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DEPARTMENT OF
WATER RESOURCES

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Attorneys for claimants, Terrie Trail and Walter Trail

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

Subcase No. 02-4021

Case No. 39576

**AFFIDAVIT OF WALTER TRAIL
IN SUPPORT OF MOTION FOR
LATE OBJECTION**

STATE OF IDAHO)

)

ss.

COUNTY OF ELMORE)

WALTER TRAIL, being fully sworn upon oath, deposes and states as follows:

1. I am a claimant for water right number 02-4021 located in Township 6S, Range 11 East, Section 9, Lot 6 in Elmore County.
2. I am president of Trail Ranches, Inc., an Idaho Corporation, and am familiar with the operations of the ranch including the irrigation of the property to which water right number 02-4021 is appurtenant. The irrigation system was constructed and put into operation in 1965 by my predecessor.
3. I purchased the property in 1987 and filed an adjudication claim with the Idaho

Department of Water Resources on December 1, 1989.

4. The property is also irrigated with shares from Cottonwood Mutual Canal Company.
5. That unbeknownst to me, the above water right was identified as an overlapping right with 2-103, and all base rights of 2-2209, including 2-2209B, 2-2209C, 2-2209E, 2-10187, 2-10189, 2-10191, 2-10196, 2-10208, and 2-10209. As a result, when the Director's Report was filed, a combined use remark listing the overlaps was placed in the quantity element for my water right.
6. That I did not object to the Idaho Department of Water Resources' recommendation for water right 02-4021 because the quantity, as far as I knew, equaled the combined use remark.
7. I did not realize that there was another overlapping water right for 8 cfs that would impact my water right.
8. I recently found out about the combined use remark (approximately two weeks ago) when asked about my knowledge of the development of the water rights from the attorneys representing Black Mesa Farms.
9. Since that inquiry, I have done some investigation and learned that an objection is necessary to change the recommendation, and that modification or removal of the remark is necessary to protect my interest.

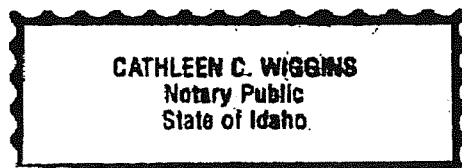
FURTHER YOU AFFIANT SAYETH NAUGHT.

DATED this 16 day of February, 2012.

By: Walter Trail

WALTER TRAIL

SUBSCRIBED AND SWORN to before me this 16 day of February, 2012.



Cathleen C. Wiggins
Notary Public

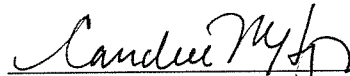
Residing at: Glenns Ferry

Commission Expires: 6-22-17

CERTIFICATE OF MAILING

I hereby certify that on this 16th day of February, 2012, a true and correct copy of the foregoing was served by email to those with email addresses and U.S. Mail, postage pre-paid and addressed to the following:

Clerk of SRBA Court 253 3 rd Ave North Twin Falls ID 83303-2707 Phone 208-736-3011 Fax: 208-736-2121	Original	Ralph and Alma Crowley 3361 S 1300 E Wendell, ID 83355	<i>courtesy copy</i>
Natural Resources Division Chief State of Idaho Attorney General's Office PO Box 44449 Boise, ID 83711-4449		IDWR Repository PO Box 83720 Boise, ID 83720-0098	
United States Department of Justice Environment & Natural Resources Div 550 West Fort Street MSC 033 Boise, ID 83724		Michael Creamer Givens Pursley LLP 601 West Bannock Street PO Box 2720 Boise, ID 83701-2720	<i>courtesy copy</i>



CANDICE M. MCHUGH
Attorney for claimants