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DEPARTMENT OF
WATER RESOURCES

Jerry Rigby, ISBN 2470
Hyrum D. Erickson, ISBN 7688
RIGBY, ANDRUS & RIGBY, *Chartered*
Attorneys at Law
25 North Second East
Rexburg, Idaho 83440
Telephone: 208-356-3633

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: 22-568B, 22-7105, 22-13720,
	)	22-13721, 22-13722 & 22-13723
	)	
Case 39576	)	
	)	STIPULATION
	)	
	)	
	)	
	)	

C. Kerry Gee and Kathleen F. Gee, Trustees of the Kerry and Kathleen Gee Living Trust,
the Plaintiff (hereinafter, Kerry Gee) , by and through Hyrum Erickson, of Rigby, Andrus &
Rigby, Chtd. its attorney, and Lucra Investments, Inc. and BC Properties, LLC, (hereinafter BC
Properties), Defendants, by and through their attorney, Jarin O. Hammer, hereby stipulate and
agree as follows:

WHEREAS,

Prior to March 5, 2007, water right 22-568B was a surface water right appurtenant to
property owned by Kerry Gee, with a priority date of May 25, 1898;

Prior to March 5, 2007, water right 22-7105 was a ground water right for 2.26 cfs

appurtenant to property owned by Kerry Gee with a priority date of October 10, 1974;

On March 5, 2007, Kerry Gee deeded to BC Properties a portion of the property to which water rights 22-568B and 22-7105 were appurtenant by way of a warranty deed recorded March 15, 2007, in Teton County as instrument number 185905;

Kerry Gee asserts that no water rights were transferred to BC Properties. Whereas, BC Properties asserts that all water rights appurtenant to the ground were transferred. Kerry Gee disputes BC Properties' claim that the water rights originally appurtenant to the ground were in fact deeded or transferred to BC Properties. Therefore, Kerry Gee has filed case number CV-07-311 in the District Court of Teton County to resolve this dispute. The District Court has scheduled a trial in that case to begin August 22, 2011;

On or about April 13, 2007, BC Properties filed a Notice of Change in Water Rights Ownership requesting the Department of Water Resources ("IDWR") split water rights 22-568B and 22-7105 between the property purchased by BC Properties and the property retained by Kerry Gee;

On May 30, 2007, the IDWR mailed to BC Properties and Kerry Gee a Notice of Change of Water Right Ownership and Notice of Completed Administrative Proceedings indicating that IDWR had split water right 22-568B into water rights 22-13720 (Gee's property) and 22-13721 (BC Properties's property). Furthermore, IDWR had split water right 22-7105 into water rights 22-13722 (Gee's property) and 22-13723 (BC Properties's property) and issued Snake River Basin Adjudication (SRBA) recommendations for all of the above split water rights;

THEREFORE, PARTIES STIPULATE AND AGREE AS FOLLOWS:

A. Regarding the water rights split from 22-7105 (22-13722 and 22-13723).

The parties agree to all elements of water right 22-7105 except ownership and place of use. The parties agree that the elements of the water right(s) should be as follows:

Priority date – 10/10/1974,

Source – ground water,

Point of Diversion – as set out in the IDWR's SRBA recommendations

Should the court in case number CV-07-311 rule that the contested water rights were transferred to BC Properties, Kerry Gee will withdraw his objections to the IDWR's SRBA recommendations of the water rights numbered 22-13722 & 22-13723.

Should the court in case number CV-07-311 rule that the contested water rights were retained by Kerry Gee and not transferred to BC Properties LLC, BC Properties will withdraw its SRBA claim to water right number 22-13723. The water right will return to its status prior to the IDWR's Administrative Procedure splitting the right as if it had not been split and will be owned wholly by Kerry Gee.

C. Regarding the water rights split from 22-568B (22-13720 and 22-13721).

The parties agree to all elements of the water right except ownership and place of use. The parties agree that the elements of the water right(s) should be as follows:

Priority date – 5/25/1898,

Source – South Leigh Creek,

Point of diversion – as listed on the IDWR's SRBA recommendations

Should the court in case number CV-07-311 rule that the contested water rights were

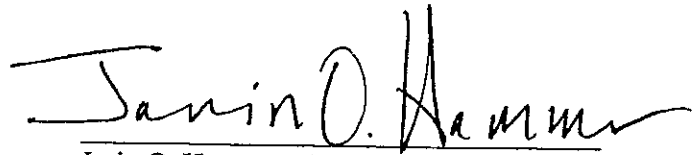
transferred to BC Properties LLC, Kerry Gee will withdraw his objection to the IDWR's SRBA recommendation of the water right numbered 22-13721.

Should the court in case number CV-07-311 rule that the contested water rights were retained by Kerry Gee and not transferred to BC Properties LLC, BC Properties will withdraw its claim to water right 22-13721. The water right will return to its status prior to the IDWR's SRBA Administrative Procedure splitting the right as if it had not been split and will be owned wholly by Kerry Gee.

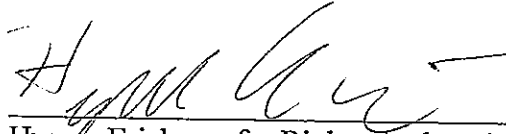
D. Regarding Gee's objection to quantity recommended for water right 22-13720.

This stipulation is not intended to address that portion of Kerry Gee's objection to the IDWR's SRBA recommendation of water right number 22-13720 which alleges that the IDWR incorrectly reduced the total amount of the original water right from 3.2 cfs to 2.0 cfs. This objection does not involve a dispute between Kerry Gee and BC Properties. Kerry Gee intends to continue to assert this objection regarding the IDWR's SRBA recommendation. If the district court finds that BC Properties is entitled to a portion of the 1898 surface water right, BC Properties will be similarly situated with Kerry Gee and each party will be responsible for defending their own respective water right.

2/16/2011
Date


Jarin O. Hammer, Attorney for Defendants

2/16/2011
Date

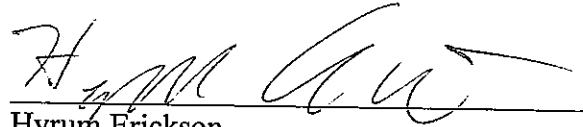

Hyrum Erickson, for Rigby, Andrus &
Rigby, Chtd., Attorney for Plaintiff

CERTIFICATE OF SERVICE BY MAIL, HAND DELIVERY
OR FACSIMILE TRANSMISSION

I hereby certify that a true and correct copy of the foregoing document was on this date served upon the persons named below, at the addresses set out below their name, either by mailing, hand delivery or by telecopying to them a true and correct copy of said document in a properly addressed envelope in the United States mail, postage prepaid; by hand delivery to them; or by facsimile transmission.

DATED this 16th day of February, 2011.

RIGBY ANDRUS & RIGBY, Chartered


Hyrum Erickson

Clerk of the District Court
Snake River Basin Adjudication
P. O. Box 2707
Twin Falls, ID 83303-2707
208-736-2121

[] Mail
[] Hand Delivery
[X] Facsimile

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

[X] Mail
[] Hand Delivery
[] Facsimile

Jarin O. Hammer
Beard, St. Clair Gaffney, PA
2105 Coronado Street
Idaho Falls, ID 83404
529-9732

[] Mail
[] Hand Delivery
[X] Facsimile