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DEPARTMENT OF
WATER RESOURCES

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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

FRANK ASTORQUIA,)	
)	Case No. CV WA 12 14102
Petitioner,)	
)	
vs.)	PETITIONER ASTORQUIA'S
)	BRIEF IN SUPPORT OF MOTION
STATE OF IDAHO, DEPARTMENT OF)	TO DISALLOW RESPONDENT'S
WATER RESOURCES, an agency of the)	MEMORANDUM OF COSTS
State of Idaho,)	AND ATTORNEY FEES
)	
Respondent.)	
_____)	
)	
IN THE MATTER OF WATER RIGHT)	
LICENSE NO. 37-7460 IN THE NAME)	
OF FRANK ASTORQUIA AND/OR)	
JOSEPHINE ASTORQUIA)	
_____)	

Petitioner Frank Astorquia, though his counsel Beeman and Associates, P.C., files this brief in support of Astorquia's May 31, 2013 Motion to Disallow Respondent's May 15, 2013 Memorandum of Costs and Attorney Fees.

Following the filing of the May 31, 2013 Motion to Disallow Respondent's Memorandum of Costs and Attorney Fees, counsel has been advised that the Petitioner,

Frank Astorquia, will not be appealing this Court's May 7, 2013 Memorandum Decision and Order. This brief will only address the issue of the reasonableness of the Respondent's Memorandum of Costs and Attorney Fees.

The amount of attorney fees sought is not reasonable. The May 15, 2013 Affidavit of Andrea Courtney (Courtney Affidavit) that was filed by the State of Idaho in Support of its May 15, 2013 Memorandum of Costs and Attorney Fees demonstrates the following factual matters, based on Page 5 of the Courtney Affidavit:

1. No counsel for the State of Idaho attended the IDWR hearing on Petitioner Astorquia's water right 37-7460.
2. A total of 83.2 hours of attorney time are listed.
3. 48.4 hours were charged for the Respondent's brief.
4. 9.5 hours were charged for preparation for oral argument.
5. Counsel for the State of Idaho traveled to Twin Falls for the oral argument, although video teleconferencing was available in Boise.

Petitioner believes that the award of attorney fees based on 83.2 hours would be unreasonable due to the State of Idaho's decisions not to have counsel present at the March 13, 2012 IDWR administrative proceeding and to pursue the most costly means of attendance for the April 8, 2013, hearing in Twin Falls. At the very least, the driving time between Respondent's offices in Boise and the SRBA Court in Twin Falls should not be included. In addition, the 48.4 hours to prepare the brief and the 9.5 hours for preparation for oral argument should be reduced by a percentage attributable to the Respondent's decision not to have any counsel present at the March 13, 2012 IDWR administrative proceeding.

RESPECTFULLY SUBMITTED this 14th day of June 2013.

Beeman & Associates
Attorneys for Frank Astorquia

By Josephine P. Beeman
Josephine P. Beeman

CERTIFICATE OF MAILING

I hereby certify that on this 14th day of June 2013, the forgoing document was served upon the following by U.S. Mail, postage prepaid:

Garrick Baxter
Deputy Attorney General
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