

Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
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Attorney for The Alton & Paula Huyser Trust
Under Trust Agreement Dated 4-1-2001

RECEIVED
MAY 07 2014
DEPARTMENT OF
WATER RESOURCES

**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

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**Subcase Nos.: 37-7268, 37-7454 and
37-7602**

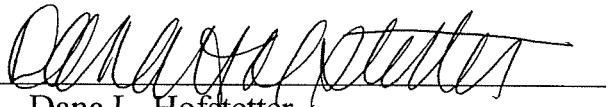
**WITHDRAWAL OF OBJECTIONS
AND MOTION TO FILE LATE
OBJECTIONS**

Comes now, The Alton & Paula Huyser Trust Under Trust Agreement
Dated 4-1-2001 ("Claimant"), by and through its counsel of record, Dana L. Hofstetter of
Hofstetter Law Office, LLC, and hereby withdraws its Objections in Subcase
Nos. 37-7268, 37-7454 and 37-7602 and its Motion to File Late Objections in Subcase
Nos. 37-7454 and 37-7602, based on the Idaho Department of Water Resources'

("IDWR") agreement to put the clarifying letter of Claimant's counsel dated April 28, 2014, in IDWR's water right and adjudication files for Water Right Nos. 37-7268, 37-7454, 37-7602 and 37-8679. A copy of said letter of Claimant's counsel dated April 28, 2014, is attached hereto as Exhibit A. A copy of Idaho Deputy Attorney General Meghan Carter's email to Claimant's counsel, dated April 29, 2014, agreeing on behalf of IDWR to placing counsel's April 28, 2014, letter in IDWR's files for these water rights is attached hereto as Exhibit B.

DATED this 6th day of May, 2014.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter

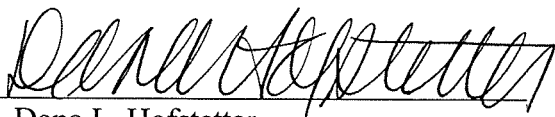
CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of May, 2014, I caused to be served copies of the foregoing document (with Exhibits) by the methods indicated below:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax



Dana L. Hofstetter

4018.2/10784

HOFSTETTER LAW OFFICE

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Boise, Idaho 83702

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Attorney at Law

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April 28, 2014

Via Facsimile and U.S. Mail

Jeff Peppersack
Bureau Chief – Water Allocation Bureau
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Steve Clelland
Senior Water Resource Agent
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Water Right Nos. 37-7268, 37-7454, 37-7602 and 37-8679

Dear Mr. Peppersack and Mr. Clelland:

I appreciate the opportunity to have met with you and Steve Clelland, along with Idaho Deputy Attorneys General Meghan Carter and Emmi Blades, on April 7, 2014, to discuss the surface water remarks in the SRBA Director's Report Recommendations for Water Right Nos. 37-7268, 37-7454 and 47-7602. As you know, Steve Clelland has confirmed that those remarks originated from Transfer No. 70444, which involved the creation of a 489 acre permissible place of use for ground water Right Nos. 37-7454, 37-7602, 37-7268 and 37-8679 and the addition of approximately 31 acres in Lot 8 of Section 19, Township 6 South, Range 19 East, B.M. to the place of use for these rights.

It was through the approval process for Transfer No. 70444 that the following two (2) remarks became associated with these water rights due to the Big Wood Canal Company shares associated with the approximately 31 acres added to these water rights' place of use:

The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

Blumberg No. 5008

EXHIBIT

A

Based on Transfer No. 70444, the Idaho Department of Water Resources ("IDWR") now has included these two remarks in its SRBA Director's Report Recommendations for Water Right Nos. 37-7268, 37-7454 and 37-7602. I enclose a copy of Big Wood Canal Company Stock Certificate No. 12816 provided to me by the Huysers which confirms that the only Big Wood Canal Company shares held by the Huysers are associated with the approximately 31 acres in Lot 8 of Section 19, Township 6 South, Range 19 East, B.M. As you will note from the enclosed certificate, the Huysers have only 25 shares in the Big Wood Canal Company which the certificate indicates corresponds to 1/80 of a cubic foot per second ("cfs") per share, or about 0.31 cfs for 25 shares.

As discussed at the April 7, 2014, meeting, the Huysers are concerned that the two remarks quoted above could be misinterpreted to apply to more of the 489 acre permissible place than just the 31 acres in Lot 8 of Section 19, Township 6 South, Range 19 East. At the April 7, 2014, meeting Mr. Peppersack explained that these two remarks are only intended to apply to the portion of the permissible place of use that also has surface water rights associated with it. Accordingly, Mr. Peppersack further explained that under the wording of these remarks, ground water Right Nos. 37-7268, 37-7454, 37-7602 and 37-8679 may be used on any acreage of the permissible place of use not having surface water rights, whether or not surface water is available for the approximately 31 acres having surface water rights.

For the record, I would request that IDWR includes copies of this letter in both IDWR's adjudication and water right files for all four of the above-referenced water right numbers. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosure

cc: Emmi Blades w/ enclosure *via facsimile and U.S. Mail*
Meghan Carter w/ enclosure *via facsimile and U.S. Mail*

INCORPORATED UNDER THE LAWS OF THE STATE OF IDAHO

Number 12816

-25.00- Shares

Big Wood Canal Company
Capital Stock \$150,000.00

This is to Certify, That Alton and Paula Huyser *is the owner of*
-25.00- Shares of the Capital Stock of the Big Wood Canal Company, transferable on the books of the
Company by endorsement hereon,

Each share entitles the owner thereof to receive one-eightieth of a cubic foot of water per second of time for the irri-
gation of and domestic uses of the following described land: (Pt. Lt. 8)
..... Part of Lot Eight (8)

..... Township 6 South of Range 19 East, B.M., in the County of Lincoln
and State of Idaho, and this certificate also entitles the owner to a proportionate interest in the dam, canal, reservoir, water
rights and all other rights, and franchises of this Company, based upon the number of shares finally sold, in accordance with
the contract between the Idaho Irrigation Company, Limited, and the State of Idaho, dated August 21st, 1907, as amended.

IN WITNESS WHEREOF, The Big Wood Canal Company, has caused this Certificate

to be sealed with its Corporate Seal and signed by its duly authorized officers this
21 day of January 20 09

Big Wood Canal Company

By *J. J. J. J.*
President.

Attest: *Jane M. Sabala*
Secretary.

PAR VALUE ONE DOLLAR

Subject: Huyser Trust (37-7268, -7454, -7602, & -8679) Letter for File

From: "Carter, Meghan" <Meghan.Carter@idwr.idaho.gov>

Date: 4/29/2014 3:24 PM

To: Dana Hofstetter <Dana@IdahoWaterLaw.com>

CC: "Blades, Emmi" <Emmi.Blades@idwr.idaho.gov>, "Peppersack, Jeff" <Jeff.Peppersack@idwr.idaho.gov>, "Clelland, Steve" <Steve.Clelland@idwr.idaho.gov>, "Kelly, Vicki" <Vicki.Kelly@idwr.idaho.gov>

Dana,

The Department has received and reviewed your letter dated April 28, 2014 concerning interpretation of conditions in transfer # 70444. We agree with the language and have scanned the letter to all four files and will be placing a hard copy into the files as well. This satisfies our end of the agreement concerning the above water rights and we await your withdrawal of objections to 37-7268, 37-7454 and 37-7602. We have a status conference for right 37-7268 on May 7th and hope to have everything resolved by then. Please let me know if you have any questions.

Meghan Carter

Deputy Attorney General

Natural Resources Division

Water Resources Section

322 E. Front Street, P.O. Box 83720

Boise, Idaho 83720-0098

Tel: (208) 287-4810 Fax: (208) 287-6700

meghan.carter@idwr.idaho.gov

