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RECEIVED
JUN 27 2014
DEPARTMENT OF
WATER RESOURCES

Attorneys for Shanna Foster and Jennifer Ayers

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT FOR THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Subcase Nos. 74-1615 & 74-2351

Case No. 39576

**AFFIDAVIT OF
SHANNA FOSTER**

STATE OF IDAHO)
) ss.
County of Lemhi)

Shanna Foster, being first duly sworn upon oath, deposes and says:

1. I am over the age of 18 and state the following based upon my own personal knowledge.
2. My sister is Jennifer Ayers. Jennifer and I own the water right nos. 74-1615 and 74-2351.
3. The property to which the water rights are appurtenant has been owned by my family since 1916, when the ranch was built and homesteaded by Lars Peterson. His son was named Albert Peterson. When Lars was ready to retire, he passed the ranch down to Albert.

4. Albert worked the ranch by raising grass for hay and cattle. In 1976, Albert lost his wife and his health was not good, so his great nephew, Grady Smith, began to work the ranch. Grady Smith is my father and Jennifer's father. When I reviewed the records at Lemhi County, I discovered that, in 1976, my father began paying the water assessments to Water District 74-Z. Attached hereto as **Exhibit A** is a copy of the 1976 water assessment book for Water District 74-Z.

5. In 1983, after Albert passed away, Grady gained ownership of the ranch. Attached hereto as **Exhibit B** is copy of the quit claim deed conveying ownership from Albert Peterson's estate to Grady Smith.

6. In 1976, when I was six years old, we moved to Leadore. Since at least 1983, I remember my father irrigating the property with water from Everson Creek and raising livestock.

7. Like Albert, my father worked the ranch by raising grass for hay and cattle. In 2010, when my father's health was failing, he conveyed the ranch to Jennifer and me. Attached hereto as **Exhibit C** is a copy of the quit claim deed conveying ownership from Grady Smith to Shanna Foster and Jennifer Ayers. Jennifer and I, like our father and Albert before us, are working the ranch by raising grass for pasture and leasing it to a local ranch.

8. In 2010, Jennifer and I tried to change ownership of the water rights with the Idaho Department of Water Resources (IDWR). We provided the quit claim deeds (attached to my affidavit as Exhibit B and Exhibit C) to IDWR to change ownership, but the request was returned by IDWR and our fees refunded. I do not recall why IDWR did not process the change of ownership. When ownership was not changed, I was not left with any understanding that our water rights would be lost. If I had any understanding that our water rights would be lost, I would have taken action.

9. I have always assumed our water rights were in proper order because, since we took ownership of the property in 2010 from our father, we have been billed by Water District 74-Z and paid our assessments to Water District 74-Z. Our father was always billed by Water District 74-Z and paid his assessments since 1976.

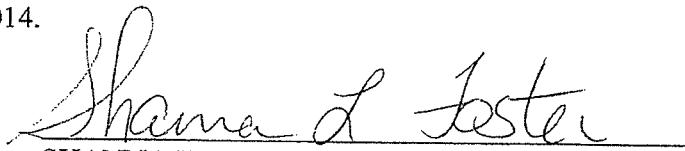
10. Since my sister and I took ownership of the property in 2010, we have always diverted water from Everson Creek, when it was available for diversion, for irrigation and stockwater.

11. It was not until late May of this year, when I had a conversation with Glenda McConnell, that I learned our water rights were in jeopardy. Glenda had recently learned that the water rights she thought she owned from Lee Creek had been decreed disallowed as unclaimed in the Snake River Basin Adjudication (SRBA). Glenda suggested that I look into our water rights.

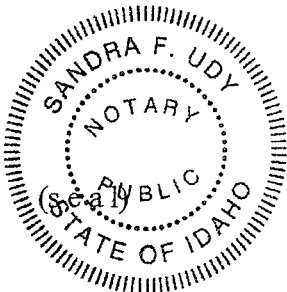
12. Shortly after learning that information from Glenda, I spoke with Carter Fritschle with IDWR and found out that our water rights were also decreed disallowed as unclaimed in the SRBA. I then engaged our attorney to represent us.

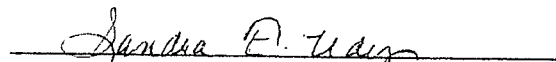
Further your Affiant sayeth naught.

DATED this 18 day of June, 2014.


SHANNA FOSTER

SUBSCRIBED AND SWORN TO BEFORE ME this 18th day of June, 2014.




NOTARY PUBLIC for Idaho
Residing at: Boise, Idaho
My Commission Expires: 09/18/2014

Affidavit of Shanna Foster

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of June 2014, I caused the following documents to be filed with the Court: *Notice of Service*, *Notice of Hearing*; *Motion to Set Aside and Memorandum in Support*; *Affidavit of Chris M. Bromley*; *Affidavit of Shanna Foster*; *Affidavit of Thomas C. Udy*; *Affidavit of Carter Fritschle*; *Affidavit of Roxanne Brown*; *Motions for Late Claims*; *Memorandum in Support of Motions for Late Claim*; *Notices of Claim*. As attested to in the *Notice of Service*, the foregoing documents were filed with the Court and true and correct copies served on the SRBA's Expedited Mailing List and water users on Everson Creek, Lee Creek, and Stroud Creek.



CHRIS M. BROMLEY

Attorneys for Shanna Foster and Jennifer Ayers

EXHIBIT A

EIGHT-MILE-74Z ~~132~~ DISTRICT

NAME OF OWNER	ADDRESS-DITCH	DESCRIPTION OF LAND	24 Hour Second Feet	Amount Due	DATE PAID			Interest	Amount Delinquent	Receipt No.	REMARKS
					Mo.	Day	Year				
Leadore, Idaho	83464			11 79	5	17	76			292	1995-1996 = 20.44 + 500 516 1.69 (1.2)
Leadore, Idaho	83464			18 44	6	2	76			293	1995-1996 = 20.44 + 500 516 1.69 (1.2)
Leadore, Idaho	83464			199 83	1	13	78	2533	22516	294	1995-1996 = 20.44 + 500 516 1.69 (1.2)
Leadore, Idaho	83464			191 55	2	2	77	1152	19155	295	203.07
Leadore, Idaho	83464			35 63	6	11	76			296	
Leadore, Idaho	83464			(5 96)						297	
Leadore, Idaho	83464			(2 91)						298	
Leadore, Idaho	83464			23 01	5	21	76			299	
Leadore, Idaho	83464			46 81	4	29	76			1	
Leadore, Idaho	83464			133 16	2	2	77	710	13316	2	140.26
Leadore, Idaho	83464			56 01	5	4	76			3	
Leadore, Idaho	83464			39 60	4	29	76			8	
Leadore, Idaho	83464			53 61	6	15	76			4	
Leadore, Idaho	83464			33 94	5	26	76			5	
Leadore, Idaho	83464			45 13	10	21	76	117		6	1995-1996 = 20.44 + 500 516 1.69 (1.2)
Leadore, Idaho	83464			87 58	4	29	76			7	
				967 22							
				916.09							

EXHIBIT B

(Optional)					
Recorded	☐	Platted	☐	Key Punched	☐
Microfilmed	☐	Deed Card	☐	Master File	☐
Indexed	☐	Compared	☐	Abstracted	☐
				To Treasurer	☐

QUITCLAIM DEED

THIS INDENTURE, Made this 8th day of September
in the year of our Lord one thousand nine hundred and eighty-three between

RUTH H. SMITH, Individually and as Personal Representative of the
Estate of Albert T. Peterson, Deceased
of Leadore County of Lemhi

State of Idaho, the part y of the first part, and GRADY R. SMITH
of Leadore County of Lemhi

State of Idaho, the part y of the second part,

whose current address is Leadore, Idaho

WITNESSETH That the said part of the first part, for and in consideration of the sum of
ONE DOLLAR (\$1.00) and clearance of title-----DOLLARS,
lawful money of the United States of America, to in hand paid by the said part of
the second part, the receipt whereof is hereby acknowledged, do by these presents remise, release
and forever QUITCLAIM, unto the said part of the second part, and to heirs and
assigns all certain lot, piece or parcel of land, situate, lying and being in
County of _____ State of Idaho, bounded and particularly
described as follows, to-wit:

Located in Lemhi County, Idaho, to-wit:

The NW $\frac{1}{4}$ SW $\frac{1}{4}$, and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5; and all of Lots 1, 2, 6, 7,
the SW $\frac{1}{4}$ NE $\frac{1}{4}$, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, all of which is located in
Township 15 North, Range 25 East, Boise Meridian, Idaho, containing
325.16 acres.

TOGETHER WITH any and all improvements located thereon, any and all
water and water rights, ditch and ditch rights appurtenant thereto or
used in connection therewith; and any and all United States Forest
Service and Bureau of Land Management range rights appurtenant thereto.

SUBJECT TO such rights for transmission line purposes as the Idaho
Power Company may have under the act of March 4, 1911, in 36 Statute
1253 as amended by 43 U.S.C. Section 961;

AND ALSO SUBJECT TO: Rights of way and easements, reservations in
Federal patents and State deeds, or other restrictions imposed by law,
building and use restrictions of record, building and zoning regula-
tions and ordinances of any governmental unit.

Location of above described property:

House No.

Street

MAIL DEED TO:

MAIL TAX NOTICE TO:

Name

Address

City & State

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set her hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

Ruth H. Smith [Seal]
Individually, and as Personal
Representative of the Estate [Seal]
of Albert T. Peterson, Deceased
[Seal]

STATE OF IDAHO

County of Lemhi

ss.

On this 31st day of October in the year 1983, before me the undersigned,

in and for said State, personally appeared RUTH H. SMITH, Individually, and as a Notary Public Personal Representative of the Estate of Albert T. Peterson, Deceased

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Gene L. Peterson
Notary Public for the State of Idaho.
Residing at *Idaho*, Idaho.

No. 170029

QUITCLAIM DEED

-TO-

Dated 1983

STATE OF IDAHO,

County of Lemhi

I hereby certify that this instrument was filed

for record at request of

James C. Herndon

at 15 minutes past 3

o'clock P. M., this 22nd

day of November, A.D. 1983

in my office, and duly recorded in Book file

of DEEDS at 2500.

Alberta Wiederrick

Ex-Officio Recorder,

Fees \$ 4.00, Deputy.

Mail to

STANDARD COMPANY, INC.

EXHIBIT C

Quitclaim Deed

For Value Received

GRADY R SMITH

does hereby convey, release, remise and forever quit claim unto:

SHANNA L FOSTER and JENNIFER JO AYERS, as their sole and separate property

Whose current address is:

PO Box 212
Leadore, ID 83464

the following described parcels located in Lemhi County, Idaho to-wit:

The NW¼SW¼ and SW¼ NW¼ of Section 5, T. 15 N., R. 25 E.

Also Including:

Lots 1, 2, 6 and 7 of Section 6, T. 15 N., R. 25 E.

Excepting therefrom:

A parcel of land located in Government Lot 2, Section 6, T. 15 N., R. 25 E., Boise Meridian, Lemhi County, Idaho, more particularly described as follows:

Beginning at the N 1/4 corner of said Section 6, from which the NE corner of said section bears S 89deg 45'00" E 2834.00 ft., the Basis Of Bearing of this description, run thence S 89deg 45'00" E along the north boundary of said section a distance of 1112.77 ft.; Thence S 13deg 33'08" W along an existing fence 1178.40 ft.; Thence continuing along an existing fence 878.01 ft. to a point on the westerly boundary of said Government Lot 2; Thence N 00deg 58'52" E along said boundary 941.44 ft. to the POINT OF BEGINNING. PARCEL CONTAINS 23.80 ACRES

Also Excepting therefrom:

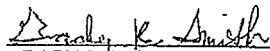
A parcel of land located in Government Lot 2 and in the SW 1/4 NE 1/4 Section 6, T. 15 N., R. 25 E., Boise Meridian, Lemhi County, Idaho, more particularly described as follows:

Commencing at the N 1/4 Corner of said Section 6 from which the C 1/4 Corner of Section 6 bears S 00°58'52" W, 2744.12 ft., the Basis Of Bearing of this description, run thence S 00deg58'52" W along the N-S Centerline of said Section 6 a distance of 941.44 ft. to the POINT OF BEGINNING;
Thence S 78°13'11" E a distance of 878.02 ft.;
Thence S 16°46'28" E a distance of 280.97 ft.;
Thence S 11°25'20" W a distance of 166.72 ft.;
Thence N 75deg54'54" W a distance of 936.04 ft. to a point on said N-S Centerline of Section 6;
Thence N 00deg58'52" E along said N-S Centerline a distance of 413.84 ft. to the POINT OF BEGINNING.

Also Including:

The SW¼NE¼ and NW¼SE¼ of Section 6, T. 15 N., R. 25 E.

Dated: March 23, 2010


GRADY R SMITH

INSTRUMENT NO:

282567

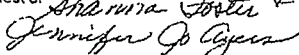
STATE OF IDAHO, COUNTY OF LEMHI

On this 23rd Day of March, 2010, before me, a notary public in and for said State, personally appeared

GRADY R SMITH

STATE OF IDAHO, COUNTY OF LEMHI

I hereby certify that this instrument was filed for record at the request of

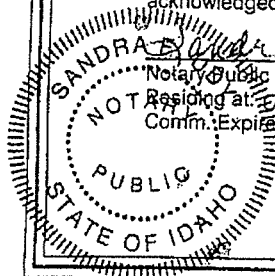


STATE OF IDAHO, COUNTY OF LEMHI

On this 23RD Day of March, 2010, before me, a notary public in and for said State, personally appeared

GRADY R SMITH

Known to me or proved to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Notary Public
Residing at: 242
Comm. Expires: 09/18/2014

INSTRUMENT NO:

282567

STATE OF IDAHO, COUNTY OF LEMHI

I hereby certify that this instrument was filed for record at the request of

Sharmma Foster +
Jennifer Jo Ayers

at 42 minutes past 3 o'clock P m.,
this 24 day of March
2010, in my office, and duly recorded in Book
of Deeds in Lemhi County.

Dee Morton

Ex-Officio Recorder

By

Sandra E. Uday

Deputy

Fees \$ 300

Mail to: LT