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BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 73951 (in the
name of Mud Lake Water Users, Inc.)

AFFIDAVIT OF RONALD D. CARLSON

STATE OF IDAHO)
)
COUNTY OF BANNOCK) ss.

1. My name is Ronald D. Carlson. I grew up working on our family farm near Firth, Idaho, which I still own and operate. The farm is within and served by the Snake River Valley Irrigation District. I graduated from Firth High School and the University of Idaho. I hold a Bachelor of Science Degree and a Master of Science Degree in Agricultural Engineering from the University of Idaho. My engineering specialty area is hydrology and irrigation. I

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Eastern Region

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am a Professional Engineer and Land Surveyor licensed and in good standing in the State of Idaho. My expertise is as an engineer, Watermaster and the Regional Manager of the Idaho Department of Water Resources ("Department"), formerly called the Idaho Department of Water Administration.

2. In September 1972, I was hired as a hydrologist by the Department. In 1973 I moved to Idaho Falls and managed the Dam Safety Program for the Department's Eastern Region Office. In 1974 I became the District Engineer, a title that in late years was changed to Regional Manager, a position I held until I retired in 2006.
3. In 1978 I was elected Watermaster for Water District 1 and continued in that position until my retirement in 2006. I was the Watermaster for Water District 1 and the Regional Manager for the Department's Eastern Region Office for nearly three decades. I served under the direction of four different Directors over a 36 year period while working at the Department. I retired in 2006.
4. Water District 01 is the largest water district in the United States and administers water from the Snake River and its tributaries from the Wyoming border downstream to Milner Dam. The Watermaster of Water District 1 authorizes the distribution of over 8,000,000 acre-feet of Snake River water annually to nearly 1.2 million acres of land located along the Snake River and its tributaries from Ashton to Bliss, Idaho. The last diversion to lands entitled to receive water within Water District 01 is at Milner Dam, which is located just downstream from Burley, Idaho.
5. During my tenure as Regional Manager and Watermaster, I became familiar with all of the historical and contemporary water delivery practices of Water District 1 and the policies and

procedures of the Idaho Department of Water Resources, including but not limited to administration of water rights, delivery of water rights, the licensing, permitting, and transfer of water rights, the recommendations of water rights in the Snake River Basin Adjudication, and nearly all operations within the Department. I was frequently asked to speak to various groups as an expert in Idaho water law and administration and have been called upon to testify as an expert.

6. When I was Eastern Region Manager, in 1994, I personally authorized the installation of the pump on the MLWU dike which now at issue in Transfer No. 73951. It was my opinion then, as it is now, that the Department had neither responsibility nor approval authority for this pump, and therefore, it was not necessary for Mud Lake Water Users, Inc. ("MLWU") to file an application for transfer.
7. Based on my understanding of Department policy, the installation of the pump was simply a modification of the MLWU diversion works on Camas Creek and did not represent a change in any of the elements of their water rights.
8. In 1994, I advised Don Shenton, the watermaster for Water District 31, that the Department had no oversight or approval responsibilities should MLWU decide that they needed to install a pump to move stranded water over the dike to fill their water rights. I do not remember if the issue even warranted my writing a letter to Don Shenton.
9. I retired as Regional Manager and Snake River Watermaster in May of 2006. Prior to my retirement, I again went out and looked at the MLWU dike and expressed the same opinion then that I had to Don Shenton over a decade earlier. I believe Tim Luke was there at that time, since I believe it was his communication with Greg Shenton that precipitated the visit.

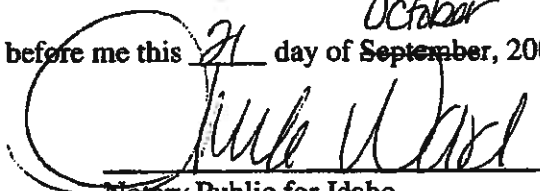
10. In my mind this was no different than the policy that existed in Water District 1 for the thirty years I was Watermaster. That policy simply stated is: if there is water in the river to fill a right that is in priority it is the water right holder's responsibility to do whatever it takes to divert water that is available in that source.
11. I explained to Tim Luke that not only had I in my official capacity as Regional Manager determined that the Department had not administrative or regulatory authority, I explained how the situation was directly analogous to dozens of diversions in Water District 1 that periodically have to be lengthened or reinforced.
12. My understanding is that two months after I retired, Tim Luke ordered Greg Shenton, the current Watermaster for Water District 31, to cease diversions from the MLWU pump.

DATED this 21st day of October, 2008.


RONALD D. CARLSON

SUBSCRIBED and sworn to before me this 21 day of ^{October}~~September~~, 2008.




Notary Public for Idaho

Residing at:

Commission Expires:

Potter Creek Union, Bingham County
07-2010