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DEPARTMENT OF
WATER RESOURCES

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Attorney for William Fruehling

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WATER RIGHT
LICENSE NO. 37-20628 IN THE NAME
OF WILLIAM FRUEHLING

AFFIDAVIT OF GORDON SCHMIDT IN
SUPPORT OF EXCEPTIONS TO ORDER
DENYING PETITION FOR
RECONSIDERATION DATED
FEBRUARY 27, 2014 AND BRIEF IN
SUPPORT OF EXCEPTIONS

STATE OF IDAHO)

)ss.

County of Jerome)

GORDON SCHMIDT, being first duly sworn, deposes and says as follows:

1. I am a resident of Camas County, Idaho. I am married to Dorothy Schmidt. Mitchell B. Schmidt is my brother. Collectively we are the owners of Water Right No. 37-13251.

2. Mitchell B. Schmidt, Dorothy Schmidt and myself also collectively own all of the real property constituting the place of use for Water Right No. 37-13251 as it has been partially decreed.

3. In 1987, Bar H Bar, Inc., an Idaho corporation, owned by my wife and I; Lola H. Schmidt; and Mitchell B. Schmidt, signed a contract with the Commodity Credit Corporation placing approximately 263.4 acres of the real property within the place of use for Water Right No. 37-13251 in the Conservation Reserve Program. Mitchell B. Schmidt, Dorothy Schmidt and myself are the successors in ownership for the real property comprising the lawful place of use under Water Right No. 37-13251 with respect to Bar H Bar, Inc. and Lola H. Schmidt.

4. The 263.4 acres referenced in the previous paragraph have remained in the Conservation Reserve Program through the present date. The current CRP contract expires in 2022.

5. Since 1987, the south point of diversion referenced in the Partial Decree for Water Right No. 37-13251 has been used to provide irrigation water to the portions of the real property constituting the place of use for that right which were never enrolled in the Conservation Reserve Program. Water pumped from the south point of diversion for Water Right No. 37-13251 was used for such purposes during the 2013 farming season. No irrigation water from the north point of diversion for Water Right No. 37-13251 has been provided to any of the place of use for that water right since 1987.

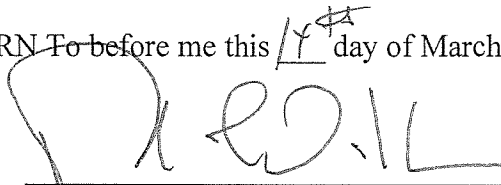
6. I am familiar with the current system which delivers water under William Fruehling's water rights 37-7282B, 37-7333B and 37-20628 to his real property. That system is not presently connected to the separate system that delivers irrigation water to Water Right No. 37-13251, nor has it ever been. The two systems were therefore not connected between October 15, 2001, the date that William Fruehling filed his application for permit that led to the issuance of the license for Water Right No. 37-20628, and the date of this affidavit.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 14th day of March, 2014.


GORDON SCHMIDT

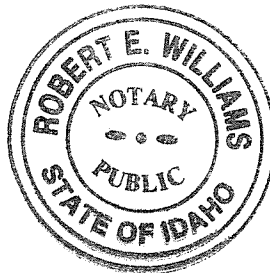
SUBSCRIBED AND SWORN To before me this 14th day of March, 2014.



Notary Public for Idaho

Residing at: Idaho

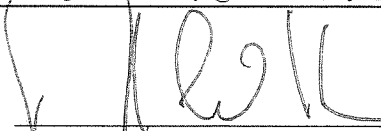
Comm. Expires: 1/27/17



CERTIFICATE OF MAILING

I, the undersigned, hereby certify that on the 14th day of March, 2014, I caused to be served the foregoing document as follows:

IDWR Southern Region 1341 Fillmore Street, Suite 200 Twin Falls, ID 83301-3380	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☐ Other _____
IDWR Document Depository P.O Box 83720 Boise, ID 83720-0098	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☐ Other _____
Gary L. Spackman, Director Deborah Gibson IDWR 322 East Front Street PO Box 83720 Boise ID 83720-0098	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☒ Other Electronically to: gary.spackman@idwr.idaho.gov deborah.gibson@idwr.idaho.gov
Charles G. Brockway Brockway Engineering 2016 N. Washington St., Suite 4 Twin Falls ID 83301	☒ Via US Mail, Postage Paid ☐ Via Facsimile - ☐ Hand-Delivered - Court Folder ☒ Other _____ charles.g.brockway@brockwayeng.com


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