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District Court - SRBA Fifth Judicial District In Re: Administrative Appeals County of Twin Falls - State of Idaho	
JUN 29 2017	
By _____	Clerk
_____	Deputy Clerk

*Attorneys for the Associations*

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

BLACK HAWK HOMEOWNERS  
 ASSOCIATION, INC. an Idaho nonprofit  
 membership corporation; IRON RIM RANCH  
 HOME OWNERS ASSOCIATION, INC., an  
 Idaho nonprofit membership corporation,

Petitioners,

v.

THE IDAHO DEPARTMENT OF WATER  
 RESOURCES,

Respondent.

IN THE MATTER OF APPLICATIONS FOR  
 PERMIT NO. 25-14428

In the name of Black Haw HOA and Iron Rim  
 Ranch HOA.

Case No. CV-2017-1141

**AFFIDAVIT OF ROBERT L. HARRIS  
 IN SUPPORT OF THE MOTION FOR  
 EXTENSION AND CONTINUANCE**

STATE OF IDAHO                     )  
   ) ss.  
 County of Bonneville            )

I, Robert L. Harris, do solemnly swear (or affirm) that I am over the age of eighteen years old; am competent to testify to the matters contained herein; and the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal

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knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. This affidavit is being submitted in accordance with Idaho Appellate Rule 34(e), as incorporated into these proceedings by Idaho Rule of Civil Procedure 84(r).
2. Petitioners' Reply Brief in this matter is presently due on July 6, 2017.
3. No prior extensions of time have been granted to petitioners, Black Hawk Homeowners Association, Inc. and Iron Rim Ranch Home Owners Association, Inc. (together, the "Associations").
4. No previous requests for extensions of time have been denied in whole or part.
5. The Associations are currently in negotiations for the purchase of a ground water right that may be transferred to the Associations' proposed place of use for Permit No. 25-14428 to authorize the irrigation of landscaping associated with homes within the subdivisions served by the Associations.
6. The Associations only became aware of the possibility to purchase the ground water right in late May, and the water right owner has now indicated that he is seeking authorization from its mortgage holder (bank) to sell a portion of the water right sufficient to satisfy the Associations' needs for water rights to irrigate landscaping.
7. The Associations believe that such a purchase and transfer of water right may resolve the contested nature of this case.
8. The Associations seek this extension of time to preserve their ability to continue negotiations and pursue ultimate settlement of this case. I believe it is best to focus time and energy on potential resolution of this matter now than to spend time and resources of all parties to this proceeding on any further briefing and preparation for oral argument.

9. Additionally, while I agreed to keep the original reply brief deadline of July 6, 2017 in response to the State of Idaho's motion for extension of time, there is more in the response briefing to respond to than I originally anticipated, which will require sufficient additional time to respond. It is also evident that with other pressing matters for other clients that need attention, I will not be able to complete the reply brief by the July 6, 2017 deadline.
10. An additional fifty-seven (57) days are necessary to allow the Associations to pursue the ground water right purchase and possibly settle this case. This additional time is necessary because, based upon prior emails between counsel in response to the State of Idaho's motion for extension of time, as the months of July and August were generally unavailable for all counsel (including counsel for the Associations) because of previously-scheduled matters and summer activities.<sup>1</sup>
11. This will make Petitioners' Reply Brief due on Thursday, August 24, 2017.
12. There is no formal stipulation to the extension of time or continuance of oral argument.
13. Oral argument is presently scheduled to occur at 1:30 p.m. on Thursday, July 6, 2017.
14. The extension of time requested for Petitioners' Reply Brief will necessitate a continuance and re-scheduling of the oral argument.
15. Counsel for the Idaho Department of Water Resources, Garrick Baxter and Emmi Blades, by email, has stated that the Idaho Department of Water Resources (*i.e.*, the Respondent in this matter) has no objection to such an extension or continuance.
16. Both counsel for the Surface Water Coalition, Travis Thompson and Kent Fletcher, are not available this week based on his email auto-response indicating that they are not available

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<sup>1</sup> It was partly because of the difficulty in finding other dates that would work for everyone that counsel for the Associations preliminarily agreed to keep the July 13, 2017 oral argument date. However, as explained in documents filed contemporaneously herewith, counsel for the Associations will not be able to complete the reply brief by July 6, 2017.

until next week and would not have access to email until that time. Counsel for the Coalition were not opposed to the State of Idaho's prior motion for extension of time, including a potential oral argument date in August. My experience with both counsel is that they will agree to requested extensions of time, and given the circumstances here, I do not believe they will object.

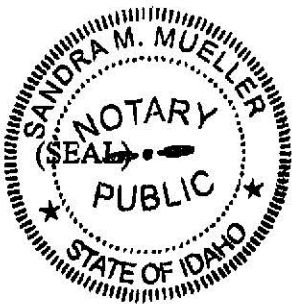
17. Accordingly, for all of these reasons, it does not appear that counsel for the Coalition will object to the extension or continuance.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 20<sup>th</sup> day of June, 2017.

Robert L. Harris  
Robert L. Harris, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.  
*Attorneys for the Associations*

SUBSCRIBED AND SWORN TO before me this 20<sup>th</sup> day of June, 2017.



Sandra M. Mueller  
Notary Public for the State of Idaho  
Residing at: Shelley, Idaho  
My Commission Expires: 07/0000

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**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the following described pleading or document on the attorneys and/or individuals listed below, by the method indicated, a true and correct copy thereof on this 29<sup>th</sup> day of June, 2017.

**Document Served:** AFFIDAVIT OF ROBERT L. HARRIS IN SUPPORT OF THE MOTION FOR EXTENSION AND CONTINUANCE

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