

**FRITZ X. HAEMMERLE
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ISB #3862**

RECEIVED
FEB 10 2012
DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimants

**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,	)	Water Right 36-16908 and 36-16923
	)	
Case No. 39576	)	AFFIDAVIT OF
	)	FRITZ X. HAEMMERLE
	)	

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

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

1. I represent the claimants, Richard Larry Stone and Nan Allison Stone. I am over the age of eighteen (18) years, and 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.

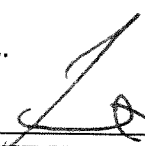
2. These claims relate to the winter use of two (2) ponds. My clients bought the property where the ponds are located in 2008 from a person named Joseph Alvin Vernon. In a separate Affidavit, Mr. Vernon stated that one of the ponds was used during the non-irrigation seasons (winter months) going back at least to 1956. The other pond was built and used in 1970.

3. During a pre-hearing conference on the transfer, it was suggested by IDWR staff that my client file a late claim from the winter use because the uses might be recognized and decreed in the Snake River Basin Adjudication (SRBA). Based on Mr. Vernon's Affidavit, I believe my clients possess a meritorious position in filing this late claim. Also, since my clients are newer owners of the property and were not involved in the original adjudication of the underlying property, I believe that based on newly discovered evidence, inadvertence and/or excusable neglect, my clients should be entitled to file these late claims.

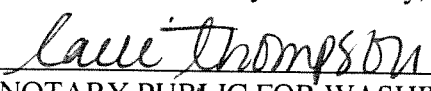
4. By filing these amended claims, I believe the claims are well-grounded in fact; are warranted by existing law or a good faith argument for the extension of existing law; are not being filed for any improper purpose, such as to harass cause unnecessary delay, or needlessly increase the cost of litigation. The claims are being filed to have the decrees match the actual beneficial use of the water rights claimed

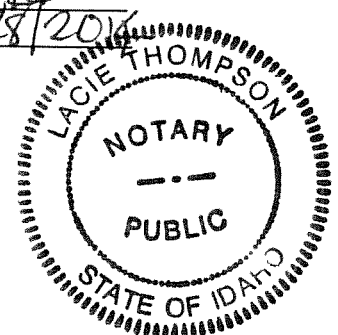
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 8 day of February, 2012.


FRITZ X. HAEMMERLE

SUBSCRIBED AND SWORN to before me this 8th day of February, 2012.


NOTARY PUBLIC FOR WASHINGTON
Residing at: Hailey ID
Commission expires: 1/28/2016



CERTIFICATE OF MAILING

I certify that on 2 day of February, 2012, I mailed the original and copies of this response, including all attachments, postage prepaid, to the following persons:

1. Original to:

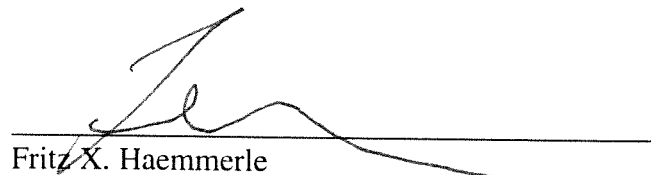
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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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
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Fritz X. Haemmerle