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Department of Water Resources

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Attorneys for Billingsley Creek Ranch

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. 36-11060

AFFIDAVIT OF DONNIE McFADDEN

STATE OF IDAHO)
)ss.
County of Gooding)

DONNIE McFADDEN, being first duly sworn upon oath, deposes and says:

1. My wife and I acquired our ranch property in Gooding County in the spring of 1971. The place of beneficial use for the above-numbered water right is located on that property, and I am familiar with the application of such water right.

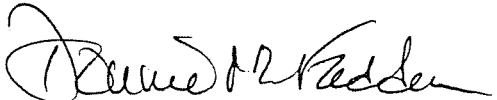
2. Prior to my acquisition of the ranch, I was advised by various individuals, including Watermaster George Lemmon, that my predecessors in interest had always diverted at least 4.0 cfs of water from the source described in the above-numbered claim on a year-round and annual basis. Such diversions were predicated, at least in part, on the rights that were decreed to my property in the *New International* Decree, which

1 decree stated that the water rights decreed therein were not only for irrigation uses, but
2 also for "domestic and other purposes."

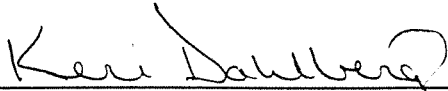
3 3. From my personal knowledge, I know that the pond located on the property
4 was fully operational in 1971, and that it has been used continuously for the development
5 of a fishery, together with aesthetics and water fowl habitat.
6

7 4. Since my acquisition of the ranch, I have continued to divert not less than
8 4.0 cfs of water to non-consumptive uses at the place of use described in the above-
9 numbered claim on a year-round basis, which diversion rate is necessary to keep the pond
10 in a fresh and unfrozen condition.
11

12 Further saith your affiant not.

13
14 
15 DONNIE McFADDEN

16 SUBSCRIBED AND SWORN to before me this 26th day of June, 1996.

17
18 
19 NOTARY PUBLIC FOR IDAHO
20 Residing at Booming County
21 Commission expires 6/13/01
22

CERTIFICATE OF MAILING

I hereby certify that on the 1 day of July, 1996, 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, Idaho 83303-2707

2. Copies to (insert names and addresses):

Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst
133 Shoshone Street North
P.O. Box 389
Twin Falls, ID 83303-0389

A. Lynne Krogh
Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706-2237



Gary D. Slotte