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Department of Water Resources
Appurtenance Bureau

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Party:

San Felipe Ranches & Lola Coates

Attorney Name and Address:

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389
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34-2528
11-3

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 Nos. (see Exhibit A)

)

)

Case No. 39576

) AFFIDAVIT OF PATRICK D. BROWN

)

)

)

STATE OF IDAHO

)

) ss.

County of Twin Falls

)

Under oath, this affiant testifies to the following:

1. My name is Patrick D. Brown, and I testify as follows based on my
personal knowledge and beliefs. I am otherwise competent to testify as follows.

Affidavit of Patrick D. Brown - 1

1 2. I am an attorney licensed to practice in the State of Idaho. I practice with
2 the firm of Hepworth, Lezamiz & Hohnhorst and represent Lola Coates and San Felipe
3 Ranches regarding matters involved in the Snake River Basin Adjudication.

4 3. Coates and San Felipe retained our firm in late March of 1994. At that time
5 the United States had moved to withdraw and defer some claims filed on behalf of the
6 United States Bureau of Land Management ("BLM") for wildlife and stockwater purposes.
7 The motion, which Coates opposed, was scheduled to be heard in April, 1994. My
8 attention was fully focused on preparing for that hearing. Within days after the hearing and
9 in part due to what happened there, the SRBA was stayed, except with respect to questions
10 about recently passed legislation and a few other matters.

11 4. The stay remained in place through the middle of December, 1994.
12 During that time, I was communicating with BLM attorneys, mainly Lee Leininger and Daria
13 Zane, about numerous claims it filed for wildlife and stockwater in the Big Lost River Basin.
14 Daria Zane was informed that I had learned that Coates had attempted to object to many
15 claims, including ones which are the subject of the instant motions. I asked if she would
16 stipulate to allow San Felipe to file late objections to the instant claims as well as those
17 which Coates had already objected to. Although she declined that request, she admitted
18 that she was aware of the claims I was speaking about because the United States had
19 received the objections from Coates in the spring of 1993, even though the Court had not
20 accepted them. She noted that in any event the SRBA was stayed and the BLM was using
21 that time to investigate all of its stockwater claims in Basin 34. She assured me the BLM
22 would move to withdraw many of the claims, even unobjected to ones, after its
23 investigations were complete and the stay was lifted. She urged me to wait on any motions

1 to object or include San Felipe until after the BLM completed its investigations, pointing out
2 that it would be wasteful and premature to venture down that path. We also discussed the
3 uncertainty posed by the 1994 legislation with regard to how the Court would proceed on
4 the claims. In sum, I understood, rightly or wrongly, that the United States would attempt
5 to resolves its differences with Coates and San Felipe without regard to whether objections
6 had been filed, at least until the BLM finished its investigations.

7 5. Ms. Zane and Mr. Leininger each continued discussing with me settlement
8 of the unobjected to claims after the stay was lifted. In fact each has represented outside
9 of confidential settlement conferences that the BLM wanted to settle all claims together.

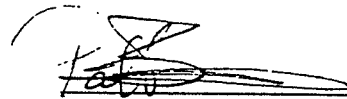
10 6. Also, through discovery propounded in subcases and by confirmation from
11 Mr. Leininger, I have learned that the BLM is asserting the priority dates of 1884 for
12 beneficial use claims and 1926 for reserved claims on all of its Basin 34 stock claims based
13 primarily on evidence common to all claims.

14 7. Because discovery is only beginning in the pending subcases, because the
15 U.S. has been aware of the objections the court did not accept since 1993 and have
16 continued to work through me to resolve them until filing its brief opposing the pending
17 motions, and for other reasons set out above and in the affidavits filed in support of Coates
18 and San Felipe, I have no basis for believing that undue prejudice would befall the United
19 States if my clients are allowed to object.

20 8. I also accept full responsibility for any conduct since April of 1994 that
21 could be characterized as neglectful, mistaken, inadvertent, or dilatory. I am the person to
22 whom my clients turned in the hope that I would be able to help them overcome the
23 confusion, frustration and sense of futility they experienced in their attempts to properly

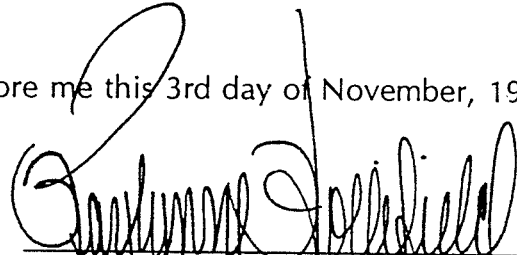
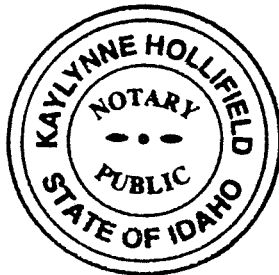
bring their objections in the SRBA. I do not believe justice may be served by denying them the opportunity to present their objections to the court.

Dated this 3rd day of November, 1995.



Patrick D. Brown

Subscribed and sworn to before me this 3rd day of November, 1995.



NOTARY PUBLIC FOR IDAHO

Residing at: TWIN FALLS, ID

My Commission Expires: _____

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the objector in this matter, certifies that on the 3rd day of November, 1995, he served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

A. Lynne Krogh
Susan E. Hamlin
Deputy Attorneys General
Idaho Department of Water Resources
P. O. Box 44449
Boise, ID 83711-4449

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

U.S. Department of Justice
Environment & Natural Resources
Division
550 West Fort St.
MSC 033
Boise, ID 83724

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)


Patrick D. Brown