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JUN 28 2010

DEPARTMENT OF
WATER RESOURCES

Dana L. Hofstetter, ISB #3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone (208) 424-7800
Facsimile: (208) 424-8774
Email: Dana@IdahoWaterLaw.com

Attorney 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	)	
	)	
	)	AFFIDAVIT OF DANA L. HOFSTETTER
	)	REGARDING HOFSTETTER DEPOSITIONS
	)	
_____	)	
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"), and the wife of Victor U. Hofstetter;

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

(3) On or about March 2, 2010, the office for counsel for Claimant City of Hailey, by letter, vacated Dana and Victor Hofstetter's (the "Hofstetters") depositions scheduled for March 18, 2010 due to Mr. Brown's planned surgery. A true and correct copy of this letter is attached hereto as Exhibit A. In this letter, the Hofstetters' available dates the week of April 26, 2010 were also requested to reschedule the depositions. *Id.* Mr. Hofstetter is the AP Calculus teacher at Borah High School in Boise and the week of

AFFIDAVIT OF DANA L. HOFSTETTER -- 1

April 26, 2010, being one week before the nationally scheduled May 5, 2010 AP Calculus exams, was a particularly inopportune time for Mr. Hofstetter to miss at least one day of work to attend the deposition in Hailey. The Hofstetters had filed the Responses in the instant Subcases prior to me being asked to represent ICROA as legal counsel in these Subcases. After I was retained as legal counsel for ICROA, I intended to withdraw the Hofstetters' Responses in the instant Subcases. *Id.*

(4) On or prior to March 17, 2010, the date of the City Of Hailey's 30(b)(6) deposition of ICROA, I informed Claimant's counsel, Pat Brown, of my intention of withdrawing the Hofstetters' Responses in these four Subcases and indicated that this should preclude the need for scheduling the Hofstetters' Depositions. Mr. Brown did not respond, suggesting that he concurred with this approach.

(5) Neither Mr. Brown, nor his office, contacted me further to attempt to reschedule the Hofstetters' depositions until filing the June 16, 2010, Motion to Compel.

(6) Putting aside my legal representation of ICROA in the above-captioned Subcases, the Hofstetters would have virtually no knowledge concerning the matters at issue in these Subcases that is not generally known by the public at large.

FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 24th day of June, 2010.


Dana L. Hofstetter

SUBSCRIBED AND SWORN to before me this 24th day of June, 2010.



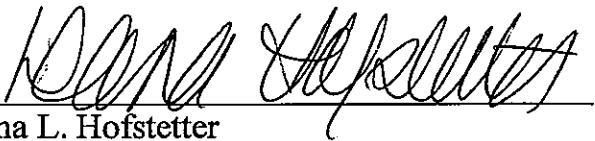

Notary Public in and for the State of Idaho
Residing at: Meridian
My Commission Expires: 01/16/2013

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing document (including any attachments) this 24th day of June, 2010, by the pre-paid method(s) indicated below to:

IDWR
Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098
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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

HUTCHINSON
&
BROWN, LLP

Keith E. Hutchinson, Esq.
Patrick D. Brown, Esq.

ATTORNEYS AT LAW

PHONE: (208) 733-9300
WATS: (800) 753-2529
FAX: (208) 733-9343

March 2, 2010

-- via fax 424-8774 / 1 page --

Dana Hofstetter
HOFSTETTER LAW OFFICE
608 W. Franklin St.
Boise ID 83702

Re: **Hailey**, City of - Water Rights

Dear Ms. Hofstetter:

Pat Brown has been scheduled for surgery on 3-18-10. Therefore, it is necessary that we reschedule the depositions of you and Victor Hofstetter.

I would appreciate it if you could let me know whether you and Mr. Hofstetter are available for deposition on any of the following dates:

April: 26, 27, 28, 29 or 30

Thank you.

Sincerely,

Connie Bell

Connie Bell, Legal Assistant

/cb

cc: Tom Hellen

104 LINCOLN STREET • P.O. BOX 207 • TWIN FALLS, IDAHO 83303-0207

