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MAY 09 2011
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**

)
) **AFFIDAVIT OF FRITZ X. HAEMMERLE**
) **IN SUPPORT OF MOTION TO SET**
) **ASIDE PARTIAL DECREES AND TO**
) **AMEND CLAIMS**

**AFFIDAVIT OF FRITZ X. HAEMMERLE IN SUPPORT
MOTION TO SET ASIDE PATIAL DECREES AND AMEND CLAIMS - 1**

3. As to 37-00743A, the right was decreed to a party named W.D. Pardue (Pardue"). The Sweats claimed 37-00743B. In the context of litigating 37-00743B, it was discovered that 37-00743A was decreed to Mr. Pardue, even though the right had been historically used on the Sweat property and owned by the Sweats. Thereafter, the Sweats approached Mr. Pardue to see if he would agree to convey 37-00743A to the Sweats. Mr. Pardue agreed to convey the water right 37-000743A to the Sweats. Attached hereto as Exhibit 1, is a true a correct copy of the quitclaim deed conveying water right 37-00743A to the Sweats. Based on these new facts and that 37-743A was mistakenly decreed to Mr. Pardue, I believe there are grounds to set aside the partial decreed for 37-743A.

4. As to 37-02676 and 37-07620, these rights are groundwater rights in the name of Milford and Katherine Sweat. The current claimants are the heirs to Milford and Catherine. These rights need to be set aside because the place of use needs to be described to match the places of use for the surface water rights that are currently before the Court. As decreed, the groundwater rights mistakenly include places of uses not currently owned by the claimants. The surface rights are currently before Special Master Booth. The name on these rights also needs to be changed, and IDWR is waiting until the rights are set aside to perform the name change. To summarize, I believe that there were mistakes in the Partial Decrees and that newly discovered evidence shows that the places of use for these groundwater rights should match the surface water rights.

5. My clients are also filing Amended Claims (SF-4's) for water rights 37-2777, 37-743B and 37-732. The claims are based on conversations and agreements with IDWR. The elements for the Amended Claims are set forth in Exhibit 2. The SF-4's are

incorporated herein by reference. The essential elements of the Amended Claims are as follows: 37-2777, adds a pond and point of diversion; 37-732, adds a pond and storage; and 37-743B, adds 1.6 cfs to quantity for a total of 3.2 cfs (eliminates 37-743A).

6. By filing these amended claims and in seeking to set aside the decrees, my claimants have no intent to harass or annoy any party. They are simply seeking to have the decrees match the actual beneficial use of the water rights claimed

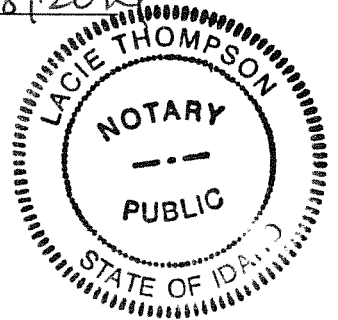
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 4 day of May 2011.


FRITZ X. HAEMMERLE

SUBSCRIBED AND SWORN to before me this 4th day of May 2011.


NOTARY PUBLIC FOR IDAHO
Residing at: Hailey, ID
Commission expires: 1/28/2014



CERTIFICATE OF MAILING

I certify that on 4 day of May, 2011, I mailed the original and copies of this response, including all attachments, postage prepaid, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

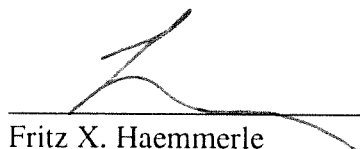
2. Copies to:

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

W.D. Pardue
535 Austin Rd.
Carey, ID 83320



Fritz X. Haemmerle

EXHIBIT 1

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
Fritz X. Haemmerle
HAEMMERLE & HAEMMERLE, P.L.L.C.
P.O. Box 1800
Hailey, ID 83333

Instrument # 586093
HAILEY, BLAINE, IDAHO
3-22-2011 11:21:30 No. of Pages: 1
Recorded for : HAEMMERLE & HAEMMERLE
JOLYNN DRAGE Fee: 10.00
Ex-Officio Recorder Deputy
Index to WTYOCICORP DEED

(space above line for Recorder's use)

QUITCLAIM DEED

INSTRUMENT No. _____

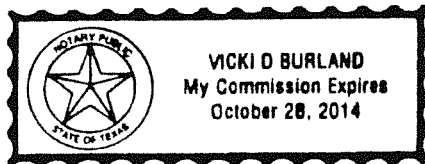
FOR VALUE RECEIVED, W.D. Pardue (Grantor) does hereby convey, release, remise and forever quit claim unto Bonnie C. Kevicki, Barbara L. Murphy, Joel E. Olsen, Dean E. Olsen, Michael L. Olsen and Milford D. Sweat (Grantees), all right, title and interest in water right 37-00743A, all according to the official records of the State of Idaho.

DATED this 2nd day of March, 2011.

W.D. Pardue
W.D. Pardue

STATE OF Texas,)
County of Dallas,) ss.

On this 2nd day of March, 2011, before me, a Notary Public in and for said State, personally appeared W.D. Pardue, Grantor, known to me to be the person who name is subscribed to the within instrument, and acknowledged to me that she executed the same.



Vicki D. Burland
NOTARY PUBLIC for Dallas County
Residing at Dallas, Texas
Commission expires 10-28-14