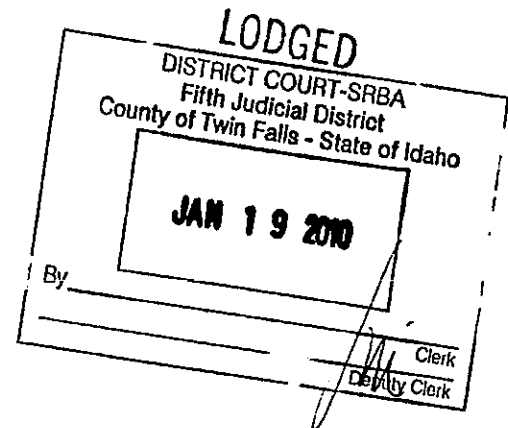


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Attorneys for
 Indian Creek Ranch Owners Association, Inc.



**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	)	Subcase Nos. 37-296A, 37-717, 37-1216
	)	and 37-7854
	)	
Case 39576	)	MEMORANDUM OF COSTS AND
	)	ATTORNEY FEES AND AFFIDAVIT OF
	)	DANA L. HOFSTETTER
	)	

COMES NOW the Indian Creek Ranch Owners Association, Inc. ("ICROA"), by and through its attorney of record, Dana L. Hofstetter, and hereby states that the fees and costs set forth in the table of fees and costs (attached hereto as Exhibit A) have been, or will be, reasonably, necessarily and actually incurred in prosecuting discovery-related motions in the above-captioned subcases since December 11, 2009. This Motion is based

MEMORANDUM OF COSTS AND ATTORNEY FEES AND AFFIDAVIT OF DANA L. HOFSTETTER -- 1

upon I.R.C.P. Rules 37 and 54. It is also based upon ICROA's Renewed Motions for Fees and Costs and to Compel Discovery (and supporting Affidavits), the latter renewed motion's related documents filed contemporaneously herewith.

AFFIDAVIT OF COUNSEL

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Dana L. Hofstetter, being first being duly sworn upon oath, deposes and says:

(1) I am Dana L. Hofstetter, counsel of record in this matter for Indian Creek Ranch Owners Association, Inc. ("ICROA");

(2) I have personal knowledge of the facts set forth herein;

(3) My firm has been engaged as counsel by ICROA on an hourly fee plus costs basis in this matter, and I am familiar with the records and method of timekeeping utilized by my firm and Mr. Schwarzkopf in this case;

(4) The table of costs and fees, attached hereto as Exhibit "A", is a true and correct copy of the billing entries for attorney fees and costs incurred by ICROA after December 11, 2009 for the purpose of obtaining good faith compliance by City of Hailey with the Court's December 7, 2009 Order concerning ICROA's Discovery Requests;

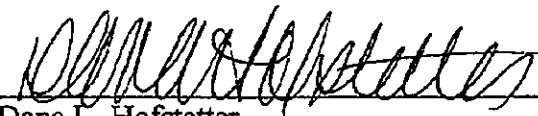
(5) To the best of my knowledge and belief, the attorney fees and costs charged, incurred, and projected in Exhibit "A", were or will be necessarily and reasonably incurred in prosecuting these efforts, and they are in compliance with IRCP

Rule 54(d);

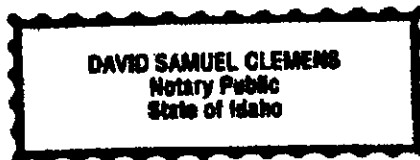
(6) Additionally, the rates charged are consistent with comparable service and rates for attorneys with my and Mr. Schwarzkopf's experience in trial work in the State of Idaho.

FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 19th day of January, 2010.


Dana L. Hofstetter

SUBSCRIBED AND SWORN to before me this 19th day of January, 2010.




Notary Public in and for the State of Idaho
Residing at: Boise, ID
My Commission Expires: 7/18/2014

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing document (including any attachments) this 19th day of January, 2010, by the pre-paid method(s) indicated below to:

IDWR
Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098
☐ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Craig Hobdey
P.O. Box 176
Gooding, Idaho 83330
☐ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Patrick D. Brown
Hutchinson & Brown
104 Lincoln Street
P.O. Box 207
Twin Falls, Idaho 83303
☐ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

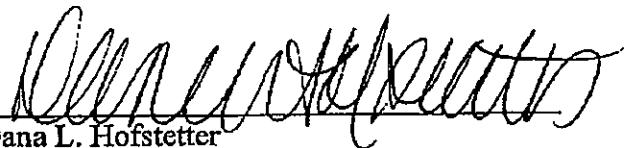

Dana L. Hofstetter

**EXHIBIT A
TABLE OF FEES¹**

12/17/09	MBS	Telephone conference with Patrick Brown regarding late discovery responses. Draft letter to Mr. Brown regarding late discovery responses.	1.00@ \$185/hr.	185.00
12/17/09	DLH	Telephone conference with Mike Schwarzkopf regarding his telephone conversation with Pat Brown about overdue discovery responses. Review and revise draft letter to Pat Brown regarding same.	0.50@ \$185/hr.	92.50
12/22/09	MBS	Review trial scheduling and sanctions options in view of continued recalcitrance of Mr. Brown in providing discovery responses. Telephone conferences with SRBA Court clerk and counsel. Draft e-mail to Mr. Brown regarding Requests for Admissions.	2.00@ \$185/hr.	370.00
12/22/09	DLH	Telephone conference with Mike Schwarzkopf regarding drafting Motions to address overdue discovery responses.	0.20@ \$185/hr.	37.00
12/29/09	MBS	Draft Motion to Extend Deadlines and second Motion for Fees and Costs regarding Mr. Brown's additional discovery failures.	4.50@ \$185/hr.	832.50
12/30/09	MBS	Review and revise Motion to Extend Deadlines and Motion for Fees and Costs	0.70@ \$185/hr.	129.50
12/30/09	DLH	Review, revise and finalize Motion to Extend Deadlines and Renewed Motion for Fees and Costs and associated documents. Arrange for filing and service of same.	2.00@ \$185/hr.	370.00
1/13/10	MBS	Prepare for and attend hearing on Motion to Extend Deadlines.	1.6@ \$185/hr.	296.00
1/13/10	DLH	Telephonically attend hearing on Motion to Extend Deadlines	0.5@ \$185/hr.	92.50
1/15/10	MBS	Review City of Hailey's Discovery Responses. Draft e-mails to Mr. Brown regarding same.	3.2@ \$185	592.00

¹ This table does not include fees and costs incurred prior to December 11, 2009 due to overdue discovery.

1/18/10	MBS	Draft response to Mr. Brown's e-mail requesting further detail about Discovery Response inadequacies in effort to meet and confer.	3.5@ \$185	647.50
1/19/10	MBS	Draft Renewed Motion to Compel, Memorandum and Affidavit for January 20, 2010 hearing.	5.0@ \$185	925.00
1/19/10	DLH	Review, revise and finalize Renewed Motion to Compel, Memorandum of Fees and Costs and arrange for filing and service of same	2.0@ \$185	370.00
1/20/10	MBS	Prepare for and telephonically attend Hearing on discovery responses.	1.0@ \$185 Est.	185.00
1/20/10	DLH	Roundtrip travel to Twin Falls for hearing. Attend hearing on discovery responses.	6.0@ \$185 Est.	1,110.00
		Total	33.7@ \$185/hr.	\$6,234.50

Costs:

1/20/10 - Mileage RT Twin Falls Boise 250 miles @ \$0.50/mile IRS rate =125.00

TOTAL (FEES AND COSTS)

\$6,359.50