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RECEIVED
JAN 05 2017
DEPARTMENT OF
WATER RESOURCES

Attorney for Applicant.

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATIONS
FOR PERMIT NO. 63-34079 AND 63-
34080

**AFFIDAVIT OF JOHN MARSHALL IN
SUPPORT OF MOTION FOR
RECONSIDERATION**

JOHN M. MARSHALL, being first duly sworn, do hereby depose and say as follows:

1. I am an attorney licensed to practice law in the State of Idaho. I represent Applicant Chris Emmert in this proceeding.
2. On the morning of December 28, 2016, I mailed the original copy of a *Response in Opposition to Motion for Continuance* ("Response") to the Idaho Department of Resources via the US Mail. I delivered this original copy to a US Post Office and personally handed it to the clerk, who affixed the proper postage to the envelope containing the Response. At the same time, I mailed a copy of the *Response* to Shelley Davis, attorney for protestant Boise Project Board of Control. The clerk at the post office informed me the mailings would arrive at the designated locations on Friday, December 30, 2016, or at the latest on December 31, 2016 given the holiday mail volumes.
3. The *Response* is an opposition to the Boise Project Board of Control's *Motion for Continuance of Hearing* dated December 16, 2016. Because the *Motion for Continuance* was served by mail, the deadline for responding was January 3, 2017 (14 days plus 3 days for mail plus an additional day because the deadline fell on January 2, 2017, a federally recognized

holiday). I submitted the *Response* far enough in advance of the deadline to provide for its arrival with the Department before the deadline. However, it appears the *Response* has been misplaced by the US Mail, and the Department therefore issued an *Order Granting Motion for Continuance of Hearing*, dated January 4, 2017, without considering the *Response*.

4. I requested that the Boise Project Board of Control stipulate to the consideration of the *Response* once it became apparent yesterday that the Department had not received the *Response*. The Boise Project has refused, thus necessitating the filing of a *Motion for Reconsideration* by Applicant.


JOHN M. MARSHALL

SUBSCRIBED AND SWORN to before me on this the 5 day of January 2017




NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My commission expires: 12/21/17

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of January 5, 2017, I caused the original of this document to be filed with the Idaho Department of Water Resources via hand delivery and a true and correct copy of the foregoing to be served by the method indicated below, and addressed to the following.

Shelley M Davis
Barker Rosholt & Simpson LLP
1010 W. Jefferson St Ste 102
PO Box 2139
Boise, ID 83701-2139

☐ U.S. Mail
☐ Overnight Mail
☒ Hand Delivery
☐ Fax


John M. Marshall