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OFFICE OF THE  
ATTORNEY GENERAL

Walten E. Mildren

HEPWORTH, LEZAMIZ & HOHNHORST,  
CHARTERED  
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Twin Falls, ID 83303-0389  
Telephone: (208)734-7510

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

\* \* \* \* \*

Subcase No. 36-00051A

**AFFIDAVIT OF  
LeANN L. McMILLAN**

Case No. 39576

\* \* \* \* \*

STATE OF IDAHO                   )  
County of Twin Falls         ) ss.

LeAnn L. McMillan, being first duly sworn upon oath, deposes and says:

1. I contacted Ms. Beeman's secretary on Thursday, November 9, 1995 at 10:09 a.m. to inquire about scheduling depositions on her clients, May Farms, Sand Springs Ranch and Faulkner Land & Livestock on Friday, November 17, 1995.

1                   2.       The secretary told me that Ms. Beeman was not in the office; that Ms.  
2 Beeman's calendar indicated she was available on the 17th, however, she would need to  
3 discuss that with Ms. Beeman when she called in and she would call me back on the  
4 afternoon of the 9th.

5                   3.       When I did not hear from Ms. Beeman's secretary by early afternoon,  
6 I prepared notices for the 17th beginning at 9:00 a.m. per Mr. Brown's instructions.

7                   4.       Subsequently, Mr. Brown informed me that he would not be available  
8 on the 17th because he just found out that he would be having surgery that morning and  
9 requested that I find an alternate time for the depositions.

10                  5.       At 8:31 a.m. on Friday, November 10th, I contacted Ms. Beeman's  
11 office to inquire about scheduling the depositions at another time before the hearing  
12 scheduled for November 22, 1995, including on November 13th at 9:00 a.m. if, given the  
13 short notice, that would be acceptable to Ms. Beeman.

14                  6.       Neither Ms. Beeman or her secretary were in the office, so the  
15 receptionist transferred my call to Ms. Beeman's voice mail. I identified myself, provided  
16 my telephone number and indicated that I was trying to schedule the depositions on May  
17 Farms, Sand Springs and Faulkner for Monday morning, November 13th so I needed her to  
18 return my phone call as soon as possible.

19                  7.       I had not heard back from Ms. Beeman by 10:29 a.m., and, therefore,  
20 I placed a 2nd call to Ms. Beeman. I spoke directly with Ms. Beeman. I told her that I  
21 needed to schedule the depositions on her clients, May Farms, Sand Springs and Faulkner  
22 and would like to schedule those for Monday, November 13th. Ms. Beeman told me that  
23

1 she was on "her way out the door" and that she literally had her arms full with her  
2 paperwork. She told me that she would have her secretary, Stephanie, return my call to  
3 work out a schedule for depositions. She reiterated that she did not have time to discuss  
4 it with me because she was on her way to a meeting or hearing at 10:30 a.m.

5 8. I had not heard from Stephanie and therefore, at 1:22 p.m. I placed a  
6 3rd call to Ms. Beeman's secretary. Stephanie informed me that Ms. Beeman had been  
7 trying to get hold of their clients to see if the clients could be available. I told her that I  
8 needed to get the notices prepared and faxed because I was running out of time with the  
9 scheduling of those for Monday. She said she would let me know.

10 9. At 2:30 p.m., I received a call from Linda Ledbetter inquiring on the  
11 status of the depositions. I advised Linda that I was waiting for Ms. Beeman's office to  
12 confirm but that if I had not heard back from them by 3:30 p.m. that I was going to go  
13 ahead and start faxing the notices.

14 10. At 3:30 p.m. I had not heard from Ms. Beeman's office and, therefore,  
15 I began faxing the notices per Patrick Brown's instructions, and included a cover letter  
16 which is attached. The letter states that the notices were being sent with the understanding  
17 that their office was still trying to contact their clients.

18 11. At no time during my conversations with Ms. Beeman or others at her  
19 office, did anyone inquire about a schedule for deposing Harry R. Gisler, Ya-Ta-Hay  
20 Investments, Inc., Dan and Irma McFaddan, Hagerman Water Users Association, and Walten  
21 Mildren. Nor did anyone inform me that November 20th and 21st were times in which Ms.  
22 Beeman could be available for depositions.

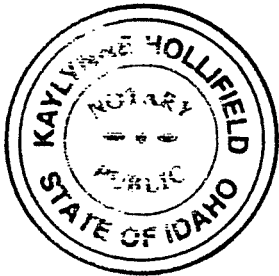
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12. Further your affiant sayeth not.

Dated this 15<sup>th</sup> day of November, 1995.

LeAnn L. McMillan  
LeAnn L. McMillan

SUBSCRIBED and SWORN to before me this 15 day of November, 1995.



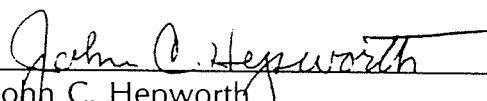
Kaylene Hollifield  
NOTARY PUBLIC FOR IDAHO  
Residing at: TWIN FALLS, ID  
My Commission Expires: 10/31/2001

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 claimants in this matter, certifies that on the 15<sup>th</sup> 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:

Chief, Natural Resources Div. X U.S. Mail  
Office of the Attorney General     Hand Delivered  
State of Idaho     Overnight Mail  
P. O. Box 44449     Telecopy (Fax)  
Boise, ID 83711-4449

Josephine P. Beeman X U.S. Mail  
Dillion, Bosch, Daw &     Hand Delivered  
Bock, Chtd.     Overnight Mail  
Fidelity Building     Telecopy (Fax)  
242 N. 8th Street, Suite 200  
Boise, ID 83702

  
John C. Hepworth

(WATER\60021AFF.11m)