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2 Claimant:

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Lynn Babington, Bruce Bothwell,
Dale Boyer, John Clouser, Alma
Blastock and Alice Anderton

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4 Attorney Name and Address:

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

11 * * * * *

12 In Re SRBA

) Subcase Nos. 36-00003C, 36-00047,
) 36-00079, 36-00089A, 36-00108B,
) and 36-10223

13 Case No. 39576

) AFFIDAVIT OF PATRICK D. BROWN
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17 STATE OF IDAHO)

) ss.

18 County of Twin Falls)

19 Patrick D. Brown, being first duly sworn upon oath, deposes and says:

20 1. I am an attorney licensed to practice in the State of Idaho. I practice
21 with the law firm of Hepworth, Lezamiz and Hohnhorst, Chartered, which represents the
22 claimants in the six subcases listed above. I am the attorney in the firm who has been
23

HEP
Chartered
Hepworth,
Lezamiz &
Hohnhorst

AFFIDAVIT OF PATRICK D. BROWN - 1

1 primarily responsible for the representation since filing objections in early 1993. I make the
2 foregoing and following statements based upon my personal knowledge. I am otherwise
3 competent to testify to the following.

4 2. Attached as Exhibit "A" are true and accurate copies of a letter I wrote
5 to David Shaw and the Director of Idaho Department of Water Resources, Karl Dreher, on
6 September 5, 1995. Following that letter is a true and accurate copy of the response
7 ultimately received many months after a response had been promised by the Director. The
8 attached letters reflect an ongoing effort by my law firm since last summer to work with the
9 Idaho Department of Water Resources to economically and efficiently resolve subcases.

10 3. The attached letters are representative of the spirit in which I have
11 attempted to informally accomplish matters with the Idaho Department of Water Resources.
12 However, I never received a response to that letter including by counsel for IDWR, Mr.
13 Nicholas Spencer.

14 4. In its Memorandum in Support of Quashing the Subpoenas in the above
15 subcases, IDWR states that its affiants are unavailable due to the scheduling of settlement
16 conferences. On Friday, January 5, 1995, I discussed the subpoenas with Brent King,
17 counsel for Idaho Department of Water Resources. Mr. King informed me that he was in
18 charge of attending the settlement conferences and that Mr. McClelland, or others who had
19 personal knowledge, would attend the settlement conferences with him. During that
20 conversation I assured Mr. King that, while depositions were scheduled to begin 15 minutes
21 after the respective settlement conferences, that the depositions would not begin until after
22 settlement possibilities were discussed in settlement conferences. I further informed him if
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1 one settlement conference or deposition ran over into the time scheduled for the following
2 settlement conference, we would simply postpone or delay the depositions. I assure the
3 court that I have not scheduled any of the depositions in order to harass anyone or to delay
4 any proceeding. It is my firm belief that by taking the depositions it will save my clients
5 time and expense, and I and my law firm will be more thoroughly prepared to attend such
6 hearings, to make such hearings productive, to make such hearings less expensive, and to
7 promote the goal of settlement. In my experience, almost without exception, holding a
8 mandatory settlement conference before discovery has taken place and before the issues
9 have been frozen, is unproductive and tends to drag out the process. I have every reason
10 to believe that that is precisely what will occur in each of the above subcases.

11 5. Contrary to the assertions of IDWR's counsel, I have requested the basis
12 for IDWR's recommendations in each of the above subcases. In fact, I have done so in
13 1993 as the discovery records in the main case will reflect.

14 6. Further your affiant sayeth not.

15 Dated this 8th day of January, 1996.

16
17 _____
Patrick D. Brown

18 SUBSCRIBED and SWORN to before me this 6th day of January, 1996.

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20 _____
NOTARY PUBLIC FOR IDAHO

21 Residing at: _____

22 My Commission Expires: _____

23 (WATERVAFFPDB.108)llm