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Claimants: Dan H. and Irma R. McFaddan

Attorney Name and Address: HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389
Telephone: (208)734-7510

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 No. 36-00048A
	)	
	)	AFFIDAVIT OF PATRICK D. BROWN
Case No. 39576	)	
	)	

STATE OF IDAHO)
) ss.
County of Twin Falls)

Patrick D. Brown, being first duly sworn upon oath deposes and says:

1. I am an attorney licensed to practice in the State of Idaho. I practice with the law firm of Hepworth, Lezamiz & Hohnhorst, Chartered, and represent Dan H. McFaddan and Irma R. McFaddan.

2. On or about Wednesday, November 8, 1995, I requested my secretary, LeAnn McMillan, to contact Josephine Beeman, attorney for Faulkner Land & Livestock, May

H^cL^cH
Chartered
Hepworth,
Lezamiz &
Hohnhorst

1 Farms, Ltd. and Sand Springs Ranch Partnership, for purposes of scheduling mutually
2 convenient times to take depositions of principals of the foregoing entities.

3 3. I discussed the status of the depositions with my secretary on the
4 afternoon of Thursday, November 9, 1995. During our discussion on November 9th, I
5 informed my secretary that I would not be available on Friday, November 17th, as I had just
6 confirmed that I would be having surgery on that day. However, we needed the depositions
7 before a hearing scheduled for November 22, 1995.

8 4. I requested my secretary to attempt to schedule the depositions for
9 Monday, November 13th, or Tuesday, November 14th, if Ms. Beeman's clients could be
10 available on either of those days, or at a later time convenient to Ms. Beeman's clients,
11 which I would change my schedule to accommodate.

12 5. On Friday, November 10th at approximately 3:30 p.m. I checked with
13 my secretary on the status of the depositions. My secretary informed me that she had been
14 in contact with Ms. Beeman's office on three separate occasions and was waiting for Ms.
15 Beeman's secretary to return a call to confirm the scheduling of the depositions beginning
16 on Monday, November 13th, at 9 a.m. I instructed my secretary to proceed with service
17 of the deposition notices but to include a letter to Ms. Beeman reflecting that if the times
18 were not acceptable to please let me know so we could accommodate her and her clients.

19 6. I left my office on Friday, November 10th, at 4:45 p.m. Prior to leaving
20 my office I confirmed with my secretary that we had not received a call from Ms. Beeman's
21 office.

22 7. Upon arriving at my office on Monday, November 13th, I received a
23

1 letter from C.A. Daw that had been faxed to my office on Friday, November 10th, at
2 approximately 4:53 p.m., a copy of which is attached as Exhibit "A".

3 8. I promptly called Mr. Daw and told him that pursuant to the events of
4 the previous Friday, the deposition notices were sent with the understanding that Ms.
5 Beeman would let me know if her clients were unavailable. I sent the notices after failing
6 to get a promised response from Ms. Beeman about the unavailability of her clients. I
7 reiterated my desire and intent to cooperate fully with Ms. Beeman to schedule the
8 depositions at a mutually convenient time and requested Mr. Daw cancel the motion for
9 protective order and work amicably to resolve the matter, as I understand his office.

10 9. Subsequently, at approximately 11:29 a.m. on Monday, November
11 13th, I received by fax a letter from Mr. Daw, a copy of which is attached hereto as Exhibit
12 "B."

13 10. Mr. Daw's letter makes reference to the sequence of events leading to
14 the service of the deposition notices. Mr. Daw's recount of events is inaccurate in regard
15 to the events I have personal knowledge about.

16 11. At approximately 8:15 a.m. on Monday, November 13th, I received by
17 hand delivery a notice of taking deposition of my client, Dan H. McFaddan and Irma R.
18 McFaddan. I had never received the courtesy of a telephone call from Ms. Beeman or Mr.
19 Daw attempting to schedule a mutually convenient time for the depositions. Moreover, I
20 was not told, nor do I understand my office was told that the dates for the McFaddan
21 depositions were open, despite my attempts to accommodate counsel's schedule.

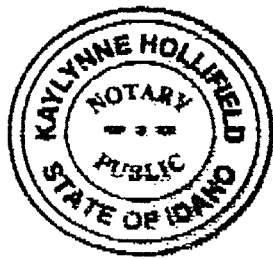
22 12. Although I have no duty, I have attempted to facilitate Ms. Beeman in
23

every way in the scheduling of her clients' depositions.

Dated this 14th day of November, 1995.

Patrick D. Brown

SUBSCRIBED and SWORN to before on November 14, 1995.



NOTARY PUBLIC FOR IDAHO

Residing at: 1001 N. 1st St.

Commission Expires: 10/30/2001

AFFIDAVIT OF PATRICK D. BROWN - 4

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CERTIFICATE OF SERVICE

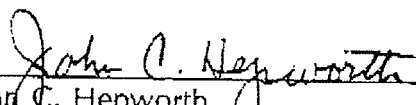
The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the claimants in this matter, certifies that on the 14th day of November, 1995, he served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Chief, Natural Resources Div.
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (Fax)

Josephine P. Beeman
Dillion, Bosch, Daw & Bock, Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
Boise, ID 83702

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy (Fax)


John C. Hepworth

(WATER\600048.AFT)