

DEC 24 2015

DEPARTMENT OF WATER RESOURCES

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Irrigation District, 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 THE CITY OF IDAHO )  
FALLS MITIGATION PLAN FOR THE ) Docket No.: CM-MP-2015-005  
SURFACE WATER COALITION CALL )  
\_\_\_\_\_) **AFFIDAVIT OF TRAVIS L.**  
) **THOMPSON IN SUPPORT OF**  
IN THE MATTER OF DISTRIBUTION OF ) **SURFACE WATER COALITION'S**  
WATER TO VARIOUS WATER RIGHTS HELD ) **PETITION TO INTERVENE**  
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 TWIN FALLS )

I, TRAVIS L. THOMPSON, being first duly sworn upon oath, depose and say:

1. I am over the age of 18 and make this affidavit based upon my personal knowledge. I am one of the attorneys representing A&B Irrigation District, Burley Irrigation

District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company in this matter.

2. On October 27, 2015 I participated in a meeting with Rob Williams, counsel for the Coalition of Cities, at his office in Jerome, Idaho. Rob Harris participated in the meeting by teleconference. On that call Mr. Harris represented to me that he had filed or would be filing a mitigation plan on behalf of the City of Idaho Falls in response to the Surface Water Coalition delivery call. I requested Mr. Harris to stay processing the mitigation plan while negotiations with the cities continued, so that litigation could be avoided if possible. Mr. Harris was receptive to that request and represented that he would contact IDWR to make that request.

3. Based upon the conversation with Mr. Harris on October 27, 2015 it was my understanding that any mitigation plan filed by the City of Idaho Falls would not be processed by IDWR. Mr. Harris did not clearly indicate that the mitigation plan had been filed and would be processed by IDWR.

4. Mr. Harris did not send a copy of the mitigation plan to me at the time of its filing on October 19, 2015.

5. Even after that teleconference on October 27, 2015, Mr. Harris never sent a copy of the mitigation plan to me, my clients, or any of the other Coalition counsel of record (John Simpson, Paul Arrington, and Kent Fletcher).

6. Just two after the teleconference, on October 29, 2015, IDWR sent Mr. Harris a letter advising of the legal notice for the mitigation plan that it was prepared to submit to four (4) regional newspapers. Mr. Harris never advised me of this development with IDWR or that he would fail to request IDWR to not process the mitigation plan.

7. On November 30, 2015 I was reviewing IDWR's website and noticed that a protest to the Idaho Falls mitigation plan had been filed by New Sweden Irrigation District. The legal notices had not been posted to the website at this time.

8. On November 30, 2015 I contacted Deborah Gibson at the IDWR state office in Boise by electronic mail and asked whether notice of the mitigation plan had been published, and if so when it was published. Attached hereto as Ex. 1 is a true and correct copy of my email correspondence with Ms. Gibson.

9. Ms. Gibson responded that "nothing had been scheduled yet" and that she would forward the request to the Director and attorney Garrick Baxter for their responses. *See* Ex. 1. I did not receive a response from either after that date.

10. Based upon Ms. Gibson's email it was my impression and understanding that legal notice had not been published and that the mitigation plan was not being formally processed by IDWR at that time.

11. On Wednesday December 16, 2015 I again reviewed IDWR's website and noticed for the first time that several legal notices had been posted for the mitigation plan. To my knowledge this was the first time the legal notices had been posted on the IDWR website. After reviewing those notices for the first time I realized the protest deadline was November 23, 2015. I immediately called and left Mr. Harris a message about stipulating to the Coalition's petition for intervention. I also sent Mr. Harris an email on the subject.

12. On December 17, 2015, Mr. Harris responded to my email and inquired whether IDWR sent the Coalition notice. Mr. Harris also indicated that his client the City of Idaho Falls may oppose the petition to intervene.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
TRAVIS L. THOMPSON

SUBSCRIBED AND SWORN to before me this 23 day of December 2015.



  
\_\_\_\_\_  
Notary Public, in and for the  
State of Idaho, residing at  
Twin Falls, therein.  
My Commission Expires: 4/3/18

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of December, 2015, the above and foregoing document was served on the following via first class mail, postage prepaid:

Director Gary Spackman  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

Robert L. Harris  
Holden, Kidwell, Hahn & Crapo PLLC  
P.O. Box 50130  
1000 Riverwalk Dr., Suite 200  
Idaho Falls, Idaho 83405

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

Michael A. Kirkham  
Assistant City Attorney  
City of Idaho Falls  
P.O. Box 50220  
Idaho Falls, Idaho 83405

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

New Sweden Irrigation District  
2350 West 1700 South  
Idaho Falls, Idaho 83402

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

  
\_\_\_\_\_  
Travis L. Thompson

# Exhibit

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## Travis Thompson

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**From:** Gibson, Deborah <Deborah.Gibson@idwr.idaho.gov>  
**Sent:** Monday, November 30, 2015 1:43 PM  
**To:** Travis Thompson  
**Subject:** RE: Idaho Falls Rule 43 Plan

Travis,

Nothing has been scheduled yet. I'll pass on your question to Garrick and Gary for their response.

Thanks!

Debbie

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**From:** Travis Thompson [<mailto:tt@idahowaters.com>]  
**Sent:** Monday, November 30, 2015 1:40 PM  
**To:** Gibson, Deborah  
**Subject:** Idaho Falls Rule 43 Plan

Debbie,

Has this mitigation plan been noticed yet by IDWR? If so, can you tell me the dates that it was?

<http://www.idwr.idaho.gov/legal-actions/mitigation-plan-actions/SWC/City-of-Idaho-Falls.html>

Thanks,

Travis