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 DEPARTMENT OF  
 WATER RESOURCES

*Attorney for Defendant Thomas Mecham Ricks*

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

D. L. EVANS BANK,	)	
	)	Case No.: CV OC 1317406
Plaintiff,	)	
	)	<b>ANSWER OF CROSS CLAIM</b>
vs.	)	<b>DEFENDANT THOMAS M. RICKS TO</b>
	)	<b>THE BALLENTYNE DITCH COMPANY</b>
BALLENTYNE DITCH COMPANY,	)	<b>ET AL. CROSS CLAIM AND RESTATED</b>
LIMITED; THOMAS MECHAM RICKS;	)	<b>COMPLAINT FOR INTERPLEADER</b>
GARY SPACKMAN, IN HIS OFFICIAL	)	
CAPACITY AS DIRECTOR OF THE	)	
IDAHO DEPARTMENT OF WATER	)	
RESOURCES; AARON RICKS, DIRECTOR	)	
OF BALLENTYNE DITCH COMPANY;	)	
SHAUN BOWMAN, DIRECTOR OF	)	
BALLENTYNE DITCH COMPANY; JOE	)	
KING, DIRECTOR OF BALLENTYNE	)	
DITCH COMPANY; STEVE SNEAD,	)	
DIRECTOR OF BALLENTYNE DITCH	)	
COMPANY,	)	
	)	
Defendants.	)	

COMES NOW the Defendant Thomas M. Ricks ("Ricks"), by and through his counsel of record, Chris M. Bromley of the firm, McHugh Bromley, PLLC, and hereby answers and responds the August 22, 2014 *Cross-Claim and Restated Complaint for Interpleader* ("Cross-Claim and Interpleader") filed by counsel for Ballentyne Ditch

**ANSWER OF CROSS CLAIM DEFENDANT THOMAS M. RICKS  
 TO THE BALLENTYNE DITCH COMPANY ET AL. CROSS CLAIM  
 AND RESTATED COMPLAINT FOR INTERPLEADER**

Company, Limited and its Directors, Aaron Ricks, Shaun Bowman, Joe King, and Steve Snead (collectively referred to herein as “Ballentyne”).

**RESTATED COMPLAINT FOR INTERPLEADER**

1. Ricks denies each and every allegation not specifically admitted herein;

2. In answer to Paragraph 1 of the Restated Complaint for Interpleader, Ricks admits the allegations contained therein;

3. In answer to Paragraph 2 of the Restated Complaint for Interpleader, Ricks admits the first sentence, as the dispute concerns shares of stock in Ballentyne, which are personal property, not real property. As to the second sentence, Ricks denies the allegations contained therein. Ricks further states, Judge Myers, of the United States Bankruptcy Court, allowed for DL Evans and Ricks to litigate issues relating to stock in Ballentyne in state court. Judge Myers did not allow for third party litigation or costs or fees by any third party.

4. In answer to Paragraph 3 of the Restated Complaint for Interpleader, Ricks denies the allegations contained therein.

**PRAYER FOR RELIEF**

5. In answer to Paragraph 1 of the Prayer for Relief, Ricks admits the allegations contained therein.

6. In answer to Paragraph 2 of the Prayer for Relief, Ricks admits the dispute concerns ownership of shares in Ballentyne, which are personal property, not real property, and, on that basis, Ballentyne should be dismissed or discharged from the litigation.

7. In answer to Paragraph 3 of the Prayer for Relief, Ricks denies the allegations contained therein.

8. In answer to Paragraph 4 of the Prayer for Relief, Ricks denies the allegations contained therein.

**FIRST AFFIRMATIVE DEFENSE**

9. Ricks asserts that Ballentyne's claims are barred from recovery based upon the doctrines of estoppel, res judicata, and/or waiver. Judge Myers, of the United States Bankruptcy Court, allowed for DL Evans and Ricks to litigate issues relating to stock in Ballentyne in state court. Judge Myers did not allow for third party litigation or costs or fees by any third party.

**SECOND AFFIRMATIVE DEFENSE**

10. Ricks hereby reserves the right to assert additional defenses upon completion of discovery in this matter.

**REQUEST FOR ATTORNEYS' FEES**

11. Ricks hereby requests that he be awarded his costs and attorneys' fees incurred herein pursuant to applicable law, including, but not limited to, Idaho Code §§ 12-120 and 12-121.

DATED this 4<sup>th</sup> day of September, 2014.

MCHUGH BROMLEY, PLLC



CHRIS M. BROMLEY  
*Attorneys for Thomas M. Ricks*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4<sup>th</sup> day of September, 2014, a true and correct copy of the foregoing document was served as follows:

Jason R. Naess Parsons Smith Stone Loveland & Shirley, LLP PO Box 910 Burley, ID 83318	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Delivery
John Homan Idaho Department of Water Resources PO Box 83720-0098 Boise, ID 83720	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Delivery
S. Bryce Farris Sawtooth Law Offices, PLLC PO Box 7985 Boise, ID 83707	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Delivery

  
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CHRIS M. BROMLEY