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Attorney for American Falls Reservoir District #2 and Minidoka Irrigation District

IN THE SUPREME COURT OF THE STATE OF IDAHO

CITY OF BLACKFOOT;

Petitioner-Appellant,

vs.

GARY SPACKMAN, in his official capacity as Director of the Idaho Department of Water Resources, and **THE IDAHO DEPARTMENT OF WATER RESOURCES;**

Respondents-Respondents,

and

A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, AMERICAN FALLS RESERVOIR DISTRICT #2, and MINIDOKA IRRIGATION DISTRICT,

Intervenors-Respondents.

IN THE MATTER OF APPLICATION FOR PERMIT NO. 27-12261 IN THE NAME OF THE CITY OF BLACKFOOT.

Supreme Court Docket No. 44207-2016

(Bingham County Case No. CV-2015-1687)

AFFIDAVIT OF W. KENT FLETCHER IN SUPPORT OF MEMORANDUM OF COSTS AND ATTORNEY'S FEES

STATE OF IDAHO)
)
County of Cassia)

W. Kent Fletcher being first duly sworn, deposes and states:

1. He is the attorney for Intevenors-Respondents Minidoka Irrigation District (MID) and American Falls Reservoir District #2 (AFRD2) in the above entitled action.

2. To the best of his knowledge and belief, the items set forth in this Memorandum are correct and the costs claimed are in compliance with I.A.R. 40 and 41.

3. The costs and disbursements incurred by MID and AFRD2 in the above entitled action are as follows:

Attorney's fees claimed pursuant to I.A.R. 40 and 41 and Idaho Code § 12-117 as itemized on Exhibit A attached: $4,403.00.

4. Factors to be considered:

4.1. The time and labor required: The time and labor required on appeal are itemized on Exhibit A.

4.2. Novelty and difficulty of the questions: This case involved an attempt to obtain a new water right permit based upon a unique interpretation of the wording of a water right and a settlement agreement. The case involved a significant review of statutes and case law pertaining to water rights and their interpretation.

4.3. Experience and ability of attorney: W. Kent Fletcher was licensed to practice law in the State of Idaho in 1978 and since the early 1980's has represented irrigation entities in various matters, including litigation, and has significant experience in litigation.

4.4. Prevailing charges for like work: In this matter, MID and AFRD2 agreed to pay W. Kent Fletcher One Hundred Eighty-five Dollars ($185.00) per hour. It is believed by the undersigned to be customary and reasonable charge per hour for an attorney having in excess of thirty-five (35) years of experience practicing law.

4.5. Fixed or contingent: MID and AFRD2 agreed to pay W. Kent Fletcher the hourly rate described above.

4.6. Time limitations: There were no unusual time limitations in this case.

4.7. Amount involved and results obtained: The case did not involve an "amount"; rather it involved defending against an attempt to obtain a new ground water irrigation right through the use of incidental recharge as mitigation. MID and AFRD2 obtained favorable decisions in front of the Hearing Officer, Director of the Idaho Department of Water Resources, District Court, and Idaho Supreme Court.

4.8. Undesirability of the case: The case is not particularly undesirable.

4.9. Nature and length of professional relationship with client: W. Kent Fletcher has represented MID for approximately thirty-five (35) years and has represented AFRD2 for approximately five (5) years.

4.10. Awards in similar cases: The undersigned is unaware of the amounts of awards in similar cases. However, the undersigned is aware of a similar award of attorney's fees in the case of *Rangen, Inc. v. The Idaho Department of Water Resources and Gary Spackman,* Idaho Supreme Court Docket No. 42772-2015.

4.11. Automated legal research: No cost claimed.

5. Summary of Costs Claimed:

Attorney's fees claimed: $4,403.00

TOTAL	$4,403.00

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 22 day of June, 2017.

W. Kent Fletcher

DATE	DESCRIPTION OF WORK PERFORMED	HOURS	AMOUNT
5/16/2016	Review Blackfoot Notice of Appeal, Emails to and from SWC attorneys	.5	$92.50
5/17/2016	Emails to and from SWC attorneys regarding Blackfoot Appeal	.8	$148.00
6/2/2016	Review Supreme Court emails regarding Blackfoot Appeal	.3	$55.50
6/23/2016	Review Transcript of Blackfoot Hearing and email Paul Arrington	.8	$148.00
7/8/2016	Emails to and from Rob Harris and SWC attorneys regarding Blackfoot Appeal	.6	$111.00
7/12/2016	Review emails to and from SWC attorneys regarding Blackfoot Appeal Record	.5	$92.50
7/13/2016	Emails to and from SWC attorneys regarding Blackfoot Appeal Record	.3	$55.50
7/26/2016	Emails to and from SWC attorneys regarding Blackfoot Appeal	.4	$74.00
7/27/2016	Review Supreme Court Order on Blackfoot Appeal	.3	$55.50
8/5/2016	Emails to and from SWC Attorneys regarding Blackfoot Appeal	.4	74.00
8/11/2016	Emails to and from SWC attorneys regarding Blackfoot Appeal	.4	$74.00
8/24/2016	Emails to and from SWC attorneys regarding Blackfoot Appeal	.3	$55.50

10/7/2016	Review Blackfoot Supreme Court Brief	1.5	$277.50
10/10/2016	Emails to and from SWC attorneys regarding Blackfoot Appeal	.4	$74.00
10/14/2016	Review emails and documents pertaining to Blackfoot Appeal	.8	$148.00
10/27/2016	Review Blackfoot Draft Response Brief	1.0	$185.00
10/31/2016	Review and Revise Blackfoot Response Brief and email SWC attorneys	1.6	$296.00
11/1/2016	Revise Blackfoot Response Brief, email SWC attorneys	.8	$148.00
11/2/2016	Emails to and from SWC attorneys regarding Blackfoot Appeal	.3	$55.50
11/4/2016	Review IDWR Blackfoot Reply Brief, IDWR Motion to Augment Record	1.3	$240.50
11/28/2016	Review Blackfoot Reply Brief and Addendum	1.0	$185.00
1/12/2017	Emails to and from SWC attorneys regarding Blackfoot Appeal	.4	$74.00
1/17/2017	Emails to and from SWC attorneys and Idaho Supreme Court regarding Blackfoot Appeal Argument	.5	$92.50
2/7/2017	Review emails from Idaho Supreme Court and SWC attorneys regarding Blackfoot Oral Argument	.4	$74.00
2/8/2017	Emails to and from SWC attorneys, Idaho Supreme Court	.8	$148.00

	and AG's Office regarding Blackfoot Appeal		
2/9/2017	Emails to and from SWC attorneys regarding Blackfoot Oral Argument	.4	$74.00
5/11/2017	Review Appellate Briefs - Blackfoot Appeal	1.5	$277.50
5/12/2017	Attend Supreme Court Oral Argument	1.5	$277.50
6/20/2017	Review Supreme Court Opinion, emails to and from SWC attorneys and clients regarding Decision	1.5	$277.50
6/21/2017	Emails to and from Travis Thompson regarding Memorandum of Costs and Affidavit	.5	$92.50
6/21/2017	Prepare Memorandum of Costs and Affidavit, Review Time Sheets, emails to and from Travis Thompson regarding costs and fees	2.0	$370.00
TOTALS		23.8	$4,403.00

Total hours 23.8 x $185.00 = $4,403.00