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AUG 23 2010

DEPARTMENT OF
WATER RESOURCES

COPY

Robert L. Harris, Esq. (ISB No. 7018)
rharris@holdenlegal.com
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

Attorneys for Claimant

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

Case 39576

Subcase: 22-568B, 22-7105, 22-13720,
22-13721, 22-13722, 22-13723, and
22-13434

**AFFIDAVIT IN SUPPORT OF MOTION
TO WITHDRAW AS COUNSEL OF
RECORD**

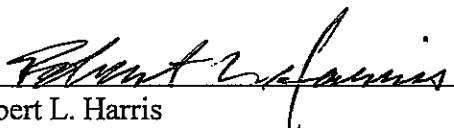
STATE OF IDAHO)
)ss.
County of Bonneville)

Robert L. Harris, being first duly sworn upon oath, deposes and says:

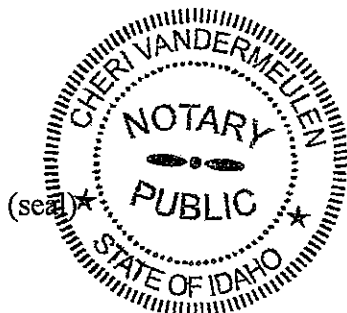
1. That he is a member of the law firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C., Idaho Falls, Idaho. That this affidavit is made from personal knowledge concerning the matters stated, except to the extent of any allegations made upon information and belief.

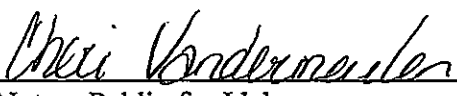
2. I am the current counsel of record for BC Properties, LLC.
3. The Claimant to the above subcases is currently involved in a civil dispute regarding some of the above subcases, and were previously represented in that litigation by Donald L. Harris of Holden, Kidwell, Hahn & Crapo, P.L.L.C.
4. Eventually, the Claimant decided to seek new counsel, and did so in the fall of 2009. Chad Marlowe of the firm Marlowe Law Office, PC was hired as its new counsel. Our understanding from the Claimant was that all matters handled by our firm were now to be handled by Mr. Marlowe.
5. I sent a Notice of Substitution of Counsel to Mr. Marlowe on September 4, 2009. It was never signed and submitted to the SRBA Court. A copy is attached at Exhibit A.
6. On March 11, 2010, I provided a letter to Ken Chambers of BC Properties, LLC outlining our firm's position. A copy is attached at Exhibit B.
7. In June 2010, Mr. Marlowe contacted me by phone, and indicated that he would not be representing BC Properties, LLC in the SRBA matters. He recommended that I file a Motion to Withdraw.
8. I cannot effectively represent the Claimant under the circumstances outlined in this Affidavit and in Exhibit B.
9. Under the circumstances, it would be best if I was permitted by the Court to withdraw as the Claimant's counsel.

DATED this 19th day of August, 2010.


Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

SUBSCRIBED and sworn to before me this 19th day of August, 2010.




Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission Expires: July 7, 2015

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, on this 19th day of August, 2010.

**DOCUMENT SERVED: AFFIDAVIT IN SUPPORT OF MOTION TO WITHDRAW
AS COUNSEL OF RECORD**

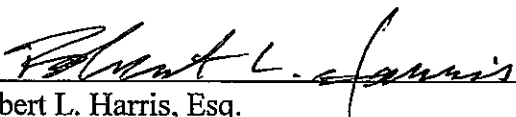
ATTORNEYS AND/OR INDIVIDUALS SERVED:

BC Properties, LLC
c/o Ken Chambers
PO Box 28
Driggs, ID 83422

☒ First Class Mail
☐ Hand Delivery
☐ Facsimile
☐ Overnight Mail
☐ Email

Ray Rigby
Rigby Andrus & Rigby, Chtd.
PO Box 250
Rexburg, ID 83440-0250

☒ First Class Mail
☐ Hand Delivery
☐ Facsimile
☐ Overnight Mail
☐ Email



Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\RLH\14304-01 BC Properties\Withdraw, Aff.wpd

Exhibit A

Robert L. Harris, Esq. (ISB #7018)
Luke H. Marchant, Esq. (ISB #7944)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 7018

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

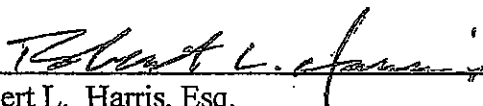
Case No. 39576

Subcase No.: 22-568B, 22-7105, 22-13720,
22-13721, 22-13722, 22-13723

**NOTICE OF SUBSTITUTION OF
COUNSEL**

Robert L. Harris of the law firm HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C., attorney of record for the Claimants in the above matter (BC Properties, LLC), hereby WITHDRAWS, as attorney for the Claimants; and Chad Marlowe of the law firm Marlowe Law Office, PC, is hereby SUBSTITUTED as counsel for the Claimants in the above matter, pursuant to Rule 11(b)(1) of the Idaho Rules of Civil Procedure.

DATED this 4th day of September, 2009.


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

DATED this _____ day of September, 2009.

Chad Marlowe, Esq.
MARLOWE LAW OFFICE, PC

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of September, 2009, I mailed the original and copies of this Notice of Substitution of Counsel, including all attachments, to the following persons:

1. Original to:

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

2. Copies to:

BC Properties, LLC
c/o Chad Marlowe
Marlowe Law Office, PC
PO Box 23
Driggs, ID 83422

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

Ray W. Rigby
25 N. 2nd E.
PO Box 250
Rexburg, ID 83440-0250

Jerald Gee
Kerry Gee
2364 E. Hwy. 33
Sugar City, ID 83448

Chad Marlowe, Esq.
MARLOWE LAW OFFICE, PC

G:\WPDATA\RLH\14304-01 BC Properties\Substitution of Counsel.wpd:cdv

Exhibit B



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

E-mail: rharris@holdenlegal.com

March 11, 2010

Ken Chambers
PO Box 28
Driggs, ID 83422

RE: Response to Voicemail Regarding Representation in the SRBA Matters.

Dear Ken:

I received your voicemail from a few weeks ago regarding my representation of BC Properties in the SRBA. As you know, Mr. Don Harris of our firm represented you in the dispute with the Gees over ownership of the water rights, and after an important attempt at summary judgment, you elected to hire new counsel to represent you in that matter. Our firm's policy has generally been that when a client removes a case from another attorney in our firm, we do not represent the client in any other matters. I previously sent a letter to you to this effect, and requested to know which attorney you wish to take over the water rights portion of this dispute, but did not hear anything from you. In a recent status conference in front of the SRBA Court, we indicated that we did not believe that we represented you. The SRBA Court therefore set a deadline of April 9, 2010, for a notice of substitution of counsel to be filed. It was our understanding that Mr. Chad Marlowe overtook the Gee litigation matter from Don Harris of our firm, and I previously sent a Notice of Substitution of Counsel to Mr. Marlowe, but it has not been filed with the SRBA Court. We have enclosed another signed copy of the Notice of Substitution of Counsel, and are copying Mr. Marlowe with this letter.

In sum, our firm will not represent you on the water rights matters now pending before the Snake River Basin Adjudication Court. We request that Mr. Marlowe execute the Notice of Substitution of Counsel and file it with the Court prior to April 9, 2010, or sooner. If we do not receive notice of such a filing before April 1st, we will file a motion to withdraw as your attorneys, and request that motion be heard on June 9, 2010, which is the same time of a current scheduled status conference in this case. If you have any questions or concerns, please let me know.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

c: Chad Marlowe

G:\WPDATA\RLH\14304-01 BC Properties\Ken Chambers ltr 031110.wpd:cdv

Established in 1896

Robert L. Harris, Esq. (ISB #7018)
Luke H. Marchant, Esq. (ISB #7944)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
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In Re SRBA

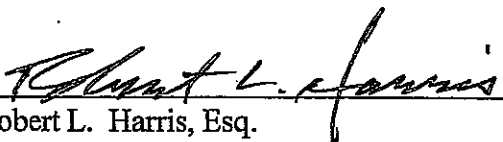
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COUNSEL**

Robert L. Harris of the law firm HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C., attorney of record for the Claimants in the above matter (BC Properties, LLC), hereby WITHDRAWS, as attorney for the Claimants; and Chad Marlowe of the law firm Marlowe Law Office, PC, is hereby SUBSTITUTED as counsel for the Claimants in the above matter, pursuant to Rule 11(b)(1) of the Idaho Rules of Civil Procedure.

DATED this 11th day of March, 2010.


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

DATED this _____ day of March, 2010.

Chad Marlowe, Esq.
MARLOWE LAW OFFICE, PC

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of March, 2010, I mailed the original and copies of this Notice of Substitution of Counsel, including all attachments, to the following persons:

1. Original to:

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

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Chad Marlowe, Esq.
MARLOWE LAW OFFICE, PC

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