

Jerry R. Rigby (I.S.B. No. 2470)
of RIGBY, ANDRUS
& RIGBY, *Chartered*
Attorneys at Law
PO Box 250
25 North Second East
Rexburg, Idaho 83340
Telephone: (208) 356-3633
Facsimile: (208) 356-0768

Instrument # 184253

CARIBOU COUNTY

11-20-2009 10:33:20 No. of Pages: 6

Recorded for : RIGBY, ANDRUS, & MOELLER

VEDA MASCARENAS

Ex-Officio Recorder Deputy *S. Lewis* Fee: 18.00

Index to: STIPULATION

RECEIVED

OCT 25 2009

Department of Water Resources
Eastern Region

RECEIVED

OCT 27 2009

Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)

of Water Right No. 24-10772,)

STIPULATION TO DISMISS PROTEST

RVG TRUST (hereinafter "RVG"), by and through its attorney, Jerry R. Rigby, of Rigby, Andrus & Rigby, Chartered, and Ray E. and Sylvia E. Petersen Family Trust, by and through its attorney of record, A. Bruce Larson, hereby stipulate and agree as follows:

A. RVG has been in negotiation with the Idaho Department of Water Resources (IDWR) in regards to an unacceptable director's recommendation made to the Snake River Basin Adjudication (SRBA) court for water right 24-2026.

B. RVG has been able to settle with IDWR as to the unacceptable recommendation by agreeing to file a new Application for Permit for the rate (3.0 cfs) that has been historically flowing through the applicants storage ponds since prior to the commencement of the SRBA.

C. The New Application for Permit (numbered 24-10772) for 3.0 c.f.s. of recreation beneficial use was submitted, advertised and then protested by the Ray E. And Sylvia E Petersen

Stipulation to Dismiss Protest - Page - 1

\\ubuntu-server\public\SB\RVGTRUST.sti

SCANNED

OCT 28 2009

Family Trust (hereinafter "Petersen") on February 23, 2009.

D. Petersen is represented by council, A. Bruce Larson.

E. RVG also received a letter of concern from U.S. Forest Service. The letter states that the second point of diversion contained in the Application at, T8S, R46E, SEC 5, NWNESW, is located on U.S. Forest Service land and will either need to be removed from the application or will require new permission from the U.S. Forest Service.

F. The said second point of diversion contained in the Application (forest service diversion) was previously recommended to the SRBA court for existing water right 24-2026.

G. Since the forest Service diversion was pre-existing to commencement of the SRBA, the U.S. Forest Service will not require additional permission for usage for water right 24-2026.

AGREEMENT

1. RVG Trust agrees that it will amend its water right Application for Permit 24-10772 by dropping the second Point of Diversion described as T8S, R46E, SEC 5, NWNESW, located on U.S. Forest Service land.

2. RVG Trust agrees that it will continue to divert irrigation water in the amount of 0.63 c.f.s. from the diversion described as T8S, R46E, SEC 5, NWNESW (located on US Forest Service land) under its SRBA recommended water right 24-2026.

3. RVG Trust agrees to the following additional limitations:

a. There will be NO diversion by RVG Trust from the reservoirs during the irrigation season except for the historical flow through down stream to Petersen.

b. RVG Trust shall not increase the size or depth from the Ponds' present size but shall be authorized to maintain the present size by normal maintenance and, if needs be, by

excavation of silt or sediment.

c. RVG Trust shall not drain and then refill the ponds during the irrigation season causing unusual fluctuation in the stream down to Petersen. Notwithstanding this limitation, it is understood and agreed between the parties that the present recommended right in water right 24-2026 under conditions for approval #3.164 . . . "The reservoir may be refilled multiple times up to the total diversion volume in a single year." shall refer to RVG Trust's right to multiple refilling the reservoirs providing RVG Trust has not intentionally drained the reservoirs during any current irrigation season.

4. RVG Trust agrees that for the beneficial use of diversion to storage to described reservoirs in SRBA recommended right 24-2026 and new water right application 24-10772, the total combined diversion rate will be limited to the historical use of 3.0 cfs for year around use.

5. RVG will record this fully executed Agreement in the office of the Caribou County Clerk, Auditor and Recorder and send a copy with the recording information endorsed thereon to the Idaho Department of Water Resources and Peterson.

6. Petersen hereby withdraws its protest to the Application for Permit 24-10772 conditioned upon IDWR's reference to this Settlement Agreement in the approval of the Permit Application.

7. This Agreement shall be binding on the parties and their respective heirs, legal representatives, agents, successors in interest and assigns and shall inure to the benefit of such persons.

8. Each party agrees to cooperate with the other in preparing and filing the necessary documents, or taking other actions, to properly achieve the purposes of this Settlement

Agreement.

DATED this _____ day of September, 2009.

[Signature]
RVG Trust

[Signature]
Jerry R. Rigby

Ray E. and Sylvia E. Petersen Family Trust

[Signature]
A. Bruce Larson

By: [Signature]
Trustee

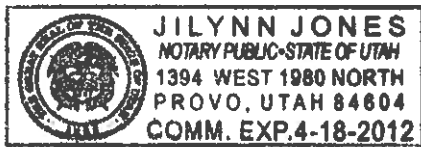
Acknowledgment by Trustee

STATE OF UTAH)

ss.

County of Utah .)

On this 13th day of October, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Norman Sorensen, known to me to be person whose name is subscribed to the within instrument as the Trustee of the RVG Trust, dated 10/13/09, and acknowledged to me that he executed the same as such Trustee.



[Signature]
Notary Public for Utah

Residing at: 1394 W. 1980 N. Provo UT 84604

My Commission expires: 4/18/2012

STATE OF IDAHO)
)
) ss.
County of Caribou)

On this 1st day of October, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Lanett Ayers, known to me to be person whose name is subscribed to the within instrument as the Trustee of the **Ray E. and Sylvia E. Petersen Family Trust**, dated _____, and acknowledged to me that she executed the same as such Trustee.

KENA ANN MOORE
NOTARY PUBLIC
STATE OF IDAHO


Notary Public for THE STATE OF IDAHO
Residing at: Soda Springs, Idaho
My Commission expires: 8/15/15

STATE OF IDAHO)
County of Caribou) ss.

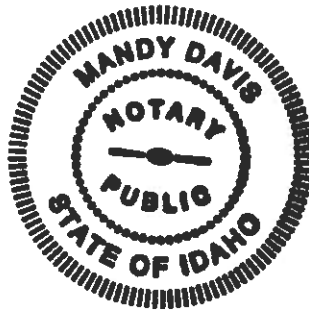
On this 1st day of October, in the year of 2009, before me, the undersigned, a Notary Public, personally appeared **A. Bruce Larson**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

KENA ANN MOORE
NOTARY PUBLIC
STATE OF IDAHO

Kenneth B. Boren
Notary Public for: THE STATE OF IDAHO
Residing at: Soda Springs, Idaho.
My Commission Expires: 8/15/15

County of Madison.)

undersigned, a Notary Public, personally appeared **Jerry R. Rigby**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.



Mandy Dano
Notary Public for Idaho
Residing at: 57 Anthony
My Commission Expires: 6.24.2011