

RECEIVED
DEC 28 2009
DEPARTMENT OF
WATER RESOURCES

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

SUBPOENA

SUBPOENA OF DAVID TUTHILL -- 1

the above-captioned Water Rights and Claims, including, but not limited to, the following documents:

1. All documents supporting the claim for a diversion rate in excess of 0.02 cubic feet per second per acre.
2. All documents containing or describing test results, reports or data containing any information regarding the soil, soil types, soil samples, etc., taken from or concerning the place of use claimed.
3. All documents pertaining to any crop grown on the place of use claimed.
4. All documents pertaining to ditch, seepage or transmission losses, or diversion or irrigation efficiencies, associated with the use of water.
5. All documents relating to power purchased or used in connection with any pump or irrigation system for diversion, delivery, transmission, or application of any water.
6. All documents or records of actual water diversions, water measurements, water use, water application, or water deliveries.
7. All documents pertaining to any purposes of use asserted for the rights and claims.
8. All documents relating to the workings, status or existence of the Andrews Ditch Company.
9. All documents relating to the place of use of the water rights.
10. All documents relating to the total number of acres actually irrigated by the water rights.
11. All documents relating to the decision by IDWR to invalidate the historic

Andrews Ditch Company-based water rights captioned above.

12. All documents relating to the period of year element of the rights and claims.

13. All documents relating to involvement by the Boise Project Board of Control in these rights and claims.

14. All documents relating to involvement by the Bureau of Reclamation in these rights and claims.

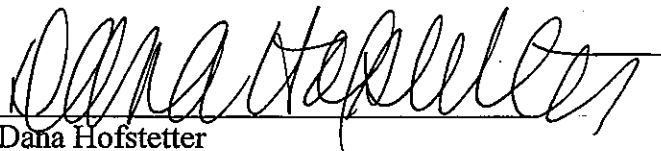
15. All documents relating to the recommendations of IDWR as to these rights and claims.

16. All documents relating to the filed objections to the recommendations of IDWR as to these rights and claims.

17. All documents relating to the filed responses to the filed objections to the recommendations of IDWR as to these rights and claims.

You are further notified that if you fail to appear at the place and time specified above, that you may be held in contempt of court and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to attend as a witness.

DATED this 24th day of December, 2009.


Dana Hofstetter

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of December, 2009, I caused to be served a true copy of the foregoing SUBPOENA by the method indicated below, and addressed to each of the following:

Albert P. Barker

Barker Rosholt & Simpson

PO Box 2139

Boise, ID 83701-2139

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
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Scott Campbell

Moffatt Thomas

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Boise, ID 83701-0829

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David Gehlert

Department of Justice

General Litigation Section

1961 Stout St., 8th Floor

Denver, Colorado 80294

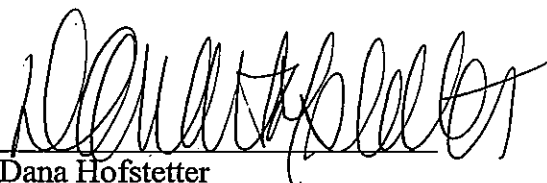
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Director, IDWR

PO Box 83720

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Dana Hofstetter