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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Milner Irrigation District

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

	)	
	)	Subcase Nos.: 1-17
In Re SRBA	)	
	)	AFFIDAVIT OF G. SCOTT
	)	BREEDING
Case No. 39576	)	
	)	
	)	
	)	
	)	
_____	)	

State of IDAHO	)
	) ss
County of Twin Falls	)

G. Scott Breeding, being first duly sworn upon oath, deposes and states as follows:

1. I am over the age of 18 and make the following affidavit upon my personal knowledge of the facts and circumstances set forth herein below. I am providing this affidavit in support of Milner Irrigation District's *Motion to File Late Objection*.
2. My address is 2417 E 1300 S Hazelton, Idaho 83335.

3. I grew up on the Milner Irrigation District (“Milner” or “District”) project. I graduated from Burley High School in 1974 and from the University of Idaho in 1980. I’m a third generation farmer on the project and my grandfather helped survey and construct the original canals in the 1920s. I have farmed on the Milner project since 1981.

4. In addition to my farming activities as a landowner, I have also served on the Milner Board of Directors since 1990. I have served as chairman of the board since 2000.

5. The District has two classifications of lands, those that were part of the District before 1952 (“old” lands), and those annexed into the District in 1952 (“new” lands). It’s my understanding that before Milner acquired Palisades storage space, the “old” lands had natural flow water rights (including water right 1-17) and American Falls storage space for a water supply. When Milner annexed in the “new” lands it acquired Palisades storage to use on those lands. There was an early conflict between the District landowners, which was known as the Bradshaw case that ended up in the Idaho Supreme Court (*Bradshaw v. Milner Low Lift Irrigation Dist.*, 85 Idaho 528 (1963)). I irrigate and farm both “old” and “new” lands in the District. I have farmed in the District since 1981 and it has always operated as one district with no preference between “old” and “new” lands. However, in 2005, some “old” lands landowners demanded their American Falls storage water. Although it appeared the District would set different acre-feet per acre water allocations for “old” and “new” lands, changed water conditions and rentals from the Water District 01 rental pool allowed the District to set a common allocation in June of that year.

6. Ever since I started farming on the project in 1981 the District has not limited the use of water right 1-17 to fewer acres than what the District delivers water to in total. The District delivers water pursuant to its natural flow and storage water rights, or a combination of

both depending upon the water supply available in the Snake River. The District does not limit the use of water right 1-17, when it is available, to only certain acres within the project in a given irrigation season.

7. I was involved in reviewing IDWR's preliminary recommendations for Milner's water rights in 2005. Originally, IDWR only identified 9,468 irrigated acres for the District's water rights 1-9, 1-17, and 1-2050. I recall meetings with IDWR discussing the District's total acreage and the need to correct errors in the preliminary recommendations.

8. It was my understanding IDWR corrected the irrigated acreage recommendation to 13,335 acres when the final recommendations for water rights 1-9, 1-17, and 1-2050 were reported to the SRBA Court in 2006.

9. Milner filed objections to the recommendations for water rights 1-9 and 1-2050. I remember the objection related to the *Eagle Decree* remark for water right 1-9 and the objection to the priority date for water right 1-2050. It was my understanding that the irrigated acreage allowed for all of the water rights, including water right 1-17, was 13,335 acres, not a lesser amount. I do not recall any specific discussions with the Board, District personnel, or counsel regarding the limiting acreage remark for water right 1-17. Milner did not file an objection to the recommendation for water right 1-17.

10. Based upon my understanding today, the recommendation for water right 1-17 limits Milner's irrigation to 8,114.4 acres in a single irrigation season through a limiting remark. The remark does not accurately portray how water has been delivered on the Milner project.

11. Since the total acreage number was corrected on all of the final recommendations for Milner's water rights, it was my belief that all errors had been corrected. Had I been aware and had a complete understanding of the limiting remark for water right 1-17 and how it might

affect the District's water delivery operations, I would have directed Milner to file a timely objection with the SRBA Court.

12. I do not believe Milner purposely decided to not object to the recommendation for water right 1-17 with full knowledge and understanding of the limiting remark. It is my belief that the total acreage error that was corrected by IDWR, and the objections to the other water rights adequately protected Milner's interests at the time.

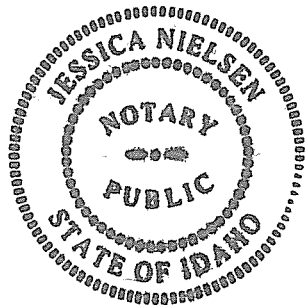
DATED this 15 day of November, 2011.

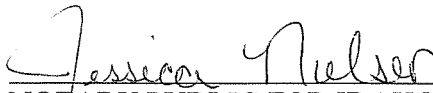

G. SCOTT BREEDING

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

On this 15 day of November, 2011, before me, a Notary Public for said County and State, personally appeared G. SCOTT BREEDING, known or identified to me the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




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