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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, individual, as stockholders, and
as husband and wife,

Plaintiffs,

vs.

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

Defendants,

and

A&B IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, MINIDOKA
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, and TWIN FALLS
CANAL COMPANY,

Defendant-Intervenors.

Case No. CV-2014-165

**CORRECTED 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. This Corrected Affidavit of Jeffrey Duffin replaces and supersedes the Affidavit of Jeffrey Duffin dated June 6, 2014.

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 were also installing supplemental wells.

5. In 2013, we told ASCC we desired to receive our canal water for the upcoming season. The General Manager informed us of the Company's policy that we might be required to take our canal water from the existing well on our property, and that he Board of Directors had authority to determine the method of delivery to our lands. We completed ASCC's Application to Change or Add a Point of Delivery, paid the fee, and were informed in April, 2013 by the General Manager that the application had been approved and we were going to be required to take our delivery from the well.

6. As the policy required, we surrendered our well to ASCC for its operation. The General Manager informed us that since our mainline was not suitable for the type of flow meter the Company requires, he would be out at least once a week to measure how much water we were pumping and that it would be taken off our allocation balance but that we would have to make changes to the mainline to install a flow meter before the next season. ASCC has been providing the water to us for irrigation purposes through this recovery well since 2013.

7. 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". As we are shareholders 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.

8. 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 17 day of November, 2014.

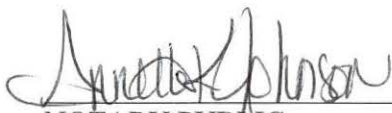


JEFFREY DUFFIN

SUBSCRIBED AND SWORN to before me this 17th day of November, 2014.

(SEAL)





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

CERTIFICATE OF SERVICE

I certify that on this 18 day of November, 2014, the foregoing document was served on the following persons in the manner indicated.

Randall C. Budge

Signature of person mailing form

Clerk of the District Court Snake River Basin Adjudication P.O. Box 2707 253 Third Avenue North Twin Falls, Idaho 83303-2707	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid Facsimile Overnight Mail Hand Delivery E-mail
John K. Simpson Travis L. Thompson Paul L. Arrington Barker Rosholt & Simpson LLP P.O. Box 485 Twin Falls, Idaho 83303-0485 tlt@idahowaters.com jks@idahowaters.com pla@idahowaters.com	U.S. Mail/Postage Prepaid Facsimile Overnight Mail Hand Delivery <input checked="" type="checkbox"/> E-mail
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