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DEPARTMENT OF
WATER RESOURCES

Attorneys for Western States Land Management, Inc.

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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. 72-16883

AFFIDAVIT OF JEROME J. BENSING

STATE OF COLORADO)
) ss.
County of Douglas)

JEROME J. BENSING, having been duly sworn upon oath, deposes and states as follows:

1. I am over the age of 18 years and make this affidavit based upon my own personal knowledge.
2. I currently reside in Douglas County, Colorado.
3. I am the President of the Western States Land Management, Inc., a Colorado corporation duly authorized to conduct business within the State of Idaho ("Western States").

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4. In 2010, Western States purchased certain real property situated within portions of Sections 1, 2 and 11, Township 11 North, Range 18 East, Custer County, Idaho. Said property is locally known as the "Broken Wing Ranch." At the time of purchase, Western States was advised by the prior owner of several water rights appurtenant to the Broken Wing Ranch, including water right numbers 72-16605 and 72-16607.

5. Water right 72-16605 is an irrigation right with a quantity of 5.36 cfs, and diverts water via a headgate in the Salmon River to a ditch locally known as the "Marraffio Ditch." Water right 72-16605 was partially decreed in the Snake River Basin Adjudication in 2002.

6. Water right 72-16607 is an irrigation right with a quantity of 2.21 cfs, and also diverts water via a headgate in the Salmon River to the Marraffio Ditch. Water right 72-16607 was partially decreed in the Snake River Basin Adjudication in 2002.

7. Water rights 72-16605 and 72-16607 are limited to a combined diversion rate of 5.36 cfs.

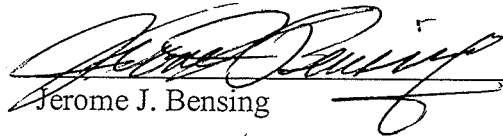
8. In 2010 and 2011, improvements were made to the diversion works for water rights 72-16605 and 72-16607, including the installation of a measuring device. Subsequently, I learned through the Idaho Department of Water Resources that the measurements taken on the headgate to the Marraffio Ditch exceed the maximum quantity allowed under water rights 72-16605 and 72-16607.

9. Based upon my understanding of the historic operations of the Broken Wing Ranch, this additional quantity of water is critical to the irrigation operations at the Broken Wing Ranch.

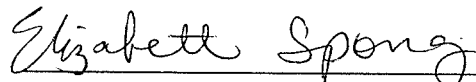
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10. Upon the discovery that the correct quantity of water had not been claimed in the Snake River Basin Adjudication District Court ("SRBA Court"), Western States hired an attorney to assist with the preparation of the notice of claim for the additional historic quantity of water diverted into the Marraffio Ditch, in excess of that allowed under 72-16605 and 72-16607, and to bring before the SRBA Court a motion to permit the late filing of the claim.

Further your affiant sayeth naught.


Jerome J. Bensing

SUBSCRIBED AND SWORN to before me this 29th day of March, 2012.


NOTARY PUBLIC FOR COLORADO
Residing at Franktown Co 20116
My Commission Expires 6/30/15



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of March, 2012, I caused a true and correct copy of the foregoing AFFIDAVIT OF JEROME J. BENSING to be served by the method indicated below, and addressed to the following:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

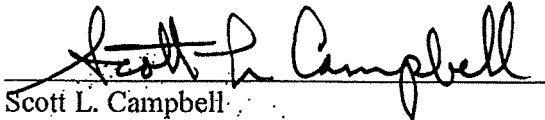
☒ U.S. Mail, Postage Prepaid
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☐ Overnight Mail
☐ Facsimile

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

☒ U.S. Mail, Postage Prepaid
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☐ Overnight Mail
☐ Facsimile

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

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Scott L. Campbell

