

Thomas J. Budge, ISB No. 7465
RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED
Post Office Box 1391
201 E. Center Street
Pocatello, Idaho 83204-1391
208-232-6101 - Telephone
208-232-6109 - Fax

RECEIVED
AUG 3 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**

In Re SRBA

Case No. 39576

Subcase Nos. 91013

**AFFIDAVIT OF THOMAS J. BUDGE IN
SUPPORT OF MOTION TO FILE LATE
OBJECTION**

STATE OF IDAHO)
 : SS
County of Bannock)

THOMAS J. BUDGE, being first duly sworn, deposes and states as follows:

1. I am over 18 years of age, competent to testify, and state the following based on my own personal knowledge.

2. I am the attorney for Afton Van Tassel and Perry Van Tassel, the owners of Idaho water right number 36-7512.

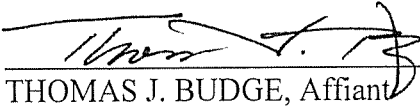
3. On July 20, 2011, I mailed by U.S. Mail, first class, postage prepaid, the *Objection to 706 Report and Recommendations for Basin Wide Issue* (the "Objection") attached as Exhibit A hereto. I forwarded the original to the Clerk of the Court, as evidenced on the copy of my transmittal letter, attached hereto as Exhibit B.

4. On July 29, 2011, I was notified by the SRBA Court that it had received a telephone call from the Idaho Department of Water Resources ("IDWR") stating that it had received a copy of the Objection, as indicated on the Certificate of Service attached to the Objection (Exhibit A). However, the SRBA Court advised me it did not have record of the Objection.

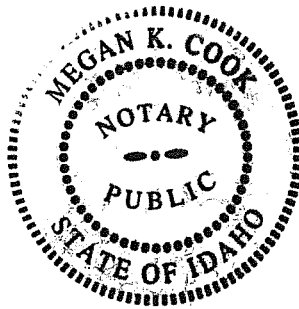
5. It is unknown to me why the SRBA Court did not receive the Objection mailed to it.

FURTHER YOUR AFFIANT SAITH NAUGHT.

DATED this 29th day of July, 2011.


THOMAS J. BUDGE, Affiant

SUBSCRIBED AND SWORN TO before me this 29th day of July, 2011.




NOTARY PUBLIC FOR IDAHO
Residing at: Bingham
My Commission Expires: 9/28/2013

CERTIFICATE OF MAILING

I certify that on this 29th day of July, 2011, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

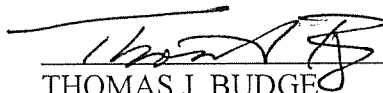
Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449

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



THOMAS J. BUDGE
Attorney for the Claimant

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

) Water Right No.: 36-7512
) (Basin-Wide Issue 13)
)
) OBJECTION TO 706 REPORT AND
) RECOMMENDATION FOR BASIN
) WIDE ISSUE
)

Please Print or Type the Following Information:

NAME AND ADDRESS OF PERSON OBJECTING:

Name: Afton Van Tassell/Perry Van Tassell
Address: 1115 N. 1650 W.
Paul, IS 82237
Phone: 208-438-5049

Name and Address of Attorney, if any:

Thomas J. Budge/Racine Law Office
PO Box 1391
Pocatello, ID 83204-1391

Please Check Applicable Box:

☒ I wish to object to the 706 Report and Recommendation filed by the Idaho Department of water resources with respect to the above-captioned water right.

REASONS SUPPORTING OBJECTION(S): Report misapplies
subordination condition to facts of this water right.

Signature: Thomas J. Budge

Dated: 7-20-2011

CERTIFICATE OF SERVICE

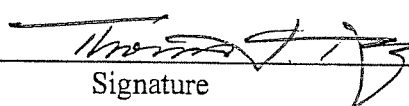
I HEREBY CERTIFY that on this 20th day of July, 2011, a true and correct copy of the foregoing was mailed with sufficient first-class postage to the following:

DIRECTOR OF IDWR
P.O. Box 83720
Boise, Idaho 83720

SRBA DISTRICT COURT
P.O. Box 2707
Twin Falls, Idaho 83303-2707

IDAHO POWER
Represented By:
Jim Tucker
P.O. Box 70
Boise, Idaho 83707

STATE OF IDAHO
Office of Attorney General
Attn: Clive Strong / Shasta Kilminster-Hadley
P.O. Box 83720
Boise, ID 83720



Signature

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
ERIC L. OLSEN
CONRAD J. AIKEN
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FREDERICK J. HAHN, III
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DAVID E. ALEXANDER
JOSHUA D. JOHNSON
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CANDICE M. MCHUGH
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JONATHAN S. BYINGTON
JONATHAN M. VOLYN
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THOMAS J. BUDGE
MARK A. SHAFFER
JASON E. FLAIG
FERRELL S. RYAN, III
AARON A. CRARY
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www.racinelaw.net

SENDER'S E-MAIL ADDRESS: tjb@racinelaw.net

BOISE OFFICE
101 SOUTH CAPITOL
BOULEVARD, SUITE 300
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
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IDAHO FALLS OFFICE
477 SHOUP AVENUE
SUITE 107
POST OFFICE BOX 50698
IDAHO FALLS, ID 83405
TELEPHONE: (208) 528-6101
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ALL OFFICES TOLL FREE
(877) 232-6101

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL

July 19, 2011

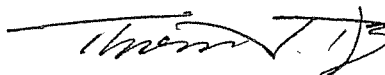
Clerk of the Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: *SRBA Subcase No. 00-91013 (Basin-Wide Issue 13)*
Objection to 706 Report – Water Right No. 36-7512

Dear Clerk:

Please find enclosed the original and one copy of *Objection to 706 Report and Recommendation for Basin-Wide Issue* for Water Right No. 36-7512 pertaining to SRBA Subcase No. 00-91013 (Basin-Wide Issue 13). Please file the original and conform stamp and return the copy thereof to me in the enclosed envelope.

Sincerely,



THOMAS J. BUDGE

TJB:rr

Enclosure

cc: Service List (w/encl.)