

Robert L. Harris, Esq. (ISB #7018)
rharris@holdenlegal.com
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
 1000 Riverwalk Drive, Suite 200
 Idaho Falls, Idaho 83402
 P.O. Box 50130
 Idaho Falls, Idaho 83405-0130
 Telephone: (208) 523-0620
 Facsimile: (208) 523-9518

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.: 22-13509

AFFIDAVIT OF ATTORNEY
ROBERT L. HARRIS

STATE OF IDAHO)
) ss.
 County of Bonneville)

I, Robert L. Harris, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I am an attorney licensed to practice law in the state of Idaho. I am a member of the firm of HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C. I represent David W. Miller, Larry J.

Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller and Ronald K. Miller in the above entitled matter.

2. Attached hereto as Exhibit A is a true and correct copy of a CD recording I received from the SRBA Court after requesting the CD on April 5, 2012. It is a recording of a status conference hearing scheduled on a number of the so-called "Paradise Springs subcases," which included 22-13509. The hearing was held on October 12, 2011 at 10 a.m. At the time, I was not available to attend the hearing, and informed Andrea Courtney of that, which she indicated on the record as contained in the recording.
3. The recording is broken down into seven (7) different segments, the first six of which are in five minute increments. Due to time constraints, and to aid the parties to this matter, I personally transcribed the second, third, fourth, and fifth portions of the recording as they were the only ones that directly pertained to the associated *Memorandum in Support of Motion for Reconsideration or In the Alternative, Motion to Stay on Associated Paradise Springs Subcases*. I only eliminated repeated words and the word "um" from the transcription below. I have listened to the recording while reviewing the transcription, and believe it fairly and accurately represents that is recorded on Exhibit A. I did not include the first, sixth, and seventh portions of the hearing because they pertained to matters outside of 22-13509.
4. The transcript of the recording is as follows:

[RECORDING 10:09:37 AM through 10:14:37 AM]

ANDREA COURTNEY: Yep, so that does leave, the . . . one, two, three—three that you mentioned.

SPECIAL MASTER BILYEU: OK.

ANDREA COURTNEY: But I do know that Mr. Reid had contacted the Department a week and a half ago about and his understanding of some of the language on one of the SF5s was different than what was on the draft. I asked

him to contact TJ Budge so make sure that that what his proposed change was was acceptable to those objectors, and it was my understanding that that proposed change was acceptable. Last I knew, he was in the midst of getting the correct subcase numbers for that revised language, and then the Department had offered to send around electronically SF5s for signatures in hopes to expedite it before today's hearing, but that's the last I had heard.

SPECIAL MASTER BILYEU: All right, very good. Mr. Budge maybe I'll turn the time over to you next. Can you give us any update, and it looks like from, from our records, it looks like we've got SF5s for 587A, 11537, 13211—we had that one in August—13511, so that leaves us with three, that at least the court doesn't have SF5s on—11639, 13509, and 13854. Can you give us any information on those and correct my numbers if I've got those wrong.

TJ BUDGE: OK, to my knowledge 13509, that's the Ron Miller group . . .

SPECIAL MASTER BILYEU: Yes.

TJ BUDGE: . . . who is represented by Rob,

SPECIAL MASTER BILYEU: OK

TJ BUDGE: I understood that had been returned to Michael Holliday.

SPECIAL MASTER BILYEU: OK.

TJ BUDGE: What had happened, I think Rob's clients had multiple SF5s, and thought he had returned all of them to Michael, but had found one had been omitted . . .

SPECIAL MASTER BILYEU: Got it.

TJ BUDGE: . . . and I believe that's the one. I could be wrong on that. But that's my understanding concerning 13509.

[CROSS TALK]

SPECIAL MASTER BILYEU: Would it be true that we are not waiting for any signatures on 13509, it's just been sent.

TJ BUDGE: I don't know if it had to go then to Mr. Reid or anybody else. I don't recall.

SPECIAL MASTER BILYEU: OK, OK.

ANDREA COURTNEY: Special Master, it's Andrea. On September 26th, the Department forwarded 13509 and 13854 to Mr. Reid.

SPECIAL MASTER BILYEU: OK, great.

TJ BUDGE: OK. That's helpful. And then the last one would be 11639, and that's the one water right owned by Mr. Reid that Andrea explained needed to have some change to the language and let me explain where we're at. I'm not quite sure that's buttoned up. That water right—let me back up—if you remember when we went to trial, Mr. Reid ended up for a water right for four and a half acres with a 1904 priority that wasn't subordinated.

SPECIAL MASTER BILYEU: That's 13212. Right.

TJ BUDGE: That was—Correct.

SPECIAL MASTER BILYEU: OK.

TJ BUDGE: Is that the one that, let me back up. Andrea, which water right were you expecting changes to the SF5 on?

ANDREA COURTNEY: Yeah, TJ, I'm sorry. It's 13212. I realize we're taking that one as the second group.

SPECIAL MASTER BILYEU: You can talk about that one now though if you want to. I just had it separately on my list, but that's the one we went to trial on, 13212, and that's the one where there's a motion to set aside the partial decree on. 11639, I don't know, that one, there was a partial decree issued in 2008, and it looks like that one might have a motion to set aside on it also.

TJ BUDGE: OK. I had those backwards. So, 11639 I think is ready for SF5.

ANDREA COURTNEY: was that one also sent to Mike Reid with the others a couple of weeks ago?

ANDREA COURTNEY: I believe that one was sent to his, the other Reids. Michael, I think those are your parents, on August 18th. Ray's note said "the Reids," so I think, I don't know that it went to you first because both of the signatures were required, both theirs and yours, but yeah, we had sent that one in August.

TJ BUDGE: OK, so my understanding then is 13509, 11639, 13854 are all have SF5s pending and are waiting for the signatures of Mr. Reid and his parents.

SPECIAL MASTER BILYEU: OK.

TJ BUDGE: Andrea, is that—

[RECORDING ENDED]

[RECORDING 10:14:37 AM through 10:19:38]

TJ BUDGE: —correct?

SPECIAL MASTER BILYEU: Mr. Reid—

ANDREA COURTNEY: Yeah, that's—

SPECIAL MASTER BILYEU: OK, sorry, Andrea, go ahead.

ANDREA COURTNEY: Yeah, nope, that's what my notes show too.

SPECIAL MASTER BILYEU: OK, very good. So, Mr. Reid, it looks like the ball is in your court. We were expecting to get those prior to today. Can you give us an update on where those are?

MICHAEL REID: Yes, thank you Special Master. First off, I'd like to apologize for if it seems I'm not active or diligent in settling these cases. I think all of you know I haven't been getting regular mail service this summer. And in fact, until the middle of September, that's the way it was, and in fact, I had to write a four page letter to Salt Lake City to get any action at all. In the middle of September, I received most of these SF5s. I then immediately opened them, the next day I had to go on a trip that took me about a week and then when I got back, essentially I do have 13854 has been signed and forwarded to Larell Kunz. 13509 I don't believe I have, and 11639, I scanned in the signature page and I'm just waiting for my parents to sign that and then scan it back in and email it back to me and that's where we are at with those.

SPECIAL MASTER BILYEU: OK, so one you mailed off, you said. 11639 has not been signed. 13509, tell me that one again.

MICHAEL REID: 13509 I don't have. I got three SF5s, so, that may need to still be forwarded to me for signature by Mr. Harris or by somebody else.

SPECIAL MASTER BILYEU: OK. Mr. Reid, I will just mention that the hearing that we had last time where we could have made a lot of progress was not

one that you needed to get through the mail because it was one that we set on the record at the hearing previous to that when you were here. So, you know, the court's requirements are that we send things through the mail, and I realize there are apparently have been difficulties up there, but, we set things on the record, and the reason for that is because it gives people an additional time to get ready. So if it seems like we're a little bit strong in wanting these things to get done as soon as we can, there's a reason for that. So, you know, today what we said was 13212, I'm going to deny the motion to set aside unless you've got everything in. So, we're kind at the end of the diligence time here, so tell me where those are—
[CROSSTALK]

MICHAEL REID: I think I can make it easier for the court even further. I emailed Mr. Budge a couple days ago and the global settlement is fine with everybody except for me and him. But, I've already told him I want to dissolve our agreement and withdraw my motion to open up that decree today—to reopen that partial decree today. The material items that I got as part of the settlement, the State essentially took some of those away, and Mr. Budge initialed them even though he may have known better. And then Mr. Budge and I had a disagreement over over the other material part of this settlement that was going to get made, you know, as part of something that I wanted, and so, essentially I don't think I've gotten what I've wanted out of the global agreement, at least between the agreement that I had with Mr. Budge. And I've told him that I think that I'm moving to dissolve the agreement between he and I, and then I'm going to withdraw the motion to open the, reopen the partial decree in 13212.

SPECIAL MASTER BILYEU: OK, well I'm still a little bit confused. So, 13854, you've agreed to the elements that went out from IDWR in September. You agree to those, is that true?

Reid: That's true.

SPECIAL MASTER BILYEU: OK. That helps me . . .

Reid: And I don't think I have a problem with 13509, and I know I don't have a problem with 11639. The only one I have a problem with 13212, and so, I don't think I'm going to sign that and like I said, I've told Mr. Budge that I think that agreement has been essentially dissolved for lack of any material participation.

SPECIAL MASTER BILYEU: OK, well, let me just go back. 13509.

Reid: Yes.

SPECIAL MASTER BILYEU: You agree to those to the elements that IDWR has sent to you?

MICHAEL REID: You know, I can't—I think so, I don't—I haven't seen it, but, and it may yet need to just be forwarded to me . . .

[END RECORDING]

[RECORDING 10:19:38 AM through 10:24:38 AM]

MICHAEL REID: 509, but if that's the Ron Miller right that Rob Harris represents, then I'm fine with what we decided at the settlement and as long as it appears as what it was at the settlement, which I think it will, because everything

else has been the same except for my right, then I totally agree with that, and the same with 13854.

SPECIAL MASTER BILYEU: 13509, I believe that's Ron Miller. I don't have my computer, but my notes are showing Ron Miller and his brothers. I'm not sure what that meant . . .

MICHAEL REID: And I can come into IDWR and sign that today. I actually have to be in Idaho Falls today.

SPECIAL MASTER BILYEU: Oh, that would be great.

Reid: So, if that's convenient, I know Michael Holliday is not on the phone right now, but I will stop by the office and if that's there, I'd be happy to sign it today.

SPECIAL MASTER BILYEU: Yeah, and Janet is just confirming that 13509 shows several Miller claimants, so I think it was . . .

Reid: Larry, David, Don, Daniel.

SPECIAL MASTER BILYEU: Yeah. Yep. That sounds right. OK. So then the next one, 11639, and I believe that's the one that is claimed by your parents.

[CROSSTALK]

MICHAEL REID: Well, it's me and my parents.

SPECIAL MASTER BILYEU: OK. Yeah.

MICHAEL REID: And generally, we were in a partnership, and generally I signed for them, but that did not seem to be legal in this case, so like I said, I scanned in the signature page and I'm just waiting for them to sign it and scan it and send it back to me, and I did that a couple of days ago, so it's possible that I can mail that yet this week.

SPECIAL MASTER BILYEU: OK. All right. So it looks like all the ones on this first group are signed and agreed to, or at least agreed to on the record, and maybe the easiest thing we could do, we could do orders to show cause on those if we don't get the signatures, let's say in a week, and that way if, you know, nobody disagrees with them, they just, you now, at least we've given notice and they go through that way. So, let me just circle around to the parties before we get to 13212. Ms. Courtney, any loose ends on the three that we don't have documents on?

ANDREA COURTNEY: Special Master, I'll contact Ray and have him resend 13509 to Michael so he'll have that for Mr. Reid's appearance later today.

SPECIAL MASTER BILYEU: Perfect. And then, Mr. Reid, if we don't get signatures from your parents here in a week, we'll go ahead and send an order to show cause out on 11639 or any of the other two. We can get it done if they don't sign it, we can get it done with an order to show cause, because then that gives notice. And we'll attach—

MICHAEL REID: I don't think—

SPECIAL MASTER BILYEU: the elements.

MICHAEL REID: I don't think there will be any problem.

SPECIAL MASTER BILYEU: OK. Well, we'll wait a week until that comes in so we don't have to do that if we don't need to. So, Mr. Budge, any follow up on this first group, and again, we're talking about 13854, 13509, and 11639. Sounds like we're close to getting those all wrapped up, maybe most of them by the end of today.

TJ BUDGE: No, I'm just looking forward to finalizing those, so, I'm glad we've got this far.

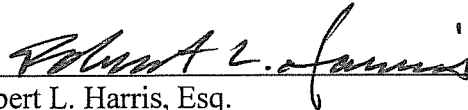
SPECIAL MASTER BILYEU: All right. Anybody have any comments on this first group before we go to 22-13212?

[No response].

SPECIAL MASTER BILYEU: All right, and again, we are hoping to get the 13854 and 13509 sent or signed with the Department before the end of today and that will give us a wrap on those two, and 11639, the court will issue an order to show cause why the master's report and recommendation should not have the elements that the SF5 has if we don't get that here by the end of, within a week. So a week from today we'll send out an order to show cause and put that on our calendar at some point. So, that's how we'll get that one wrapped up, and again, we do expect to get those and appreciate Mr. Reid's help that way. OK, so the final one then is we've got a continued motion to set aside partial decree in 22-13212 and that's the one that went to trial and that we have the decision on that one, and Mr. Reid's comments in the previous discussion make it sound like there may have been some hitches in the settlement with regard to that one, but . .

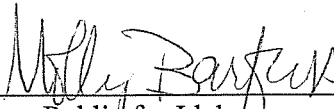
[END RECORDING].

DATED this 25th day of April, 2012.

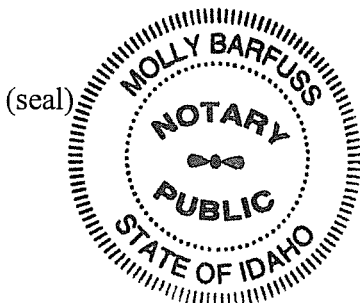


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

SUBSCRIBED AND SWORN TO before me this 25th day of April, 2012.



Notary Public for Idaho
Residing in: Idaho Falls
Commission Expires: 02-16-2018



CERTIFICATE OF MAILING

I certify that on this 25th day of April, 2012, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. **ORIGINAL TO:**

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

COPIES TO:

Thomas J. Budge
Racine, Olson, Nye Budge & Bailey, Chtd.
201 E Center St
PO Box 1391
Pocatello, ID 83204-1391

(☒) *First Class Mail*
(☐) *Hand Delivery*
(☐) *Facsimile*
(☐) *Overnight Mail*
(☒) *Email*

Joy M. Reid
Michael L. Reid
Michael Reid
Stephen D. Reid
550 S. 450 W.
Victor, ID 833455

(☒) *First Class Mail*
(☐) *Hand Delivery*
(☐) *Facsimile*
(☐) *Overnight Mail*
(☐) *Email*

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

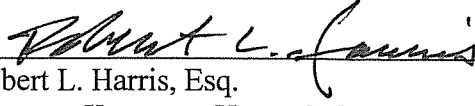
(☒) *First Class Mail*
(☐) *Hand Delivery*
(☐) *Facsimile*
(☐) *Overnight Mail*
(☐) *Email*

Larell A. Kunz
4346 W. 5250 S.
Victor, ID 83455

(☒) *First Class Mail*
(☐) *Hand Delivery*
(☐) *Facsimile*
(☐) *Overnight Mail*
(☐) *Email*

Michael Reid
PO Box 801
Victor, ID 83455

(☒) *First Class Mail*
(☐) *Hand Delivery*
(☐) *Facsimile*
(☐) *Overnight Mail*
(☒) *Email*


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

G:\WPDATA\RLH\15571 Miller, Ron\RLH Affidavit.doc