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Attorneys for Dry Lot LLC

RECEIVED
MAY 22 2009
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 37-22252 and TRANSFER NO.
74449 (In the Name of Dry Lot LLC)

)
) **APPLICANT DRY LOT LLC'S**
) **MOTION FOR ISSUANCE OF**
) **SUBPOENAS DUCES TECUM**
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COMES NOW, the applicant DRY LOT LLC (hereinafter "Dry Lot"), by and through its attorneys of record, BARKER ROSHOLT & SIMPSON LLP, pursuant to Rule 525 of the Department's Rules of Procedure (37.01.01.525), and hereby submits this *Motion for Issuance of Subpoenas Duces Tecum* in the above-captioned matter. Through this motion Dry Lot requests that the Director of the Idaho Department of Water Resources issue four (4) subpoenas duces tecum commanding appearance at the depositions scheduled in this matter.

MOTION

Dry Lot served discovery requests upon the Protestant Indian Creek Ranch Owners, Inc. ("Indian Creek") on December 22, 2008. Indian Creek served responses to Dry Lot's requests

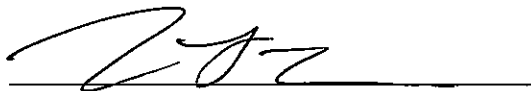
on January 9, 2009. *See Ex. A.* In response, Indian Creek failed to identify any witnesses that it will call at the hearing in this matter (scheduled for August 4 and 5, 2009). *See id.* at 3-4. Indian Creek has not supplemented its responses to Dry Lot's discovery requests and the hearing in this matter is set to begin in approximately two months. In order to have a fair and meaningful hearing, Dry Lot is entitled to discover the basis for Indian Creek's protest, including any facts or opinions it intends to offer at hearing.

Dry Lot served notices of deposition on Indian Creek's counsel on May 6, 2009. Dry Lot noticed the depositions of two Indian Creek board members, Mr. Hoff (President) and Mr. Peavey (Vice-President), as well as a Rule 30(b)(6) representative, and Mr. Steve Hannula of ERO Resources (consultant for Indian Creek). The notices were served well in advance of the scheduled depositions.

Counsel for Dry Lot has repeatedly requested confirmation of the witnesses' attendance at the scheduled depositions. To date, Ms. Hofstetter (Indian Creek's counsel) has refused to respond to these requests. Given the hearing is set to begin in approximately two months, Dry Lot must take the depositions to discover information relevant to Indian Creek's protest and adequately prepare for the hearing. Accordingly, the attached subpoenas are necessary and should be issued in this matter immediately. *See Ex. B.* For the above reasons Dry Lot's motion should be granted and requests the Director to issue the attached subpoenas duces tecum.

DATED this 21st day of May, 2009.

BARKER ROSHOLT & SIMPSON LLP


Travis L. Thompson

Attorneys for Dry Lot LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2009, I served a true and correct copy of the foregoing by email and depositing same in the United States mail, postage prepaid, addressed to the following:

Director David R. Tuthill, Jr.
IDWR
P.O. Box 83720
Boise, Idaho 83720-0098
david.tuthill@idwr.idaho.gov
victoria.wigle@idwr.idaho.gov
phil.rassier@idwr.idaho.gov

Gary Spackman (Hearing Officer)
IDWR
P.O. Box 83720
Boise, Idaho 83720-0098
gary.spackman@idwr.idaho.gov

Allen Merritt
Idaho Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, Idaho 83301-3380
allen.merritt@idwr.idaho.gov

Dana Hofstetter
608 W. Franklin St.
Boise, Idaho 83702
dana@idahowaterlaw.com

Attorney for Protestant Indian Creek Owners Assn., Inc.

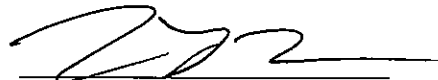

Travis L. Thompson

Exhibit A

DECLASSIFIED
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LIBRARY OF CONGRESS

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

[illegible]

COMES NOW, Indian Creek Ranch Owners Association, Inc., (hereinafter “ICROA”), by and through its attorney of record, Dana L. Hofstetter of HOFSTETTER LAW OFFICE, LLC, and hereby responds to *Applicant’s First Request for Admission, Interrogatories, and Requests for Production of Documents to Protestant* in accordance with the Idaho Department of Water Resources’ Rules of Procedure, the October 16, 2008 *Pre-Hearing Order*, and Rules 26, 33, 34, and 36 of the Idaho Rules of Civil Procedure.

GENERAL OBJECTIONS

ICROA objects to the Requests for Production, Requests for Admission and Interrogatories, including the definitions and instructions, to the extent that they can be construed

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to impose obligations that are beyond the scope of the Idaho Civil Rules and/or Idaho Department of Water Resources ("IDWR") Rules of Procedure. ICROA responds to these discovery requests in accordance with those Rules and not necessarily in accordance with the Claimant's instructions or definitions.

ICROA further objects as these discovery requests were propounded early in the case investigation process prior to when witnesses and exhibits have been identified. Therefore, ICROA reserves the right to supplement these discovery responses as case investigation proceeds and further information is identified.

ICROA objects to the Interrogatories to the extent that they (including subparts) exceed the permissible number of interrogatories allowed by the Idaho Civil Rules. ICROA further objects to these discovery requests to the extent that they seek information subject to attorney client privilege or the attorney work product doctrine or are beyond the scope of I.R.C.P. 26(b)(1). Without waiver of these objections, ICROA responds as follows:.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: Please identify yourself (the person responding to these discovery requests) and state your relationship with the Protestant.

RESPONSE TO INTERROGATORY NO. 1: Dana L. Hofstetter, attorney of record for ICROA.

INTERROGATORY NO. 2: Please identify each and every person with whom you consulted in preparing these responses.

RESPONSE TO INTERROGATORY NO. 2: Objection. Overbroad. Burdensome. Oppressive. Harassing. Ambiguous. Vague. Requests privileged attorney-client

communications. Requests attorney work product. Without waiving these objections and reserving the right to reassert the same, ICROA responds as follows: None.

INTERROGATORY NO. 3: Please identify each and every witness the Protestant intends to call (or may call) at the hearing in this matter. With respect to each of the witnesses so identified, please identify the person as a fact or expert witness, and state the subject matter and general substance of the facts and opinions to which he or she is expected to testify.

RESPONSE TO INTERROGATORY NO. 3: Objection. Premature. Compound. Overbroad. Burdensome. Oppressive. Harassing. Ambiguous. Vague. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these objections and reserving the right to reassert the same, ICROA responds as follows: The witnesses that ICROA will call at hearing have not yet been identified and this response will be supplemented in accordance with applicable deadlines when such witnesses have been determined.

INTERROGATORY NO. 4: Please identify each and every consultant or expert who has been consulted in connection with this proceeding or who has been employed or retained or engaged by the Protestant in connection with this matter or with the preparation of the protests to the above-captioned applications. With respect to each of the persons so identified, please indicate the nature and purpose of their work as it relates to this proceeding, and indicate whether the person is expected to be called as a witness.

RESPONSE TO INTERROGATORY NO. 4: Objection. Premature. Compound. Overbroad. Burdensome. Oppressive. Harassing. Ambiguous. Vague. Requests privileged attorney-client communications. Requests attorney work product. Without waiving these objections and reserving the right to reassert the same, ICROA responds as follows: The expert

witnesses that ICROA will call at hearing have not yet been identified and this response will be supplemented in accordance with applicable deadlines and requirements when such witnesses have been determined.

INTERROGATORY NO. 5: Please identify and describe each exhibit that the Protestant intends to introduce or utilize at the time of the hearing in this matter.

RESPONSE TO INTERROGATORY NO. 5: Objection. Premature. Compound. Overbroad. Burdensome. Oppressive. Harassing. Ambiguous. Vague. Requests privileged attorney-client communications. Requests attorney work product. Without waiving these objections and reserving the right to reassert the same, ICROA responds as follows: The exhibits that ICROA will use at hearing have not yet been identified and this response will be supplemented in accordance with applicable deadlines and requirements when such exhibits have been determined.

INTERROGATORY NO. 6: Please describe in full and complete detail, including the opinions of any expert or protestant representative, the basis for your contention that Dry Lot's proposed water use under application for permit #37-22252 has "potential impacts to other water right holders", including any water rights held by Protestant.

RESPONSE TO INTERROGATORY NO. 6: Objection. Compound. Overbroad. Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

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INTERROGATORY NO. 7: Please describe in full and complete detail, including the opinions of any expert or protestant representative, the basis for your contention that Dry Lot's proposed water use under application for permit #37-22252 has the potential to reduce "the quantity of water under existing water rights", including any water rights held by Protestant.

RESPONSE TO INTERROGATORY NO. 7: Objection. Compound. Overbroad. Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 8: Please describe in full and complete detail, including the opinions of any expert or protestant representative, the basis for your contention that "the water supply may be insufficient" for Dry Lot's proposed water use under application for permit #37-22252.

RESPONSE TO INTERROGATORY NO. 8: Objection. Compound. Overbroad. Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 9: Please describe in full and complete detail, including the opinions or any expert or protestant representative, the basis for your contention that Dry Lot's

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proposed water use under application for permit #37-22252 poses a “possible conflict with the local public interest”.

RESPONSE TO INTERROGATORY NO. 9: Objection. Compound. Overbroad. Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 10: Please describe in full and complete detail, including the opinions of any expert or protestant representative, the basis for your contention that Dry Lot’s proposed water use under application for transfer #74449 has “potential impacts to other water right holders”, including any water rights held by Protestant.

RESPONSE TO INTERROGATORY NO. 10: Objection. Compound. Overbroad. Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 11: Please describe in full and complete detail, including the opinions of any expert or protestant representative, the basis for your contention that Dry Lot’s proposed water use under application for transfer #74449 has the potential to “injure” other water rights, including any water rights held by Protestant.

RESPONSE TO INTERROGATORY NO. 11: Objection. Compound. Overbroad.

Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 12: Please describe in full and complete detail, including the opinions of any expert or protestant representative, the basis for your contention that Dry Lot's proposed water use under application for transfer #74449 may result in a "possible enlargement in use".

RESPONSE TO INTERROGATORY NO. 12: Objection. Compound. Overbroad.

Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 13: Please describe in full and complete detail, including the opinions of any expert or protestant representative, the basis for your contention that Dry Lot's proposed water use under application for transfer #74449 may result in a "possible inconsistency with the conservation of water resources in the State of Idaho".

RESPONSE TO INTERROGATORY NO. 13: Objection. Compound. Overbroad.

Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests

information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 14: Please describe in full and complete detail, including the opinions or any expert or protestant representative, the basis for your contention that Dry Lot's proposed water use under application for transfer #74449 poses a "possible conflict with the local public interest".

RESPONSE TO INTERROGATORY NO. 14: Objection. Compound. Overbroad. Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: This response will be supplemented as case investigation proceeds.

INTERROGATORY NO. 15: If your response to any of the Requests for Admission below, Numbers 1 through 8, was other than an unqualified admission, then for each such Request for Admission, please state with specificity each and every reason, fact, or opinion, and supporting evidence of which you are aware that prevents your unqualified admission.

RESPONSE TO INTERROGATORY NO. 15: Objection. Premature. Compound. Overbroad. Burdensome. Ambiguous. Vague. Requests information beyond the proper scope of discovery. Requests analysis of purely legal matters. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder. Without waiving these Objections and reserving the right to reassert the same, ICROA responds as follows: Approval of the subject applications

would result in violation of Idaho Code § 67-6537 and an increased burden on the aquifer within the Big Wood Ground Water Management Area. This response will be further supplemented as case investigation proceeds.

RESPONSES TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that Dry Lot's application for permit #37-22252 is consistent with the criteria of I.C. § 42-203A in that the proposed application for permit will not reduce the quantity of water under existing water rights, including any water rights held by Protestant.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Deny.

REQUEST FOR ADMISSION NO. 2: Please admit that Dry Lot's application for permit #37-22252 is consistent with the criteria of I.C. § 42-203A in that the water supply for the proposed application for permit is sufficient for the purpose for which it is sought to be appropriated.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Deny.

REQUEST FOR ADMISSION NO. 3: Please admit that Dry Lot's application for permit #37-22252 is consistent with the criteria of I.C. § 42-203A in that the proposed application for permit is made in good faith, and not for delay or any speculative purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Deny.

REQUEST FOR ADMISSION NO. 4: Please admit that Dry Lot's application for permit #37-22252 is consistent with the criteria of I.C. § 42-203A in that the proposed application for permit will not conflict with the local public interest as defined in I.C. § 42-202B.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Deny.

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REQUEST FOR ADMISSION NO. 5: Please admit that Dry Lot's application for transfer #74449 is consistent with the criteria of I.C. § 42-222 in that the proposed application for transfer will not injure any other water rights, including any water rights held by Protestant.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Deny

REQUEST FOR ADMISSION NO. 6: Please admit that Dry Lot's application for transfer #74449 is consistent with the criteria of I.C. § 42-222 in that the proposed application for transfer does not constitute an enlargement in use of the original water rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Deny

REQUEST FOR ADMISSION NO. 7: Please admit that Dry Lot's application for transfer #74449 is consistent with the criteria of I.C. § 42-222 in that the proposed application for transfer is consistent with the conservation of water resources within the State of Idaho.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Deny.

REQUEST FOR ADMISSION NO. 8: Please admit that Dry Lot's application for transfer #74449 is consistent with the criteria of I.C. § 42-222 in that the proposed application for permit will not conflict with the local public interest as defined in I.C. § 42-202B.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Deny.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce each and every document or item you may introduce as evidence at the hearing on this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Please see response to Interrogatory No. 5 above which is incorporated by reference as if set forth in full.

REQUEST FOR PRODUCTION NO. 2: Please produce each and every document that supports or was relied upon in preparing the protest.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Please see response to Interrogatory No. 5 above which is incorporated by reference as if set forth in full.

REQUEST FOR PRODUCTION NO. 4: Please produce any documents relied upon by your experts, or any consultant contacted in relation to this application for permit, including but not limited to any opinion rendered by him/her related to the application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Please see response to Interrogatory No. 5 above which is incorporated by reference as if set forth in full.

REQUEST FOR PRODUCTION NO. 5: Please produce any report, test result, or other document or information that you contend supports the protest and your position.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Please see response to Interrogatory No. 5 above which is incorporated by reference as if set forth in full.

REQUEST FOR PRODUCTION NO. 6: Please produce any documents related to any water rights acquired by Protestant, including applications for permits, permits, licenses, and decrees.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection. Premature. Compound. Overbroad. Burdensome. Ambiguous. Vague. Irrelevant. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder.

REQUEST FOR PRODUCTION NO. 7: Please produce any documents related to the use of water under any water rights held by Protestant, including water measurement data, well logs, and reports prepared by consultants.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Objection. Premature.

Compound. Overbroad. Burdensome. Ambiguous. Vague. Irrelevant. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder.

REQUEST FOR PRODUCTION NO. 8: Please produce any documents and correspondence between Protestant and its homeowner members concerning any water right and water use related matters, including the application for permit subject to this contested case.

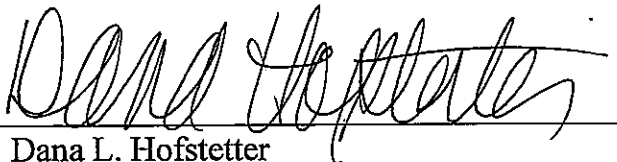
RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Objection. Premature. Compound. Overbroad. Burdensome. Ambiguous. Vague. Irrelevant. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder.

REQUEST FOR PRODUCTION NO. 9: Please produce all documents referred to in your Responses to Requests for Admissions and Answers to Interrogatories, and all documents you referenced to provide Responses to Request for Production and Answers to Interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection. Premature. Compound. Overbroad. Burdensome. Ambiguous. Vague. Irrelevant. Requests information beyond the proper scope of discovery. Requests privileged attorney-client communications. Requests attorney work product. Requests information in the possession of and/or equally available to the propounder.

DATED this 9th day of January 2009.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter
Attorney for Protestant Indian Creek
Ranch Owners Association, Inc.

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Exhibit B

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 37-22252 and TRANSFER NO.
74449 (In the Name of Dry Lot LLC)

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SUBPOENA DUCES TECUM OF
PROTESTANT INDIAN CREEK
RANCH OWNERS, INC.'S RULE
30(b)(6) DEPONENT

PROTESTANT INDIAN CREEK RANCH OWNERS, INC.
c/o Registered Agent Risa Williams
202 Apache Dr.
Hailey, Idaho 83333

[] to appear at the Hearing in this matter at the place, date and time specified below to testify in the above case.

[X] to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

[X] to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.

1. Indian Creek's water rights and historic and current diversion and use of those rights.
2. Records and measurements, or other knowledge, related to diversion from all sources under Indian Creek's water rights.
3. The bases for Indian Creek's protests to Dry Lot's applications in the above-captioned matter.

4. The governance and structure of Indian Creek, its bylaws and other policies, and information about decisions by the Indian Creek board or its officers pertaining to the above-captioned matter.
5. All documents that consist of, pertain to, or contain information on any of the above topics and not already produced to Dry Lot prior to the deposition.
6. All records and documents identified in *Applicant's First Request for Production of Documents to Protestant* served on December 22, 2008.
7. All documents the deponent reviewed in preparing for this deposition.

[] to permit inspection of the following premises at the date and time specified below.

PLACE, DATE AND TIME:

Barker Rosholt & Simpson LLP
113 Main Ave. West, Suite 303
Twin Falls, Idaho 83303-485

Deposition is to take place on Monday June 1, 2009 at 9:00 a.m.

You are further notified that if you fail to appear at the time and place specified above, or to produce or permit copying or inspection of the specified above that you may be held in contempt and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

BY ORDER OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

DATED this _____ day of May 2009.

DAVID R. TUTHILL, JR., Director

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 37-22252 and TRANSFER NO.)
74449 (In the Name of Dry Lot LLC)) **SUBPOENA DUCES TECUM OF E.**
) **BEN HOFF**
))
))
))
))

E. Ben Hoff
70 Indian Creek Rd.
Hailey, Idaho 83333

☐ to appear at the Hearing in this matter at the place, date and time specified below to testify in the above case.

☒ to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

☒ to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.

1. All records and documents identified in *Applicant's First Request for Production of Documents to Protestant* served on December 22, 2008.
2. All documents the deponent reviewed in preparing for this deposition.

☐ to permit inspection of the following premises at the date and time specified below.

PLACE, DATE AND TIME:

Barker Rosholt & Simpson LLP
113 Main Ave. West, Suite 303
Twin Falls, Idaho 83303-485

Deposition is to take place on Monday June 1, 2009 at 9:00 a.m.

You are further notified that if you fail to appear at the time and place specified above, or to produce or permit copying or inspection of the specified above that you may be held in contempt and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

BY ORDER OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

DATED this _____ day of May 2009.

DAVID R. TUTHILL, JR., Director

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 37-22252 and TRANSFER NO.
74449 (In the Name of Dry Lot LLC)

)
)
) SUBPOENA DUCES TECUM OF
) JOHN PEAVEY
)
)
)
)

John Peavey
302 Sitting Bull Dr.
Hailey, Idaho 83333

[] to appear at the Hearing in this matter at the place, date and time specified below to testify in the above case.

[X] to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

[X] to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.

1. All records and documents identified in *Applicant's First Request for Production of Documents to Protestant* served on December 22, 2008.
2. All documents the deponent reviewed in preparing for this deposition.

[] to permit inspection of the following premises at the date and time specified below.

PLACE, DATE AND TIME:

Barker Rosholt & Simpson LLP
113 Main Ave. West, Suite 303
Twin Falls, Idaho 83303-485

Deposition is to take place on Tuesday June 2, 2009 at 9:00 a.m.

You are further notified that if you fail to appear at the time and place specified above, or to produce or permit copying or inspection of the specified above that you may be held in contempt and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

BY ORDER OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

DATED this _____ day of May 2009.

DAVID R. TUTHILL, JR., Director

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 37-22252 and TRANSFER NO.
74449 (In the Name of Dry Lot LLC)

[] to permit inspection of the following premises at the date and time specified below.

PLACE, DATE AND TIME:

Barker Rosholt & Simpson LLP
113 Main Ave. West, Suite 303
Twin Falls, Idaho 83303-485

Deposition is to take place on Wednesday June 3, 2009 at 9:00 a.m.

You are further notified that if you fail to appear at the time and place specified above, or to produce or permit copying or inspection of the specified above that you may be held in contempt and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

BY ORDER OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

DATED this _____ day of May 2009.

DAVID R. TUTHILL, JR., Director