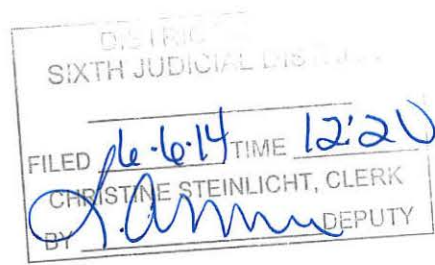


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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF POWER

ABERDEEN-SPRINGFIELD CANAL
COMPANY, an Idaho Corporation,
JEFFREY and CHANA DUFFIN,
individually, as stockholders, and as
husband and wife,

Plaintiffs,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES, an executive department
of the State of Idaho,

Defendant.

Case No.

CV 2014-165

AFFIDAVIT OF JEFFREY DUFFIN

STATE OF IDAHO)

ss.

County of Bingham)

JEFFREY DUFFIN, being first duly sworn under oath, deposes and states that he is a Plaintiff and stockholder in Aberdeen-Springfield Canal Company (hereafter "ASCC") and he makes this affidavit to the best of his knowledge, information and belief.

1. ASCC is an Idaho 'Carey' Act corporation duly authorized as a water users association

that provides water to stockholders who use the water to irrigate approximately 62,000 acres of real property in Idaho. ASCC has nearly 500 stockholders, including me and my wife Chana Duffin.

2. ASCC holds natural flow, storage, and groundwater rights. ASCC's primary source of water is 1,072.1 cfs of natural flow from the Snake River with a priority date of February 6, 1895 and 230 cfs of natural flow from the Snake River with a priority date of April 1, 1939. ASCC is one of the largest storage water holders in the upper Snake River.

3. ASCC delivers irrigation water to its stockholders through a delivery system of approximately 200 miles of canals and laterals extending from its diversion from the Snake River at Rose to its terminus below American Falls Dam near Neely to serve 62,000 acres of crop land owned by its stockholders.

4. The cropland that my wife and I own is located at the end of ASCC's 'J' lateral and, since we had historical difficulty receiving our share of the water due to system capacity issues, sometime in the early 1970's a well was excavated on the property to supplement surface water deliveries. This well was permitted. This was a somewhat common occurrence in the 1960's and 1970's as conversion to sprinklers advanced across ASCC's system. Others who were similarly situated to us also converted to wells.

5. In 2013, we made an application to ASCC to move our point of diversion from the canal lateral to our well so that ASCC could take the water from the well in 2013 and 2014 as a "recovery well" to irrigate 175 acres of our real property located at Section 20, Township 5 South, Range 31 East. Our application was mandatorily required by ASCC. The ASCC Board had authority to determine the method of delivery for our lands.

6. ASCC granted our application to take our well and to operate it as a "recovery well"

under Idaho Code § 42-228. We, therefore, surrendered the well to ASCC for its operation.

ASCC has been providing the water to us for irrigation purposes through this recovery well since 2013. This has been done pursuant to the ASCC's policy adopted and implemented by its Board of Directors.

7. ASCC is currently operating 12 "recovery wells" under Idaho Code § 42-228. These wells were drilled and installed at different times under proper drilling permits, but all with the same lawful purpose.

8. It is our position, as well as ASCC's position, that Idaho Code § 42-228 clearly sets forth the authorization for the "excavation and opening of wells and the withdrawal of water therefrom by canal companies and other owners of irrigation works for the sole purpose of recovering ground water resulting from irrigation works for further use on the lands to which the established water rights of the parties constructing the wells are appurtenant". Where we own membership in ASCC, an irrigation canal company, and we are individually entitled to its surface water diversions applied to our lands, and we continue to pay ASCC's assessments, and we have had authorization to drill our well, and we take water therefrom which has resulted from irrigation under the irrigations works to our appurtenant property, we believe there has been full compliance with the language and purpose of the recovered water statute.

9. Nevertheless, Defendant Idaho Department of Water Resources ("IDWR") has issued two separate Notices of Violation to us threatening to curtail our use of the water supplied by the recovery well to irrigate our farming property. (*See* Exhibits A and B to the Complaint for Declaratory Relief filed herewith). IDWR has threatened by said Notice of Violation to charge us with over \$52,000 in civil fees/penalties and to install

locks on Monday, June 9, 2014 to prevent our continued use of the water from the recovery well. This threatened action is not only unreasonable as contrary to the intent of the statute, but if the threatened action is allowed, it could cause irreparable injury and harm to our 175 acres of farm property. This should not be allowed.

FURTHER YOUR AFFIANT SAITH NAUGHT.

Dated this 5th day of June, 2014.




JEFFREY DUFFIN

SUBSCRIBED AND SWORN to before me this 5th day of June, 2014.

(SEAL)





NOTARY PUBLIC
Residing at Pocatello, Idaho
My Commission Expires August 31, 2015

CERTIFICATE OF SERVICE

I certify that on this 4th day of June, 2014, the foregoing document was served on the following persons in the manner indicated.


Signature of person mailing form

Director, Gary Spackman Idaho Department of Water Resources PO Box 83720 Boise, ID 83720-0098 Attn: Deborah Gibson deborah.gibson@idwr.idaho.gov kimi.white@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
James Cefalo Water Master 900 N. Skyline Dr, Ste. A Idaho Falls, Idaho 83402 james.cefalo@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
John Homan Deputy Attorney General P.O. Box 83720 Boise, Idaho 83720-0098 john.homan@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Chamber's Copy Honorable Stephen S. Dunn Bannock County Courthouse 624 E. Center, Room 220 Pocatello, Idaho 83205	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail