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RECEIVED
JAN 16 2008
DEPARTMENT OF
WATER RESOURCES

Attorney for Robert E. Fuchs (Deceased) and Donna T. Fuchs

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In re SRBA	)	SUBCASES: 21-10557 and 21-13013
	)	
Case No. 39576	)	AFFIDAVIT OF RAY RIGBY
	)	
	)	
	)	
	)	

The following is the Affidavit of Ray Rigby, filed in support of the Opposition to the Motion for Summary Judgment.

DATED this 14 day of January, 2008.



SCOTT J. SMITH

1. That he is an attorney, licensed to practice law by the State of Idaho, since _____, and resides at 2131 North 3000 West in Rexburg, Idaho, and is a member of the _____ by, Andrus & Moeller, with its office at 25 North 2nd East, in Rexburg, Idaho.

2. That your affiant is a general law practitioner, with emphasis on matters pertaining to real estate and water rights, as well as estate planning and probates, and advising clients engaged in selling and distributing fuel and energy to the public.

3. That your affiant has lived his entire life in Madison County, Idaho, except for the time he was at college and while he was an airman in the United States Army Air Corps during World War II.

4. In his various experiences in several different positions, callings and law
retainer, he has become quite familiar with the people, the lands and the water rights in all of
Eastern Idaho.

5. He is also engaged in the ownership and operation of farms and ranches in the counties of Fremont, Madison and Jefferson Counties in Idaho and their water rights.

6. In the month of June, 1956, your affiant was asked as an attorney to meet with John Tout, a longtime resident and Real Estate agent in Rexburg, Idaho, at a ranch in Fremont County, Idaho, so that Mr. Tout could show me the lands and water diversions involved in a sale he was handling for Earl and Eula Barney to George and Lela Nedrow.

7. Your remember the incident because it was a beautiful spring day, and Mr. Tout showed him the stone fly that was hatching and what good bait they would be for fishing in the Snake River running along the lands they were looking at.

8. In quite a lengthy recitation of the history of the area by Mr. Tout, and particularly of the history of the development of the water rights of the Upper Snake River and its tributaries, he showed your affiant a paper bound booklet containing the Decree in the case of Rexburg Irrigation Company, et al, Plaintiffs, versus Teton Irrigation Canal Company, et al, Defendants, and from this book he then pointed out the water rights that were to go with the sale of land from the Barneys to the Nedrows, and asked your affiant to prepare a deed of the land and water he designated which your affiant did and a copy of that deed is labeled Exhibit "A" and is attached hereto. Attached as Exhibit "B" is the cover page of said decree book.

9. Your affiant was really impressed with said Decree book and had never seen one before, and Mr. Tout was very impressive in using said book to identify the water rights he thought your affiant was to use with the legal description of the land he gave your affiant for drafting the said deed.

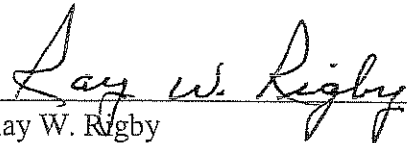
10. Your affiant followed the direction of Mr. Tout and didn't receive any direction from said Barneys, because Mr. Tout thought they didn't have the experience and ability to handle transactions such as this.

11. Your affiant drafted the deed as directed by Mr. Tout, and had the Barneys come to his office to sign it before him as a notary.

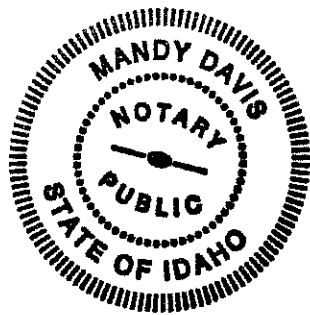
12. Your affiant asked Mr. Tout to make sure your affiant got his water Decree book when Mr. Tout retired and within a few years he sent it to your affiants office and your affiant has had it ever since.

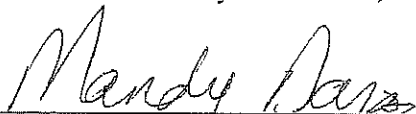
13. When the Teton Dam broke it flooded your affiants office and all his old files were lost in the flood including the office file on this matter.

DATED This 2nd day of October, 2007.


Ray W. Rigby

SUBSCRIBED AND SWORN TO before me this 2nd day of October, 2007.



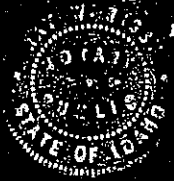

NOTARY PUBLIC FOR IDAHO
Residing at St. Anthony, Idaho
My Commission Expires: 6/24/2011

...「SEAL」

Ex 9. A

STATE OF IDAHO, BOOK 63 PAGE 400
County of Madison, ss.

On this 6th day of JUNE in the year 1956, before me
Ray W. Rigby, a Notary Public in and for said State, personally appeared
Earl Barney and Eula Barney,
Known to me to be the persons, whose names are subscribed to the within instrument, and acknowledged
to me that they executed the same.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
the day and year in this certificate first above written.

Ray W. Rigby
Notary Public for the State of Idaho,
Residing at Rexburg, Idaho.

No. 284306
WARRANTY DEED
(FORM No. 510)
Earl Barney
of us
to
George W. Nedrow
et ux
Dated June 6, 1956
STATE OF IDAHO, ss.
County of Fremont
I hereby certify that this instrument
was filed for record at request of
George W. Nedrow & Co.
at 2:40 minutes past 3
o'clock PM, this 27th day of
June, 1956, in my
office, and duly entered in Book 63
at page 344
Jack A. Stone
By: Marshall
Deputy
Filed
Mail to
#22-2262

Ray W. Rely

In the District Court
of the Sixth Judicial District of the State of Idaho,
in and for the County of Fremont

DECREE

Rexburg Irrigation Company et al.
Plaintiff

Teton Irrigation Land Company et al.
Defendant

WHEREAS THE STATE OF IDAHO AND THE UNITED STATES OF AMERICA

ARE PARTIES TO THE

ACT OF MARCH 3, 1907

RELATIVE TO THE RECLAMATION OF LANDS

AND THE CONSTRUCTION OF CANALS

CERTIFICATE OF SERVICE

I hereby certify that on the 14 day of January, 2008, I caused a true, correct and complete copy of the foregoing document to be served by U.S. first-class mail, postage prepaid, upon the following unless a different method of service is indicated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

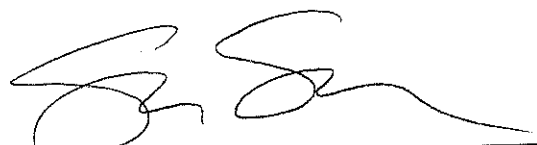
Director of IDWR
P.O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

US Department of Justice
Environment & Natl' Resources
550 West Fort Street, MSC 033
Boise, Idaho 83724

George Nedrow
1361 N 3125 East
Ashton, Idaho 83420

Robert L Harris
Representing: RLF I LLC, et al
P.O. Box 50130
Idaho Falls, Idaho 83405



SCOTT J. SMITH