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ment of Water Resources

Claimant: Shelby Wise and Joan Wise

Attorney Name and Address: HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
133 Shoshone St. North
P.O. Box 389
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

* * * * *

In Re SRBA) Subcase Nos. 36-00084
)
)
Case No. 39576) AFFIDAVIT OF
) PATRICK D. BROWN
)

* * * * *

STATE OF IDAHO)
) ss.
County of Twin Falls)

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

1. My name is Patrick D. Brown and I am an attorney licensed to practice
in the State of Idaho. I practice with the firm of Hepworth, Lezamiz & Hohnhorst, which
represents Hagerman Water Right Owner, Inc. and its individual members with regard to
their water right claims in the Snake River Basin Adjudication. I make the foregoing and

1 following statements based upon my personal knowledge. I am otherwise competent to
2 testify to the following.

3 2. HWRO, Inc. and its individual members hired our law firm to represent
4 them in the Snake River Basin Adjudication to file objections on their behalf to several
5 hundred claims. The record will reflect how many objections were filed on behalf of
6 HWRO, Inc.

7 3. Since my firm was initially retained by HWRO, Inc., much of April of
8 1993 was spent conducting discovery in order to determine the basis for IDWR's
9 recommendations. Based upon that discovery, we then advised and made recommendations
10 to our clients with respect to filing objections.

11 4. We were instructed by Shelby Wise to object on their behalf to the
12 amount of water and acreage recommended by the Department of Water Resources.

13 5. The first time it was brought to my attention that our firm had not filed an
14 objection was at the settlement conference held December 12, 1995. The U.S., IDWR and
15 other parties were all present at that settlement conference.

16 6. It is my opinion that no parties to the adjudication, to my knowledge
17 will be in any way delayed or prejudiced, and no party could claim such injury since I
18 understand my client has always used the full amount of water it now seeks to have
19 confirmed by the court through objection, even though IDWR has recommended less.

20 7. Further your affiant sayeth not.
21
22
23

Dated this 7 day of June, 1996.



Patrick D. Brown

SUBSCRIBED and SWORN to before me this 7 day of June, 1996.

LeAnn L. McMillan

NOTARY PUBLIC FOR IDAHO

Residing at: Jerome, Idaho

My Commission Expires: 8/24/2001

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 7 day of June, 1996, 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.
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

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☐ Hand Delivered
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☐ Telecopy (Fax)

United States Dept. of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724

☒ U.S. Mail
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John K. Simpson
P. O. Box 2139
Boise, ID 83701-2139

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

Director of IDWR
P. O. Box 83720
Boise, ID 83701-2139

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Rinda R. Just
Deputy Attorney General
Parks and Recreation Dept.
Boise, ID 83720

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Nevada B. Omohundro
Route 1 Box 235
Hagerman, ID 83332

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Ronnie D. Smith
Sharlene Smith
Route 1 Box 230
Hagerman, ID 83332

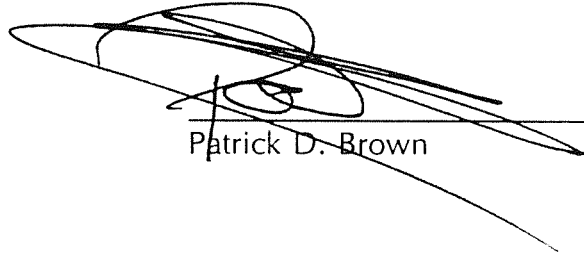
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V. John Mavencamp
1019 B East 2900 South
Hagerman, ID 83332

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U.S. Fish & Wildlife Service
Division of Engineering
911 N.E. 11th Ave.
Portland, OR 97232

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Patrick D. Brown

(WATER\00084AFF.PDB)llm

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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) Subcase No. 36-00084
)
)
) AFFIDAVIT OF
) SHELBY WISE
Case No. 39576)
)

* * * * *

STATE OF IDAHO)
) ss.
County of Twin Falls)

Shelby Wise, being first duly sworn upon oath, deposes and says:

1. My name is Shelby Wise and I am the claimant of the water right in this subcase. I make the following statements based upon my personal knowledge and beliefs. I am otherwise competent to testify about the foregoing and following matters in this affidavit.

2. I have owned the land to which the water right claimed in this subcase is appurtenant since 1969. Since that time, I have always used my water in order to irrigate as needed on those grounds. The right claimed by me is the right which was decreed in the New International Mortgage Bank v. Idaho Power Co., et al decree dated in 1932. Attached is an accurate copy of the page of that decree which confirms the right to 1.4 cfs from Len Lewis Springs with a priority date of September 1, 1889. It is the right decreed to Libby Niles who owned the property at the time of that decree.

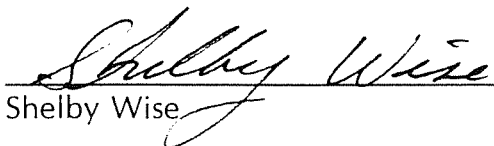
3. I have always used the water under that water right on my property. I have never intended to abandon or forfeit it.

4. In the winter or early spring of 1993, I became a member of Hagerman Water Right Owners, Inc. and also hired the law firm of Hepworth, Lezamiz and Hohnhorst in order to obtain legal advice about whether I should object to my right as recommended by IDWR. Some time in April, 1993, I instructed the law firm to file an objection and claim my right as it had been decreed to Libby Niles.

5. I understood that the law firm had filed an objection and did not know that that had not occurred until about December 12, 1995 when I attended a settlement conference with the United States Fish and Wildlife and other users on the Brailsford Ditch.

6. Further your affiant sayeth not.

Dated this 7 day of June, 1996.


Shelby Wise

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SUBSCRIBED and SWORN to before me this 7 day of June, 1996.

Seann L. McMillan
NOTARY PUBLIC FOR IDAHO
Residing at: Jerome, ID
My Commission Expires: 8/24/2001

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 1 day of June, 1996, he served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

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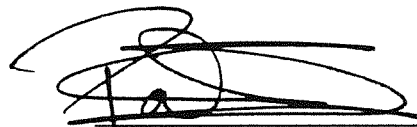
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Patrick D. Brown

(WATER\00084AFF.SW)\lm

MOORE

a total of 20 acres.

NEAL,
LOUIS,
HARRY H.
AND EFFIE
M. NEAL,
AND ALVA
REED

2	Billingsley Creek	April 1, 1885	Sands Ditch
1	Billingsley Creek	April 1, 1910	Sands Ditch
2	Billingsley Creek	Jan. 2, 1891	Granger Ditch
.8	Spring	Jan. 2, 1891	Unnamed Spring;

(Said Unnamed spring arises in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. at a point 1065 feet north 2 degrees 2' West from the southeast corner of said forty acre tract of land.)

The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. excepting approximately nine acres described as follows:

Beginning at the Southeast Corner of the said Southwest Quarter of the SE $\frac{1}{4}$ of said Sec. 11, Thence north along the center of the Hagerman road 305.25 feet, thence North 80 degrees 55' West 907.5 feet, thence South 44 degrees 56' West 631.15 feet to the Quarter corner of the boundary line between Sections 11 and 14, thence due east to the place of beginning.

Also the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M., excepting a strip of ground extending along the entire length of the south side of said SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, which strip is 28 feet wide on the west and runs to a point at the east end, or the quarter corner of the above mentioned secs. 11 and 14, Twp. 7 S. R. 13 E. B. M.

NILES,
LIBBIE

1.4 Len Lewis Spring Sept. 1, 1889 Brailsford-
Owens Ditch

All that portion of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 E. B. M. lying west of the central channel of the "Brailsford Ditch," as now laid out and existing through said subdivision, which said tract of land contains approximately 7.17 acres of land and is more particularly bounded and described as follows, to-wit:

"Commencing at the southwest corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
------	---	------------------------------	-----------------

of said section, township and range aforesaid; thence east along the south boundary of said subdivision 488 feet to the center of the said "Brailsford Ditch;" thence following the center channel of said ditch north 19 degrees 34' West 170 feet; thence north 48 degrees 14' West 165 feet; thence north 9 degrees 29' West 722 feet; thence north 20 degrees 15' West 360 feet to the northwest corner of said subdivision; thence south along the west boundary line of said subdivision 1330 feet to the place of beginning.

Also the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 less the north 2 $\frac{1}{2}$ acres thereof now belonging to one W. C. Barton, said exception being that portion of said tract of land lying north of the public highway.

ARROTT, RS. FLOR- NCE,	1.2	Billingsley Creek	Sept. 10, 1884	Buckeye Ditch;
------------------------------	-----	-------------------	----------------	----------------

A certain tract of land commencing 204.3 feet west of the southeast corner of Block No. 10 and continuing along said line west 195.7 feet to the southwest corner of said Block, thence north along said block line 269.3 feet to the northwest corner of said block; thence east along said block line 297 feet; thence in a south-westerly direction 287.7 feet to the point of beginning containing 1.52 acres more or less, all in Block No. 10 of the Townsite of Hagerman, according to the map or plat on file in the office of the Recorder of Gooding County, Idaho;

Also Lots 1 to 7 inclusive and 10 to 16 inclusive of Block 9, Lots 3, 4, 7, 10, 11, 12, 14, 15, 16, in Block 6, Lots 9, 10, 11, 12, 13, 14, 15, and 16 in Block 5 of Hagerman Townsite, according to the map or plat thereof on file in the office of the Recorder of Gooding County, Idaho.

PENFOLD, JOHN T., AND EMMA PENFOLD	2	Spring	Feb. 1, 1888	Weatherby Springs;
---	---	--------	--------------	--------------------

The SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 25, Twp. 7 S. R. 13 E. B. M. and that portion of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 25, known as Tax No. 3, and more particularly described as follows, to-wit: Beginning at a point on the East line of the southwest quarter of Sec. 25, Twp. 7 S. R. 13 E. B. M. 1590 feet north of the southeast corner of said SW $\frac{1}{4}$ of Sec. 25, thence running north 34 degrees West 468 feet, thence North 20 degrees, west 685 feet to within 15 feet of the North boundary of said SW $\frac{1}{4}$ of Sec. 25, thence 89 degrees 18 minutes east 500 feet and thence south 1035 feet to the place of beginning.

PENFOLD, PARLEY, AND GRACE PENFOLD	2.4	Billingsley Creek	March 30, 1884	E.M. Bell Ditch
	.4	Billingsley Creek	Sept. 10, 1884	Buckeye Ditch.
				The NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 27, Twp. 7 S. R. 13 E. B. M.