

JEFF V. WAITE
PO BOX 75
60 SAVAGE RANCH
CARMEN, IDAHO 83462
208 303-0153

Special Master Terrence A. Dolan
District Court S.R.B.A
253 Third Avenue North
Twin Falls, Idaho 83303

RE: SRBA Case No. 39576, Upper Wallace Creek, Lemhi County

Dear Special Master Dolan:

In response for your request for recommendations regarding this case, I offer the following. I respectfully request a review of the Court's conclusions of law, based upon:

- 1) The Court's inability to review all information relevant to the Upper Wallace Creek use area.
- 2) The Court's lack of knowledge (information not provided to the Court) regarding relevant occurrences within the use area, including
 - a) mudslides that have occurred on areas irrigated that were not historically irrigated.
 - b) Damages occurring to personal property due to over watering and expansion of the water conveyance system by use area claimants since the year 2000.
 - c) Dates of the expansion of the conveyance system within the use area, and to which properties.
- 3) The methodology used by IDWR technicians to determine areas of historic use has resulted in inaccurate conclusions by IDWR, which the Court has used in the determination of the outcome of this case. Numerous areas that are now recommended were never historically irrigated.
- 4) The Court's lack of information regarding two existing civil lawsuits filed by lower Wallace Creek users against upper Wallace Creek users alleging damages to their property due to over watering of areas that were never previously irrigated, those same areas which are now recommended for expanded water rights.
- 5) The Court's lack of knowledge regarding the dewatering of Wallace Creek that has occurred since upper Wallace Creek users filed claims with IDWR (since approximately the year 2000), specifically, the alteration of habitat used by fish species protected under the Endangered Species Act of 1973.

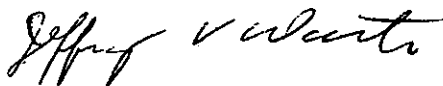
Points that I would call out to the Court that support my request for review are:

IDWR is now issuing recommendations for numerous large areas of sage steppe that were never irrigated until after the year 2000. These areas have been interpreted by IDWR as irrigated lands when in fact, they were (at best) historically dry land pasture. Other areas recommended for rights are in fact not irrigable due to extreme slope.

Evidence presented at trial does not "support IDWR's recommendation of these five Upper Wallace Creek claims."

"The uniform priority date of 1923 recommended..." does not make sense "...from a fairness standpoint.." because the Sanderson claim dated 1923 was specific to (historic) Government Lots #5, #10 and #11. Most of IDWR's current recommendations are not on ground contained within those areas. Sanderson homestead claims were conditional upon congressional approval granted through the homestead and the Colorado Ditch bill. These rights to covey are neither transferable nor applicable to adjacent lands.

Respectfully submitted,



Jeffrey V. Waite

A COPY OF THIS LETTER
AND ALL EXHIBITS
WAS PROVIDED FOR
SPECIAL MASTER DEAN
AND SENT TO
GOVERNOR OTTER'S
OFFICE IN FEBRUARY

AND ILENE ARRINGTON
291 DIAMOND CREEK ROAD
LMON, IDAHO 83467
iarrington@centurytel.net

February 17, 2010

we write today to ask for your help in addressing several issues involving Wallace Creek, in Lemhi County. Working with Mr. Jim Lukens at IDFG's Salmon regional office, we are providing to the State a conservation easement for the portion of Wallace Creek that crosses our property, including the mouth as it enters the Salmon River. It's taken almost 4 years to work through all of the issues, and happily, our closing with IDFG is now set for this week. We appreciate Mr. Lukens' support of this project. It has been our pleasure to have worked with his fisheries biologists Justin Bezold and Tom Curet on the Wallace Creek project. We look forward to returning Wallace Creek to a state of biological health. With help from IDFG and your Office of Species Conservation, we already have a major portion of the creek's problems on the way to being solved. Now, it appears that we need your help in addressing some difficult water issues.

In 2006, upon selling our environmental permitting business in south Florida, we decided to move 3200 miles to Salmon to retire. Our business was centered on habitat and protected species surveys, wetland delineations and mitigation, and obtaining the requisite federal, state and local agency environmental permitting for our land development clients. You can imagine how we felt on our arrival at our new home when we learned that, one month prior, Lemhi County had widened the culvert over Wallace Creek at our property, without permitting or engineering, where it crosses Diamond Creek Road. This action created a blockage, rendering the creek impassable to fish and thereby contributing to the impairment of the creek's biological functioning. We have since learned that, unfortunately, these "man-caused disasters" are all too common in Idaho streams.

Using NOAA's Pacific Coast Salmon Recovery Fund, your Office of Species Conservation has already provided funds to engineer the placement of a new fish-friendly culvert. This process is ongoing; along with IDFG regional fisheries biologist Justin Bezold and the engineer hired by IDFG to design the project, we will meet with the Lemhi County Commission next month to discuss the County's participation in the second phase, the actual replacement of the culvert. Lemhi County has provided IDFG a resolution in support of this project, and has already indicated a willingness to assist in the culvert installation.

As the fish have been locked out of the stream for 4 years now, we are leaning hard on Biologist Bezold for a summer, low-water installation of the culvert *this year*. Wallace Creek is designated critical rearing habitat for juvenile Chinook salmon and Snake River Basin Steelhead. An IDFG electrofishing survey conducted in 2003 (prior to the culvert blockage) shows that the creek was being used by Cutthroat Trout, Rainbow/Redband Trout (wild), and Chinook Salmon. During the springs of 2006, 2007, 2008, and 2009, we and IDFG fisheries

biologists Curet and Bezold have observed and photographed dozens of adult Steelhead using the creek on our property, loafing as they attempt to jump the raised culvert blockage, 2 ½ feet above the streambed. If things go as we hope, the obstruction will be removed this summer.

The second part of the equation—where we need your help now—regarding the impairment of Wallace Creek's biological functioning, is *"water withdrawals"*, as referred to by Mr. Lukens in his July 6, 2009 letter to us regarding prior discussions about habitat concerns and *"the diminished biological capacity of Wallace Creek."* We have also learned that, in this basin, stream dewatering and the alteration of critical fish habitat through water use practices is a very common occurrence. In addressing an IDWR request for additional information on a recent application for a new, 2008 water right to Wallace Creek water, Mr. Lukens has noted *"...IDFG would like to permanently reconnect this tributary to the mainstem Salmon River and additional water appropriation would further compromise this effort."* and, *"...IDFG has not recorded flow data in Wallace Creek, however the stream is flow impaired, at least seasonally."* and, *"...Our Fisheries and Anadromous Fish Screen programs have successfully reconnected many seasonally dewatered tributaries and in every case, documented subsequent use by ESA species. A relatively small savings in withdrawals from Wallace Creek could permanently reconnect this tributary to the main Salmon River and provide important fish habitat."* (Lukens to Cox, IDWR, 10/2/2008 RE: Water Right Application 75-14461 (Maxwell)).

It would seem—based upon Mr. Lukens comments on this and other occasions to IDWR—that ESA issues regarding dewatering of critical habitat are of great importance to the State. Add to that the management tenets defined in the *Mission, Vision, and Principals and Values* sections of the 2010 Strategic Plan for your Office of Species Conservation. And yet here, the objectives and policies of two of your agencies seem opposed. On four different occasions, to IDWR managers Nate Arave, Tim Luke, Ernest Carlson and Monica Van Bussem, we have expressed our concern over dewatering of designated critical Wallace Creek fish habitat through waste and overuse of water, permitted to occur through an abject lack of oversight over water claimant's actions. I made clear to these folks our opinion that designated critical habitat used by ESA species has already been altered by the recent actions of water users attempting to prove up statutory claims, due wholly to the resulting, larger withdrawals made from the Upper Wallace Creek use area diversion throughout low water periods. Twice, I have been told that IDWR policy was that these issues—waste and overuse of water—are to be addressed by the individual water districts, i.e., the users, not by the State. I guess the other two persons were embarrassed to say that. Having come from a state where environmental controls and oversight of the use or misuse of water are imbedded in law, this advice seems nonsensical. While anecdotal evidence is that this diversion was historically cut off on July 1 by the original ranch owner, Bill Maxwell Senior, the current withdrawals made by the Savage Ranch Water Users Association per their published irrigation schedules run until mid-October each year. These claims for expanded water withdrawals have yet to be substantiated under the SRBA adjudication process.

Mr. Lukens has further stated to IDWR *"It is the position of IDFG that Wallace Creek is flow-limited and, from a biological perspective, the stream is already over-appropriated for irrigation use."* And, *"It is IDFG's intention to continue to work cooperatively with Idaho Department of Water Resources and individual Wallace Creek water users to protect fisheries resources and the interests of irrigators. Any additional water allocation would limit opportunity to improve instream habitat for fish and would further suppress the expression of life histories for resident and anadromous fish residing and rearing in the Wallace Creek drainage."* (Lukens to Swank, IDWR 8/20/2008 RE Water Right Application No 75-14461 (Maxwell)). Anecdotal accounts are

that Wallace Creek did not normally run dry during low-water periods, when irrigation throughout the use area was at the levels of historic usage. This assertion is supported by the fact that Chinook salmon were last documented by IDFG fisheries biologist Bob Esselman as using the creek on August 18, 2003, prior to the culvert blockage, and well into the summer/fall low period as described by USFS fisheries biologist Daniel Garcia in 2006. The year 2003 is a good date to keep in mind as one examines the question of what has happened to Wallace Creek's water.

Our position is that, as the Upper Wallace Creek use area was expanded during the period from 2002 to present, the creek became dewatered during low-flow periods due to new, enlarged, withdrawals based upon statutory claims of beneficial use. If the State does not now base its new recommendations on a thorough, scientifically and historically valid investigation into Upper Wallace Creek claims, and therein supports the claims for the expanded use area by applicants and their recent additions to water withdrawals, (we fear this is about to happen), the State will exacerbate Wallace Creek's dewatering problems. We write today to ask you to spend some money to see that that does not happen. Your office is to be commended for establishing the Office of Species Conservation. Surprisingly, we had nothing similar to that effort in Florida. This would seem to be the perfect opportunity for OSC to provide assistance.

Currently, there are proceedings regarding water rights before the SRBA Special Master Terence A. Dolan concerning claims on the Upper Wallace Creek diversion, also referred to as "The Sanderson Ditch." To complicate Special Master Dolan's task of answering the question of which current water right claims are justified based on historical water use, and to what degree (acreage) those claims are justified, there now exist two separate lawsuits filed in the Seventh Judicial District by Lower Wallace Creek users/property owners *against* Upper Wallace Creek users/property owners. These lawsuits involve 1) water diversion and use by the Upper Wallace Creek users and 2) a series of mudslides that have occurred in the area irrigated by Upper Wallace Creek users. In one of the lawsuits, the plaintiffs allege, *"As a result of improper, un-permitted and unlawful changes to the water delivery system in the subdivision, and the improper, un-permitted and unlawful storage and use of water, Defendants have created an unsafe and ongoing nuisance to the property of the Plaintiffs."*

Our research indicates that there has been a concerted effort (a better term might be *"unbridled free-for-all"*) by some upper Wallace Creek users to greatly expand their water delivery systems over the past eight years in order to *"game the system"* and fraudulently justify new claims to Wallace Creek water. Any Wallace Creek user or new landowner who contacted IDWR about claims or transfers—over what may have been a decade-long period—was sent a form letter signed by Ernest Carlson stating *"While I cannot guarantee you have water rights, if your property was historically irrigated, it is likely you have a share of the Diamond Creek rights."* The net effect of this statement by IDWR seems to have been the *"free-for-all"* noted above. The *"field exams of the Salmon river drainage in 2005"* promised by Mr. Carlson did not come until summer of 2009. We believe Upper Wallace Creek users' water delivery expansions were done on speculation as or after new claims and change of ownerships were filed, in attempts to bolster the appearance of enlarged areas as *"historically irrigated"* and thus, gain expanded rights.

Having attended the morning portion of the trial on Upper Wallace Creek user claims held by Special Master Dolan several months back, and based also upon our personal observations--*on the ground*--in the subdivision during our 4 years here, we have concerns that the Special Master is not being provided with some of the tools he should have in order to make an

accurate recommendation regarding the Upper Wallace Creek users' claims. It should be noted here as well that multiple Upper Wallace Creek users made claims they could not substantiate on the Lower Wallace Creek water, which has a senior priority date and emanates from a different (lower) diversion altogether. Just this month, Special Master Dolan finished the process of adjudicating the Lower Wallace Creek users' rights, issuing his recommendations and at last, our partial decrees. Special Master Dolan's deliberations on our Lower Creek rights included the process of ferreting out the invalid claims some Upper Wallace Creek users made upon our water; those claims were recommended disallowed.

In our opinion, our concerns and those of other users in the neighborhood about waste and overuse of water are not being given proper consideration by IDWR. Further, we believe that the methods used by IDWR *technicians* to discern vegetation types from aerial photography and then plot and lay out water right recommendation boundaries—based on what they surmised to be happening on the ground historically (irrigation or no irrigation)—are subject to a degree of error that should not be acceptable in a case where Wallace Creek's water is already over appropriated. A number of recommendations based on inaccurate "vegetation plotting" from aerials were changed once the recommendations were ground truthed and found to be inaccurate. Two out of three of our own Lower Wallace Creek recommendations gave inaccurate acreage computations, when compared to calculations made by our professional land surveyor that were based on actual field measurements of the properties. It is my understanding that during the portion of the trial I was unable to attend, there was at least one current IDWR recommendation that was disputed as inaccurate (land was never irrigated) by witness testimony. In our business, we have learned that, for issues involving vegetation, G.I.S. enabled plotting is a poor substitute for ground truthed field surveys done by *scientists* in the indicated field of specialization. The issue at hand is where the water was being used historically, *not* where it was being used in the summer of 2009. We are certain that if Special Master Dolan is provided *accurate* information regarding historic water use of the Upper Wallace Creek diversion, he will be able to discern the absolute truth about what water was used where, and *when*. Short of that, in this very important instance, it appears that IDWR is getting ready to be hoodwinked.

To that end, • we request that you expand the involvement of OSC in Wallace Creek now, prior to the completion of IDWR's water rights adjudication process and the issuance of water right recommendations for Upper Wallace Creek. • We request that OSC involvement in the Wallace Creek project be immediately expanded to include oversight of your responses to our requests as noted by bullet points herein. • We request that a state *botanist* provide vegetation surveys for all of the claims in question, mapping the areas that contain sage, steppe and native forbs, and the areas that contain native or non-native pasture grasses, both *irrigated* and *non-irrigated*. • We request that this information be combined with overlays detailing 1) the physical boundaries of IDWR's current water right recommendations for the entire Upper Wallace Creek use area, and 2) topography, which will call out hillsides and unirrigable slopes. • We request that an additional overlay be provided showing the Upper Wallace Creek water distribution system in its entirety, including 1) diversions, both historic and recent, including installation dates, and 2) water distribution lines serving the users, including installation dates.

• We request that the State provide Special Master Dolan with documentation of *how much water there actually is in Wallace Creek*. While it was brought out in the trial that a minimum stream flow analysis had not been done, it seems incongruous that IDWR could continue to issue recommendations for rights if no one knows how much water is actually there. The water

is not there—the creek is already seasonally dewatered, and we believe we have adequately explained *why*. We complained of this—that no one at IDWR knows how much water is in the creek—to the same IDWR managers mentioned above, stating that we have photo documentation of low-water flow at the lower Diamond Creek Road culvert dating to 2006. No one asked to see that documentation.

Stream flow information for Wallace Creek *does* exist, as determined by US Forest Service at the upper Diamond Creek Road culvert (Forest Service boundary.) This information is shown within the *Salmon Interface/Moose Creek Fuels Reduction Project's Biological Assessment for Snake River Spring/Summer Chinook Salmon, Snake River Sockeye Salmon, Snake River Basin Steelhead, and Columbia River Basin Bull Trout and Biological Evaluation for Westslope Cutthroat Trout*, authored by Daniel A. Garcia, North Zone District Fish Biologist, USFS on 7/06/2006. I obtained this report and other information on Wallace Creek from USFS through a FOIA request. On page 21, the report provides yearly average flow, low flow average, and bankfull flow for Wallace Creek. The report states *"Mean monthly flows range from winter low flows of approximately 1.0 cfs in December/January/February/March to spring high flows of 9.0 to 12.4 cfs in May and June. The average summer/fall low flows range from 3.9 cfs in July, 1.7 cfs in August, to 1.3 to 1.2 cfs from September through November."* Mr. Garcia further states *"Flow in Lower Wallace Creek is greatly reduced near its mouth due to four upstream irrigation diversions"* and *"Flow at the mouth of Wallace Creek was estimated to be less than 0.25 cfs in August 2003."* We are curious whether IDWR adjudication personnel reviewed this evidence this past summer, prior to making their most recent Upper Wallace Creek recommendations to Special Master Dolan.

Our photo documentation shows that the amount of water coming through the culvert this past summer at approximately 0.05 to 0.1cfs, barely enough to wet the streambed.

- We request that all available photographic and videographic evidence of historic water use be carefully evaluated as a part of this process, including the collection of aerial and ground photographs showing evidence of historic watering and non-watering that has been offered to IDWR by Upper Wallace Creek user and 29 year landowner Jeff Waite. To our knowledge, it has not.
- We request that you learn from IDWR Attorney Garrick Baxter the reason why this collection of photo and videographic evidence has not been used by IDWR in determining historic use, prior to offering its current recommendations to Special Master Dolan. Rather than discount this evidence, in a case where so many questions exist about who did what, and when, IDWR should be happy to have photographic evidence from a 29 year resident that would help them learn the truth. In a case like this, where IDWR adjudication personnel began this process knowing absolutely nothing, that course would seem prudent.

Videographic evidence was provided to IDWR by Mr. Waite detailing unauthorized expansion of the volumetric capacity of the Sanderson ditch on USFS lands by Upper Wallace Creek user Mr. Josh Miller in 2002, and again in 2003. As seen in the video, the ditch capacity was expanded exponentially in some areas, machine dug to a depth between 3-4 feet. These areas were subsequently repaired by Mr. Waite and the repairs inspected by USFS. Inexplicably, Mr. Miller then re-excavated these same areas in 2003. This videographic evidence also documents damage to Mr. Waite's home and property due to the expansion of the ditch, cuts made in the substrate, and the increased volume of water that was then being used beginning in 2002 by Mr. Waite's surrounding neighbors. We are curious whether IDWR adjudication

personnel viewed this evidence this past summer, prior to making their most recent Upper Wallace Creek recommendations to Special Master Dolan.

We also question IDWR's rejection of the evidence provided by Mr. Waite of lineage of claim and Colorado Ditch bill rights of conveyance across USFS lands. The reasoning given for by IDWR seemed flimsy and inconsistent with reason and logic. It is my understanding that the use and maintenance agreement signed by USFS and granted through authority of the Colorado Ditch Bill gives Mr. Waite (and Mr. Waite only) the exclusive right to convey water across federal land, and to perform maintenance and/or approved alterations to the ditch that conveys that water. The easement, approved by USFS on 4/9/96 and issued on 7/29/99, specifically prohibits unauthorized "*extensions or enlargements of the water conveyance system.*" It appears that some Upper Wallace Creek users may have co-opted Mr. Waite's rights under the easement agreement by violating specific provisions of the agreement in attempts to extend and/or enlarge the ditch capacity in the period from 2002 to present. Does IDWR intend to wholly ignore the provisions of the Colorado Ditch bill, and the implications that doing so would have upon making (or not making) an accurate determination of historic water use in the Upper Wallace Creek use area?

Accordingly, • we request that the State determine the extent to which the expansion of the Upper Wallace Creek water delivery system may have been done to bolster new claims, by determining the timing of the expansions made within the use area. • We request that a state botanist provide an opinion explaining when and why the ravines and gullies within the use area came to be filled with cattails (*Typha latifolia*). • We request that the current IDWR water right recommendation physical boundaries be surveyed in, providing ground truthing with flagged boundary references. • We request that accurate recommendations be provided to Special Master Dolan, recommendations based upon ground truthed information gained by the vegetation, topographical and water distribution system surveys and overlays, with such information to be used in conjunction with examinations of all available historical documentation and aerial and other photography, and done in consultation with a state botanist.

• We request an opinion by a state geologist explaining why two of the hillsides in the Wallace Creek subdivision have slid off, three times on the Slavin/Miller/Bourdon property, and once on the ridge immediately to the north. Why did these slides only occur beginning in the mid nineties? Was it over watering, or watering on areas that were never historically watered? Some users here maintain that over watering resulted in a bentonite/water bubble that followed the course demanded by gravity and slid to lower elevations. Since these slides have been called out by subdivision residents as problematic, does the State have a concern that jeopardy may exist if expanded water recommendations are given for adjacent areas that may also be subject to these slides, steeply sloped areas that may later be proven not to have been watered historically? Comparing a topographical map with an overlay of the historic and recent irrigation system might be a tool of interest to someone having to make that judgment. During the trial presided over by Special Master Dolan, the attorney for the property owner who owns the slide area suggested to the court that the water rights claimed for the acreage that "disappeared" due to the slide must be replaced by additional rights added and placed on other acreage. If the thorough investigation into historic use we request is performed, we do not believe that this user will prevail in substantiating his expanded claim. Should this user receive a reduced recommendation, the notion of replacing water rights on "disappeared" ground seems patently ludicrous, especially if the owners caused the ground to disappear by over watering or watering areas that were never watered historically.

All of the steps suggested by a more thorough investigation may easily be accomplished by *scientists* already working for the State. These added steps are required now because, as one of my neighbors stated yesterday, *"people are lying to IDWR."* The State is placed in the position of having to determine whether claims to water are justified or fraudulent, thus guaranteeing the protection of the fisheries resource when the amount of available water is limited. This type of behavior is nothing new to IDWR—they've already encountered it right here in this subdivision. In this instance, considering liability issues presented by the litigation underway and the added potential of a challenge on ESA considerations, the cost to the State of doing a thorough investigation *now* pales in comparison to costs that would be faced under a challenge. Would the outcomes of these two private lawsuits have any bearing on the water rights recommendations? How about the reverse scenario? *Why not take a proactive approach and use the information now to make a better-informed decision on the remaining water recommendations?* We will bet dinner in Boise for you and Special Master Dolan that the recommendations will come out differently if you do.

- We request that the State coordinate with USFS to assure the replacement of the rebar markers indicating the yearly average flow, low flow average, and bankfull flow of Wallace Creek at the upper Diamond Creek Road culvert. These markers have recently been removed.
- Finally, we request that the involvement of OSC be expanded to help willing landowners institute water conservation measures that will ultimately sustain the biological health of Wallace Creek. A number of Wallace Creek users who own riverfront property are already interested in exploring measures available through IDWR's Water Transactions Program to put water back into the creek. We have discussed reactivating the water district and will address that this spring. In the event that there is continued resistance to reactivating the district, we will ask IDWR to reactivate the district and appoint a watermaster. Additionally, we have discussed the possibility of upgrading the water delivery system wherever possible throughout the drainage to direct water through closed pipeline systems instead of open ditches that allow water to be wasted by leakage through substrates, then more water to be wasted as it flows, unused, out the end of the ditches. We've learned that there is money available to do this. Keep in mind IDFG Regional Manager Jim Lukens' comment that ***"A relatively small savings in withdrawals from Wallace Creek could permanently reconnect this tributary to the main Salmon River and provide important fish habitat."*** We intend to get all parties interested in these conservation measures together this spring, and IDFG fisheries biologist Justin Bezold has offered to facilitate. Could you go ahead and appoint someone from OSC now to join Mr. Bezold in guiding us through this process?

We're enjoying our new home in this beautiful state. Thanks for your help with the creek thus far, and for any more you can lend in the future.

Sincerely,

Arden and Ilene Arrington

Copy to
Mr. Jim Lukins, IDFG Regional Supervisor

EXHIBITS
PREPARED FOR GOVERNOR OTTER
BY ARDEN AND ILENE ARRINGTON
WALLACE CREEK, LEMHI COUNTY
FEBRUARY 21, 2010

- 1) Correspondence, Arringtons to Tom Curet, IDFG Regional Fishery Manager, letter in support of culvert replacement and offering conservation easement on Wallace Creek intersection with Salmon River. 5/31/2006
- 2) Correspondence, Jim Lukens, Regional Supervisor IDFG to Arringtons re: diminished biological capacity of Wallace Creek and status of conservation easement to IDFG. 7/06/2009
- 3) Photo of Wallace Creek (blocked) culvert at Diamond Creek Road showing diminished outflow. Photo by Arden Arrington 8/20/2009
- 4) Photo of Wallace Creek (blocked) culvert at Diamond Creek Road showing diminished outflow. Photo by Arden Arrington August 2007
- 5) Correspondence, Jim Lukens, IDFG to Lyle Swank, IDWR re: status of Wallace Creek. 8/20/2008
- 6) Correspondence, Jim Lukens, IDFG to Sharla Cox, IDWR re: status of Wallace Creek. 10/02/ 2008
- 7) Correspondence, Jim Lukens, IDFG to Sharla Cox, IDWR re: status of Wallace Creek. 10/10/2008
- 8) Correspondence, Justin Bezold, Regional Fishery Biologist, IDFG to Arringtons re: results of 2003 electrofishing survey, Wallace Creek. 7/22/2009
- 9) Draft Baseline Report for the Arrington Conservation Easement prepared by Justin Bezold, IDFG. 1/11/2010
- 10) Correspondence, Arringtons and Shileys to David Tuthill, Director, IDWR re: unauthorized diversion of water from Wallace Creek. 7/04/2008
- 11) Correspondence, Tim Luke, Manager Water Distribution Section, IDWR to Bill Maxwell, Notice of Violation and Order to Cease and Desist Illegal Diversion. 7/29/2008
- 12) EXAMPLE LETTER as sent to Wallace Creek users; Ernest Carlson, Water Rights Supervisor, IDWR to Greg and Sandy Bourdon. 3/09/2004
- 13) Correspondence, Bill Maxwell to Bob Foster, IDWR Salmon Field Office noticing users' choice not to reactivate Wallace Creek Water District. 5/14/2001
- 14) Aerial overview, Upper Wallace Creek water use area detailing general areas of claims made on Upper Wallace Creek diversion and transferred to use area by Sanderson Ditch. Also shows mudslide areas and location of Plaintiffs' properties in litigation filed in Seventh Judicial District. Prepared using Google Earth by Arden Arrington, 2/20/2010. Date of image provided by Google is unknown.
- 15) Exhibit on Diamond Creek subdivision plat detailing "*Original Use 1923 Sanderson Homestead up to year 2000*" and "*New Claim Assertions, actual Extensions since 2002*" provided to IDWR by Upper Wallace Creek user and resident Jeff Waite. Exhibit prepared by Jeff Waite.
- 16) Savage Ranch Water Users Association 2009 Water Schedule. Exhibit provided by Jeff Waite.
- 17) Copies of Summons, Second Amended Complaint and Demand for Jury Trial filed in Seventh Judicial District Court regarding water use by Upper Wallace Creek residents. Exhibit provided by Jeff Waite.
- 18) Newspaper account published in The Rockport Pilot, Aransas County, Texas. Exhibit provided by Arden Arrington.
- 19) Photo showing growth of cattails (*Typha latifolia*) in one of several ravines within the Upper Wallace Creek use area. Photo by Arden Arrington, 8/20/2009.
- 20) Section Index and DVD detailing unauthorized alterations/expansion made by Josh Miller to Sanderson Ditch on USFS lands behind Waite property, Upper Wallace Creek use area. Exhibit shows damages to Waite house and property due to increased flow of water. Exhibit provided by Jeff Waite.

