SHELLEY M. DAVIS, being first duly sworn upon oath, deposes and says:

1. I am an attorney in the firm Barker Rosholt & Simpson LLP providing legal representation to the Participants North Side and Twin Falls Canal Companies (hereinafter “Canal Companies”) in the above captioned matter. I am over the age of 18 and have knowledge of the documents and legal proceedings pertinent to this matter, and I make this affidavit based upon personal knowledge.

2. Attached hereto as Exhibit 1 is a true and correct copy of a January 7, 1977 letter from Stephen Allred to John Rosholt.

4. Attached hereto as Exhibit 3 is a true and correct copy of the Application for Permit for water right no. 01-7011 including amendments, and attaching the letter approving application.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Complaint filed in Ada County Case No. 62237, dated October 21, 1977.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Memorandum Decision and Order issued in Ada County Case No. 62237, dated December 10, 1979.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Idaho Supreme Court opinion in appeal no. 13794, dated November 19, 1982.

8. Attached hereto as Exhibit 7 is a true and correct copy of the May 3, 1982, letter from John Rosholt to Reed Hansen, Chairman of the Idaho Water Resource Board.

9. Attached hereto as Exhibit 8 is a true and correct copy of the July 6, 1982, memorandum from Phil Rassier to Norm Young and Wayne Haas regarding the Milner Project.

10. Attached hereto as Exhibit 9 is a true and correct copy of the November 18, 1987 letter from Director R. Keith Higginson to John Rosholt regarding Permit No. 01-7011 request for extension of time.

12. Attached hereto as Exhibit 11 is a true and correct copy of the Idaho Department of Water Resources Motion to Intervene in the FERC licensing of Milner Hydroelectric Project dated September 23, 1985.

13. Attached hereto as Exhibit 12 is a true and correct copy the FERC Order Issuing License for Project No. 2899-003, dated December 15, 1988.


15. Attached hereto as Exhibit 14 is a true and correct copy of the Swan Falls Agreement executed October 25, 1984.

16. Attached hereto as Exhibit 15 is a true and correct copy of the July 27, 2006 letter to Senator Charles Coiner from Director of the Idaho Department of Water Resources Karl Dreher.

17. Attached hereto as Exhibit 16 is a true and correct copy of the text of House Bill 800 introduced in the Idaho Legislature 2006 session.

18. Attached hereto as Exhibit 17 is a true and correct copy of the text of Senate Bill 1185 introduced in the Idaho Legislature 2009 session.

19. Attached hereto as Exhibit 18 is a true and correct copy of the April 11, 2006, agreement between the State of Idaho and Idaho Power Company regarding Idaho Power Company's subordination to recharge permit nos. 01-7054 and 37-7842.

20. Attached hereto as Exhibit 19 is a true and correct copy of the Idaho Department of Water Resources and Water Supply Bank records for recharge permit nos. 01-7054 and 37-7842.

21. Attached hereto as Exhibit 20 is a true and correct copy of the Notice of Intent to Issue License for water right no. 01-7011 dated September 5, 2007.
22. Attached hereto as Exhibit 21 is a true and correct copy of the January 9, 2007, letter from Bingham Ground Water Users, the February 5, 2007, letter from Randy Budge, and the April 13, 2007, letter from Rob Harris, all to the Idaho Department of Water Resources regarding Milner water right permit no. 01-7011.

23. Attached hereto as Exhibit 22 is a true and correct copy of North Side Canal Company and Twin Falls Canal Company v. Tuthill Petition for Preemptory Write of Mandate, Fifth Judicial District Court, in and for the State of Idaho, case no. 2007-1093.

24. Attached hereto as Exhibit 23 is a true and correct copy of the Final Order of the Director of the Idaho Department Resources Issuing Water Right License No. 01-7011 and license.

25. Attached hereto as Exhibit 24 is a true and correct copy of North Side and Twin Falls Canal Company’s Protest and Petition for Hearing for water right no. 01-7011.

26. Attached hereto as Exhibit 25 is a true and correct copy of plans for the Milner Hydroelectric Facility depicting the point of diversion above Milner Dam, and drawings depicting the places of use for irrigation water rights for Twin Falls and North Side Canal Companies.

27. Attached hereto as Exhibit 26 is a true and correct copy of the Petitions to Intervene of Idaho Water Resource Board, the Upper Snake Water Users, and the Ground Water Districts, as well as the Amended Petition to Intervene of the Idaho Water Resource Board.

28. Attached hereto as Exhibit 27 is a true and correct copy of the June 23, 2007, Memorandum of Director Karl Dreher to Senator Laird Noh and Representative Dell Raybould.

29. Attached hereto as Exhibit 28 is a true and correct copy of excerpts of the 1992 Idaho State Water Plan.
30. Attached hereto as Exhibit 29 is a true and correct copy of excerpts of the 1986 Idaho State Water Plan.

31. Attached hereto as Exhibit 30 is a true and correct copy of excerpts of the 1996 Idaho State Water Plan.

32. Attached hereto as Exhibit 31 is a true and correct copy of the 2009 Draft Resolutions of Water District 1.

33. Attached hereto as Exhibit 32 is a true and correct copy of examples of the Partial Decrees submitted to the Snake River Basin Adjudication Court pursuant to the Swan Falls Reaffirmation Agreement.

34. Attached hereto as Exhibit 33 is a true and correct copy of the State of Idaho’s Motion for Summary Judgment in SRBA sub-case no. 02-200, et seq.

35. Attached hereto as Exhibit 34 is a true and correct copy of the April 9, 1987, memorandum from L. Glenn Saxton to File for water right no. 01-7011.

36. Attached hereto as Exhibit 35 is a true and correct copy of the April 13, 1987, letter from L. Glenn Saxton to John Rosholt.

37. Attached hereto as Exhibit 36 is a true and correct copy of the May 8, 1987, letter from John Rosholt to L. Glenn Saxton.

38. Attached hereto as Exhibit 37 is a true and correct copy of September 1, 1985, letter from L. Glenn Saxton to the Canal Companies.

39. Attached hereto as Exhibit 38 is a true and correct copy of the Memorandum Decision and Order of the Fifth Judicial District Court in and for the State of Idaho in Riley v. Rowan, case no. 94-00012, dated August 28, 1997.

Dated this 5th day of March, 2010.

BARKER ROSHOLT & SIMPSON LLP

John K. Simpson, ISB No. 4242
Travis L. Thompson, ISB No. 6168
Shelley M. Davis, ISB No. 6788
Scott A. Magnuson, ISB No. 7916
BARKER ROSHOLT & SIMPSON LLP
205 North Tenth Street, Suite 520
P.O. Box 2139
Boise, ID 83701-2139

Attorneys for North Side Canal Company and Twin Falls Canal Company

SUBSCRIBED AND SWORN to before me this 5th day of November, 2009.

HEATHER REMM
NOTARY PUBLIC
STATE OF IDAHO

Notary Public for Idaho
Residing at:
Commission Expires: 12/14/2015
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of March, 2010, I served a true and correct copy of the foregoing AFFIDAVIT OF SHELLEY M. DAVIS IN SUPPORT OF CANAL COMPANIES' MEMORANDUM IN OPPOSITION TO IDAHO WATER RESOURCE BOARD, UPPER SNAKE WATER USERS' AND GROUND WATER DISTRICTS' MOTIONS FOR SUMMARY JUDGMENT upon the following persons via the method indication below:

Interim Dir., Gary Spackman
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

Randall C. Budge
Candice M. McHugh
Racine Olson Nye Budge & Bailey, Chtd.
P.O. Box 1391
Pocatello, ID 83204-1391
Fax No. (208)232-6109

Robert L. Harris, Esq.
HOLDEN KIDWELL HAHN & CRAPO, PLLC
P.O. Box 50130
1000 Riverwalk Dr., Ste. 200
Idaho Falls, ID 83405
Fax No. (208)523-9518

Lawrence Wasden
Steven L. Olsen
Michael S. Gilmore
Idaho Atty. Gen. Office
P.O. Box 83720
Boise, ID 83720-0010
Fax No. (208) 854-8073

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Facsimile

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U.S. Mail, Postage Prepaid

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Facsimile

Shelley M. Davis