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Attorneys for Milner Irrigation District, North Side
 Canal Company, and Twin Falls Canal Company

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

IN THE MATTER OF DISTRIBUTION OF)
 WATER TO VARIOUS WATER RIGHTS) **AFFIDAVIT OF WALT MULLINS**
 HELD BY OR FOR THE BENEFIT OF)
 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)
 _____)

STATE OF IDAHO)
)ss.
 County of Cassia,)

COMES NOW, Walt Mullins, and being duly sworn, deposes and says:

1. I am over the age of 18 and state the following based on my personal knowledge.
2. I am the General Manager of the Milner Irrigation District. I have held this position since December 1, 2002.

3. As Manager, my duties include assessing the District's water supply every irrigation season. The Board of Directors reviews the water supply analysis then determines the acre-foot per acre allocation for the year. Based upon carryover storage water from 2006, and predicted storage fill for 2007, on March 14, 2007, the Board voted to allocate 4 acre-feet per acre for water deliveries this year.

4. Milner holds various natural flow and storage water rights to the Snake River, dating from the early 1900's, including the following:¹

Natural Flow Rights:

| | |
|-----------------|-------------------|
| Water Right No. | 01-00009 |
| Priority Date: | April 1, 1939 |
| Diversion Rate: | 121 cfs |
| | |
| Water Right No. | 01-00017 |
| Priority Date: | November 14, 1916 |
| Diversion Rate: | 135 cfs |
| | |
| Water Right No. | 01-02050 |
| Priority Date: | October 25, 1939 |
| Diversion Rate: | 37 cfs |
| TOTAL: | 293 cfs |

Storage Space:

45,687 acre-feet in American Falls Reservoir
44,500 acre-feet in Palisades Reservoir
TOTAL: 90,187 acre-feet of storage space

5. It is my understanding that the Surface Water Coalition, on behalf of Milner, has provided the Director with information and data detailing historical water diversions and crop irrigation requirements on the Milner project. Specifically, the Coalition has made the following filings for purposes of the Director's evaluation:

- a. March 15, 2005 - *Surface Water Coalition's Response to Director's Request for Information*

¹ The following is not an exhaustive list of all claims by Milner in the SRBA. Rather, this information regarding Milner's natural flow and storage rights is taken from the Director's May 2 *Amended Order*.

- b. April 15, 2005 – *Surface Water Coalition’s Supplemental Response to Director’s Information Request*
- c. July 12, 2006 – *Affidavit of Charles E. Brockway in Support of Surface Water Coalition’s Petition for Reconsideration of Third Supplemental Order Amending Replacement Water Requirements Final 2005 & Estimated 2006*
- d. April 13, 2007 – *Surface Water Coalition 2007 Water Supply Assessment*
- e. June 18, 2007 – *Updated SWC 2007 Water Supply Assessment*

6. Pursuant to Milner’s water rights, and as recommended to the SRBA District

Court by the Idaho Department of Water Resources, Milner is authorized to irrigate 13,548 acres.

Based upon assessments and water delivery records, Milner is delivering water to approximately 13,548 acres for the 2007 irrigation season. Cropping patterns for landowners on Milner’s project are approximately the same this year as they were for the past 10 years. With the increase in dairy operations in the area over the past three to five years, Milner has seen an increase in the more consumptive use crop of hay and corn with a possible decrease in potato production.

7. According to Water District 01’s preliminary 2007 storage report, Milner’s storage space will be allocated 79,008 acre-feet this year.

8. Through June 7, 2007, Water District 01 estimates that Milner diverted 5,190 acre-feet under its natural flow water rights. Through that same period, it is estimated that Milner diverted 10,371 acre-feet from its storage water supplies. As of June 19, 2007, it is estimated that Milner has diverted 14,444 acre-feet from its storage water supplies.

9. I have reviewed the *Surface Water Coalition 2007 Water Supply Assessment* (dated April 13, 2007) and the *Updated SWC 2007 Water Supply Assessment* (dated June 18, 2007) (collectively hereinafter referred to as “2007 Supply Assessment”) prepared by Brockway Engineering, Inc. and HDR Engineering, Inc. The 2007 Supply Assessment’s “calculated irrigation requirement” for Milner, based on the first two months of diversions, is tracking

Milner's actual diversions so far this year. Based upon the 2007 Supply Assessment, temperatures are forecasted to be higher than normal throughout the irrigation season and precipitation is forecasted to be lower than normal throughout the irrigation season.

10. Based upon my observations on the Milner project through this date, temperatures have been higher than normal and we have witnessed very little precipitation. Accordingly, water demand for the landowners' crops on the Milner project is high. See Exhibit A. Based upon my experience and in reviewing Milner's historical monthly and annual diversion records from 1977-2006, this year (2007) is tracking 1988 in observed diversions.

11. In my opinion, I would estimate that Milner's monthly diversions through the rest of the 2007 irrigation season, if temperatures and demand remain high, and precipitation remains low, will closely track the diversions made in 1988. In my opinion, I am currently estimating that Milner will have between 16,500 acre-feet and 20,000 acre-feet in carryover at the end of the irrigation season.

12. Milner's monthly and annual diversions in 1988 (66,535 acre-feet) closely resemble monthly and annual diversions made in 2001 (64,453 acre-feet). These diversions include water that was wheeled for lands outside of Milner's boundaries. Water District 01 estimates that available natural flow within the district in 2007 will most closely resemble the water supply that was available in 2001. Based upon my experience and observations so far this year, climatic conditions and available water supply in 2007 will be similar to the hot and dry conditions witnessed in 1988 and 2001.

13. I am very concerned about the overall storage water supplies in Water District 01 this year, including the amount of water that will be used due to high irrigation demand throughout the basin. If the reservoir system carryover is low at the end of this season, which it

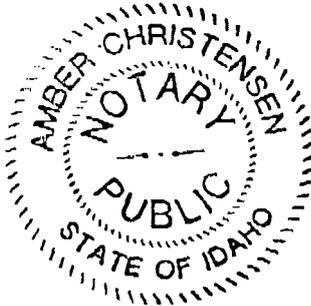
appears it will be, and the winter precipitation is lower than normal, it is likely that Milner's storage water supplies will not fill in 2008. The multi-year stress on the reservoir system resulting from below average water conditions will more than likely impact Milner's available water supplies for 2008.

FURTHER, YOUR AFFIANT SAYETH NOUGHT.

Dated this 21st day of June, 2007.

Walt O. Mullins
Walt Mullins

SUBSCRIBED & SWORN to before me this 21st day of June, 2007



Amber Christensen
Notary Public in and for the State of Idaho
My Commission Expires: 12-2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of June, 2007, I caused to be served a true and correct copy of the foregoing AFFIDAVIT OF WALT MULLINS by the method indicated below, and addressed to each of the following:

Via Email and U.S. Mail:

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Travis L. Thompson

EXHIBIT "A"

Milner Irrigation District Monthly & Annual Diversions 1977-2007

| Year | APR | MAY | JUN | JUL | AUG | SEP | OCT | Annual totals |
|------|------|-------|-------|-------|-------|-------|------|---------------|
| 2007 | 2087 | 12178 | 4291 | | | | | 18556 |
| 2006 | 298 | 9439 | 12161 | 15194 | 11145 | 5381 | 1630 | 55248 |
| 2005 | | 1054 | 11386 | 14684 | 11389 | 7140 | 1523 | 47176 |
| 2004 | 2623 | 9776 | 10322 | 9759 | ✓7872 | 4180 | 1413 | 45945 |
| 2003 | 242 | 9501 | 15995 | 15608 | 11363 | 5931 | 2291 | 60931 |
| 2002 | 623 | 10461 | 14186 | 15890 | 12452 | 6841 | 1749 | 62202 |
| 2001 | 1246 | 13141 | 15122 | 14714 | 12324 | 6029 | 1877 | 64453 |
| 2000 | 3140 | 12320 | 15745 | 16257 | 12256 | 5728 | 2023 | 67469 |
| 1999 | 268 | 6278 | 11816 | 16461 | 12403 | 5764 | 2003 | 54993 |
| 1998 | 1829 | 4124 | 10249 | 17072 | 13700 | 5597 | 1262 | 53833 |
| 1997 | 1158 | 12853 | 12318 | 15128 | 11373 | 5094 | 1539 | 59463 |
| 1996 | 1162 | 9307 | 13287 | 16098 | 11605 | 5028 | 2682 | 59169 |
| 1995 | 776 | 6617 | 7111 | 15951 | 12560 | 6006 | 1706 | 50727 |
| 1994 | | 1728 | 10144 | 14761 | 15570 | 11976 | 5104 | 59283 |
| 1993 | | | | | | | | 0 |
| 1992 | 4342 | 13865 | 11635 | 11935 | 11760 | 5012 | 0 | 58549 |
| 1991 | 470 | 6282 | 12167 | 17014 | 13652 | 5578 | 1630 | 56793 |
| 1990 | 3283 | 11683 | 11413 | 16507 | 13839 | 5883 | 2053 | 64661 |
| 1989 | 1277 | 12294 | 12312 | 15027 | 11857 | 5667 | 793 | 59227 |
| 1988 | 2081 | 12694 | 13349 | 16215 | 13623 | 5869 | 2704 | 66535 |
| 1987 | 5344 | 13095 | 13049 | 13583 | 12849 | 5403 | 1743 | 65066 |
| 1986 | 2458 | 11730 | 12022 | 15273 | 12946 | 4768 | 1012 | 60209 |
| 1985 | 270 | 12212 | 14567 | 16915 | 13101 | 5181 | 0 | 62246 |
| 1984 | 99 | 6567 | 11252 | 14726 | 11461 | 5514 | 1964 | 51583 |
| 1983 | 520 | 9197 | 14862 | 14440 | ✓5246 | 6494 | 563 | 51322 |
| 1982 | 282 | 11687 | 12605 | 15842 | 12831 | 6189 | 0 | 59436 |
| 1981 | 1045 | 1265 | 3667 | 18389 | 15957 | 7303 | 1991 | 49617 |
| 1980 | 2616 | 12050 | 8267 | 17007 | 13434 | 5215 | 2315 | 60904 |
| 1979 | 1262 | 14202 | 16534 | 19785 | 14827 | 7408 | 2541 | 76559 |
| 1978 | | 10860 | 13496 | 15523 | 13698 | 2612 | 992 | 57181 |
| 1977 | 4610 | 9501 | 10475 | 14878 | 11514 | 5536 | | 56514 |

As of June 12, 2007

Possible Carry over 16,458
 under Current Conditions 10,000 Ac Ft