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DEPARTMENT OF
WATER RESOURCES

FRITZ X. HAEMMERLE
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ISB # 3862

Attorney for the Claimants, Walter and Marianne Hofstetter

**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 No. 37-21357**

)

) **AFFIDAVIT OF FRITZ X. HAEMMERLE**
) **IN SUPPORT OF MOTION TO FILE AN**
) **AMENDED AND/OR LATE CLAIM**

)

)

)

)

STATE OF IDAHO,)
) ss.
County of Blaine.)

FRITZ X. HAEMMERLE, being sworn upon oath, deposes and states as follows:

1. I am an attorney duly licensed to practice law in the State of Idaho, and I am over the age of eighteen (18) years. I represent the aforementioned Claimant, Walter and Marianne Hofstetter, in the aforementioned case. I make the averments contained herein of my own personal knowledge and would testify to the facts as presented herein if called upon to do so.

2. This Affidavit is being filed in support of a Motion to File an Amended and/or Late Claim in 37-21357, which involves an in-stream stock water claim. IDWR

has characterized this as an Amended Claim because it is a split from right 37-1224A. IDWR believed it would have been difficult to recognize an in stream stock water use in a right with a diversion (37-1224A). Accordingly, they believe that a separate right recognizing the in-stream stock water use should be made in another water right number (37-21357).

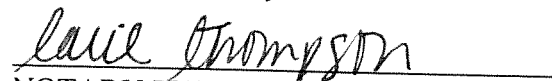
3. I believe there is good cause to file this Late and/or Amended Claim; the claim is being made after discovering new evidence; and there is a meritorious position for filing the claim based on the recommendation of IDWR that my clients have a claim ton an in-stream stock water use.

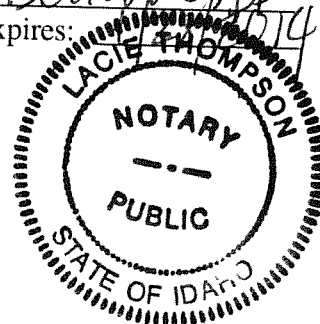
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 2 day of June 2011.


FRITZ X. HAEMMERLE

SUBSCRIBED AND SWORN to before me this 2nd day of June 2011.


NOTARY PUBLIC FOR IDAHO
Residing at: Bellefleur, ID
Commission expires: 12/31/14



CERTIFICATE OF MAILING

I certify that on 2 day of June, 2011, I mailed the original and copies of this response, including all attachments, postage prepaid, to the following persons:

1. Original to:

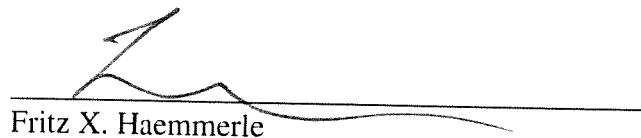
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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



Fritz X. Haemmerle