			SW	NW	IRRIGATION	40		
			SE	NW	IRRIGATION	40		
			NW	SW	IRRIGATION	40		
			SW	SW	IRRIGATION	40		
			SW	NE	IRRIGATION	40		
			SE	NE	IRRIGATION	40		
							Section Acres	400
			04N	02W	19	NE	NE	IRRIGATION
NW	NE	IRRIGATION				40		
NE	NW	IRRIGATION				40		
NW	NW	IRRIGATION				40		
				Section Acres	160			
04N	03W	11	SE	SE	IRRIGATION	21		
			SW	SE	IRRIGATION	22		
							Section Acres	43
04N	03W	12	SE	SE	IRRIGATION	12		

					Section Acres	12
04N	03W	13	NE	NW	IRRIGATION	26
			NW	NW	IRRIGATION	25
			NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	26
			SW	NE	IRRIGATION	25
			SE	NE	IRRIGATION	40
			SW	NW	IRRIGATION	26
			SE	NW	IRRIGATION	25
			NE	SW	IRRIGATION	26
			NW	SW	IRRIGATION	25
			SW	SW	IRRIGATION	40
			SE	SW	IRRIGATION	26
			NE	SE	IRRIGATION	40
			NW	SE	IRRIGATION	25
			SW	SE	IRRIGATION	25
			SE	SE	IRRIGATION	37

					Section Acres	477
04N	03W	14	NE	NE	IRRIGATION	22
			NW	NE	IRRIGATION	22
			SW	NE	IRRIGATION	22
			SE	NE	IRRIGATION	21
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	40
			SW	NW	IRRIGATION	20
			NE	SW	IRRIGATION	29
			SE	SW	IRRIGATION	16
			NE	SE	IRRIGATION	22
			NW	SE	IRRIGATION	21
			SE	NW	IRRIGATION	40

					Section Acres	315
04N	03W	24	NE	NE	IRRIGATION	20

Section Acres 20

Total Acres 1937

11. Place of use in counties: CANYON
12. Do you own the property listed above as place of use? Yes
13. Other Water Rights Used:
14. Remarks:

POU is west of Wells Road.

15. Basis of Claim: Beneficial Use

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not x wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am SECRETARY R.L.B
WILHARD BEARDI of
Title
Mason Creek Ditch Co., that I have signed the foregoing
Organization

document in the space below as SECRETARY of
Title
Mason Creek Ditch Co and that the statements contained in the
Organization
foregoing document are true and correct. Richard T. Beardi
Signature of Authorized Agent

Secretary of Mason Creek Ditch Co.
Title and Organization

11-28-06
Date

State of Idaho)
County of CANYON) SS.

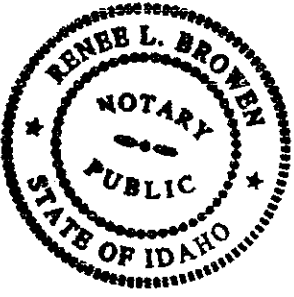
Subscribed and sworn (or affirmed) before me this

28 of NOVEMBER 2006

Renée L. Brown
Notary Public

Residing at WILDER ID

My commission Expires 04/27/10



Dorothy Bicandi
1905 Mason Rd.
Caldwell, Idaho 83605

RECEIVED
NOV 29 2006
DEPARTMENT OF
WATER RESOURCES

Danielle Favereau
IDWR
State House Mail
Boise, Idaho 83702-9000

Danielle,

I took the measurements of the 2 diversions for Mason Creek Ditch Company.

Diversion 1- 1- 19 feet wide
2- 5 feet wide
3- 4ft. 7 inches wide

Diversion 2- 1- 10 feet wide
2- 6 feet wide

There are 540 acres irrigated out of Diversion 1 (known as Mason Lateral) and 310 acres irrigated out of Diversion 2. Diversion 2 sends water down the delivery ditches and is then pumped, so the amount of water that is sent down the ditch is greater than the amount used. The unused water then flows back into the Boise River. The unused water from Mason Lateral also flows back into the river.

David Tuthill said he would calculate the amount of water if we gave him the dimensions of the checks.

I discovered a mistake on the affidavit from June Vassar. Diversion 2 is West of Well's Road or East of KCID Road, not West of KCID Road , however, that is obvious on the map.

If you need any more information call me at 208-459-0428 or my husband Dick Bicandi at 208-941-0960.

Sincerely,

Dorothy Bicandi
Dorothy Bicandi

SCANNED
DEC 13 2006

Charles Paynter Jr.
2911 Lincoln St.
Caldwell, Idaho 83605
November 26, 2006

IDWR
Adjudication Bureau
Statehouse Mail
Boise, Idaho 83702-9000

To Whom It May Concern:

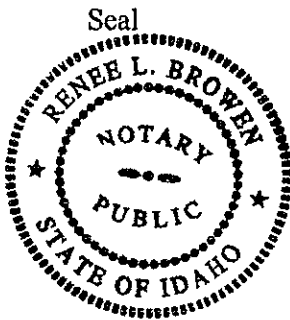
I have lived on our family farm all of my 90 years. Mason Creek runs through our property and Mason Creek Ditch Company has used the water out of Mason Creek for irrigation for as for as long as I can remember. The diversion of this water is South of Marble Front Rd. on Mason Creek and just North of Marble Front Rd., West of Well's Rd.

I affirm that these statements are true to the best of my memory.

Signature of Claimant Charles L. Paynter Jr. 11-28-06

State of Idaho _____ SS.
County of CANYON

Subscribed and sworn (or affirmed) before me this 28 day of NOVEMBER 2006



Notary Public Renee L. Brown
Residing at WILDER, ID
My Commission Expires 04/27/10

EXHIBIT E

**To the Affidavit of Dylan B. Lawrence in Opposition to
Mason Creek Ditch Company's Motion for Summary Judgment**

In Re SRBA Case No. 39576

Subcase Nos. 63-00166A, 63-00166B, 63-00167A,
63-00167B, 63-00179A, 63-00179C, 63-32580

Attorneys for Claimant and Objector
Pioneer Irrigation District

Scott L. Campbell, ISB No. 2251
Andrew J. Waldera, ISB No. 6608
Dylan B. Lawrence, ISB No. 7136
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
18946.0137

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. 63-00166A 63-00166B
63-00167A 63-00167B
63-00179A 63-00179C
63-32580

**PIONEER IRRIGATION DISTRICT'S
SUPPLEMENTAL RESPONSES TO MASON
CREEK DITCH COMPANY'S FIRST SET OF
DISCOVERY REQUESTS**

COMES NOW Pioneer Irrigation District, by and through undersigned counsel,
and hereby provides its supplemental answers and responds to Mason Creek Ditch Company's
First Set of Interrogatories, Requests for Admission and Requests for Production, as follows:

rather than Boise River water. The diversion rate exceeds a reasonable duty of water when combined with the recommendation for 63-32580 and Mason's potential claim to 63-33392.

INTERROGATORY NO. 3: Please describe, with specificity, each factual and legal basis for Pioneer Irrigation District's claim to the water now identified by water right no. 63-179A.

INITIAL ANSWER TO INTERROGATORY NO. 3: The water right is diverted, conveyed, and delivered to the water users comprising the Mason Creek Ditch Co. through Pioneer's Highline Canal. Pioneer has performed all of the operation, maintenance, and repair of the Highline Canal. Mason Creek Ditch Co. has historically not contributed to the payment of expenses associated with such efforts and lacks any specific authorization from Pioneer to convey the water right through Pioneer's system. Pioneer suspects that some of the water diverted under this right has historically been used on Pioneer lands.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 3: While Mason Creek Ditch Co. lacks any specific authorization to utilize Pioneer's system, at some point in time, water right 63-179 began to be diverted, conveyed, and delivered to the water users comprising the Mason Creek Ditch Co. through Pioneer's Caldwell Highline Canal. Pioneer has performed all of the operation, maintenance, and repair of the Caldwell Highline Canal. Mason Creek Ditch Co. has historically not contributed to the payment of expenses associated with such efforts and lacks any specific authorization from Pioneer to convey the water right through Pioneer's system. To the extent that diversions of Boise River water to water right 63-179 have occurred, Pioneer suspects that some of that water has historically been used on Pioneer lands.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of October, 2010, I caused a true and correct copy of the foregoing PIONEER IRRIGATION DISTRICT'S SUPPLEMENTAL RESPONSES TO MASON CREEK DITCH COMPANY'S FIRST SET OF DISCOVERY REQUESTS to be served by the method indicated below, and addressed to the following:

Mason Creek Ditch Company

Represented by:

Albert P Barker

BARKER ROSHOLT & SIMPSON LLP

1010 W. Jefferson, STE 102

P.O. Box 2139

Boise, ID 83701-2139

U.S. Mail, Postage Prepaid

Hand Delivered

Overnight Mail

Facsimile

Director

IDAHO DEPARTMENT OF WATER RESOURCES

322 E. Front Street, 6th Floor

P.O. Box 83720

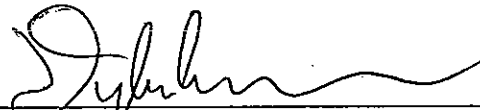
Boise, ID 83720

U.S. Mail, Postage Prepaid

Hand Delivered

Overnight Mail

Facsimile



Dylan B. Lawrence

Attorneys for Claimant and Objector
Pioneer Irrigation District

Scott L. Campbell, ISB No. 2251
Andrew J. Waldera, ISB No. 6608
Dylan B. Lawrence, ISB No. 7136
MOFFATT; THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
18946.0137

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. 63-00166A 63-00166B
63-00167A 63-00167B
63-00179A 63-00179C
63-32580

**NOTICE OF SERVICE OF PIONEER
IRRIGATION DISTRICT'S SUPPLEMENTAL
RESPONSES TO MASON CREEK DITCH
COMPANY'S FIRST SET OF DISCOVERY
REQUESTS**

NOTICE IS HEREBY GIVEN that on the 1st day of October, 2010, the original
PIONEER IRRIGATION DISTRICT'S SUPPLEMENTAL RESPONSES TO MASON CREEK DITCH
COMPANY'S FIRST SET OF DISCOVERY REQUESTS was served on Albert P. Barker and a copy

**NOTICE OF SERVICE OF PIONEER IRRIGATION DISTRICT'S
SUPPLEMENTAL RESPONSES TO MASON CREEK DITCH
COMPANY'S FIRST SET OF DISCOVERY REQUESTS - 1**

of the foregoing NOTICE OF SERVICE was served by the method indicated below and addressed to the following at the address shown below:

Mason Creek Ditch Company
Represented by:
Albert P Barker
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson, STE 102
P.O. Box 2139
Boise, ID 83701-2139

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Franklin Ditch Co.
Represented by:
Jon C. Gould
Daniel V. Steenson
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Martin Galvin
P.O. Box 115
Middleton, ID 83644

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

John J. McEvoy
1703 N. KCID Road
Caldwell, ID 83605

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

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

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile



Dylan B. Lawrence

EXHIBIT F

**To the Affidavit of Dylan B. Lawrence in Opposition to
Mason Creek Ditch Company's Motion for Summary Judgment**

In Re SRBA Case No. 39576

Subcase Nos. 63-00166A, 63-00166B, 63-00167A,
63-00167B, 63-00179A, 63-00179C, 63-32580

DANIEL V. STEENSON (ISB #4332)
JON C. GOULD (ISB #6709)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

RECEIVED
SEP 13 2010
MOFFATT, THOMAS, BARRETT,
ROCK & FIELDS, CHTD.

Attorneys for Franklin Ditch Company, Inc.

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. 63-00166 and 63-00167
)
) FRANKLIN DITCH COMPANY'S
) ANSWERS TO PIONEER IRRIGATION
) DISTRICT'S FIRST SET OF DISCOVERY
) REQUESTS
)

Franklin Ditch Company (Franklin) answers Pioneer Irrigation District's First Set of Discovery pursuant to Rules 26, 33, 34, and 36 of the Idaho Rules of Civil Procedure.

GENERAL OBJECTIONS

1. Franklin has not completed its own investigations and/or discovery. Accordingly, the answers that follow are based upon the best knowledge, information and belief of Franklin at this time. Franklin reserves the right to make any further answers if it appears that any omission or error has been made in connection with these answers or that more accurate information is or has become available. These answers are made without prejudice to Franklin's right to use in later discovery or to present at trial, such evidence as may later be discovered or evaluated.

2. Franklin objects to the definitions and instructions to the extent that they purport to

FRANKLINDITCH COMPANY'S ANSWERS TO PIONEER IRRIGATION DISTRICT'S FIRST SET OF DISCOVERY REQUESTS - Page 1

(e) The transcript of H.M. Hedges' testimony is included in attached Exhibits.

INTERROGATORY NO. 4: Please identify the ultimate source (*i.e.*, River, creek or drain) of each of your claimed water rights.

ANSWER TO INTERROGATORY NO. 4: Boise River is the source of the water right nos. 63-166 and 63-167.

INTERROGATORY NO. 5: Please identify the location of the Point of Diversion for your claimed water rights and please identify by water right number the water right(s) diverted through each Point of Diversion identified. For purposes of this Interrogatory, "Point of Diversion" means the point from which your claimed water right(s) are diverted from their ultimate source (*i.e.*, river, creek, or drain).

ANSWER TO INTERROGATORY NO. 5: The point of diversion for both water right nos. 63-166 and 63-167 is Township 04N, Range 02W, Section 24, NE NE NE.

INTERROGATORY NO. 6: Please identify each and every headgate owned by you or your members/patrons of your Company that diverts water from the Highline Canal, also known as the Caldwell Highline Canal (hereinafter referred to as the "Highline Canal"). When identifying said headgates, please also describe/identify the physical, geographic location of the same.

ANSWER TO INTERROGATORY NO. 6: Franklin knows of thirteen (13) headgates that divert water from the Highline Canal or secondary ditches that deliver water to Franklin's place of use.

INTERROGATORY NO. 7: Please describe in full and complete detail how your claimed water rights are conveyed from their respective sources to your claimed Place of Use. When

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: See Exhibit.

REQUEST FOR PRODUCTION NO. 4: Please produce any and all documents that are in any way responsive to any of the interrogatories contained herein and/or that are in any way supportive of your answers to any of the interrogatories contained herein.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: See Exhibit.

REQUEST FOR PRODUCTION NO. 5: Please produce any and all documents that are in any way responsive to any of the requests for admission contained herein and/or that are in any way supportive of your responses to any of the requests for admission contained herein.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: See Exhibit.

REQUEST FOR PRODUCTION NO. 6: Please produce any maps or diagrams depicting the Company's irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: See Exhibit.

REQUEST FOR PRODUCTION NO. 7: Please produce any and all other additional documentation that is in any way supportive of any of your claims or allegations in the above-captioned subcases.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: See Exhibit.

DATED this 13th day of September, 2010.

RINGERT LAW CHARTERED

By: 

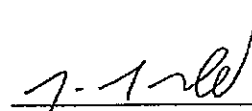
Jon C. Gould

Attorneys for Franklin Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 2010, I served a true and correct copy of the foregoing document by U.S. mail, postage pre-paid to the following:

Pioneer Irrigation District
c/o Scott Campbell
P.O. Box 829
Boise, Idaho 83701-0829



Jon C. Gould