

RECEIVED
AUG 14 2014
DEPARTMENT OF
WATER RESOURCES

MM 8-12-2014

the required Second Round Service for Basin 21, was NOT sent to my correct address, which confirms the fact that I did not receive proper notice. Attached hereto is a copy of the said Second Round Service for Basin 21 received from Carter Fritschle of IDWR yesterday.

4. As evidenced by the Basin 21 Second Round Service Individual Mailing Labels, dated October of 2005, the Department attempted to give notice to me by sending the notice to "Michael B. Moed" at "3610 Red Rock Rd, Rigby ID 83442" (emphasis added). Unfortunately, I do NOT live in Rigby and have not lived in Rigby since 1994 when my address was 342 N. 4300 E., Rigby, Idaho. My father's address at the time of his death was 485 N. 3700 E., Rigby, Idaho. As noted above, neither my present home address, nor my ranch address is located in Rigby. Furthermore, my name is misspelled and the actual ranch house number on Red Rock Road is incorrect. Prior to my present ranch house number, it was numbered 3636 but never 3610.

5. However, based upon the Rigby address alone, neither my father nor I could not have received this notice. Clearly, there was a fatal mistake made by attempting to combine the ranch road of Red Rock Road in Island Park with some prior address in Rigby, Idaho.

6. As also evidenced by said Mailing Labels, the Department also attempted to send a copy of the notice to Bank of Eastern Idaho at 4950 S. Deboniar LN, Meridian ID 83642-6869 as a Lien Holder. However, neither my father nor I have NEVER borrowed from Bank of Eastern Idaho and it would therefore, not have notified me even if it did receive the notice.

7. This confirms to me why I never was aware that my claims had not been filed by my father as previously stated in my Motions to File Late Claims. Had I actually received the notice from the Second Round Service, I would have immediately filed my claims back in 2005.

8. Bottom line to the above, is that because neither mailing was sent to me or my

MM 8-12-2014

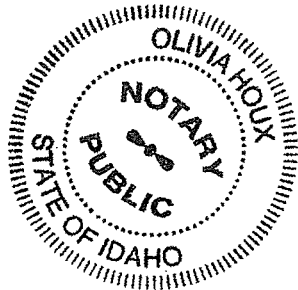
lienholder, because of the significantly incorrect addresses, misspelling of my name and incorrect lienholder, Neither I, nor my predecessor-in-interest were afforded proper notice of the need to file these claims in the SRBA as required under I.C. 42-1408(4).

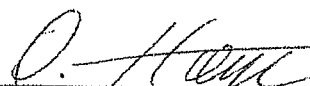
9. Therefore, pursuant to the above entitled Court's previous orders in the following cases, I have set forth sufficient grounds, and unique and compelling circumstances, justifying the setting aside of the *Order* disallowing the above-captioned water rights, as well as the *Order* closing claims taking in basin 21 pursuant to Idaho Rule of Civil Procedure 60(b)(6): 65-2324; 65-5452; 74-361 to 74-368; 74-1615 & 74-2351.

DATED this 12th day of August, 2014.


Michael B. Moedl

SUBSCRIBED AND SWORN To before me this 12th day of August, 2014.




Notary Public for Idaho
Residing at: Idaho Falls
My Commission Expires: 2.19.2020

CERTIFICATE OF MAILING

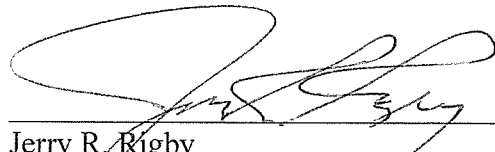
I certify that on August 12, 2014, I mailed the original and copies of this affidavit, including all attachments, to the following persons:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724



Jerry R. Rigby

LAWRENCE G. WASDEN
Attorney General
State of Idaho

Nicholas B. Spencer
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 287-4813
Fax: (208) 287-6700
Idaho State Bar #2911

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT COURT
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	AFFIDAVIT OF DAVID R. TUTHILL, JR.
	)	RE: SERVICE OF SECOND ROUND
	)	SERVICE OF COMMENCEMENT NOTICE
Civil No. 39576	)	FOR BASIN 21 (CLARK, FREMONT,
_____	)	JEFFERSON & MADISON COUNTIES)

AFFIDAVIT REGARDING SECOND ROUND SERVICE OF
COMMENCEMENT NOTICE FOR BASIN 21
(CLARK, FREMONT, JEFFERSON AND MADISON COUNTIES)

I, David R. Tuthill, Jr., being first duly sworn on oath, depose and state as follows:

1. I am the Administrator of the Water Management Division of the Idaho Department of Water Resources (IDWR). I am authorized by the Director to make this affidavit pursuant to Idaho Code § 42-1701(3). I make this affidavit pursuant to the requirements of Idaho Code § 42-1411(7). The following actions were taken under my direction by IDWR.

2. A Second Round Service of Commencement Notice for Clark, Fremont, Jefferson and Madison Counties in Basin 21 ("Second Round Notice") was prepared under my direction and supervision pursuant to Idaho Code § 42-1408(4) and is attached hereto as Exhibit A and incorporated by this reference.
3. On October 6, 2005, the Second Round Notice was mailed by certified mail, return receipt requested, to each of the persons listed on Exhibit B attached hereto.
4. Pursuant to the *Second Amended Second Round Service Order* (hereinafter "Service Order") issued by the SRBA District Judge on January 14, 2000, the mailing list (Exhibit "B") for the Second Round Notice was compiled using procedures identified in the Service Order in part III. A. (Water Right Data Base), B. (GIS Evaluation and Second Round Service), and C. (Potentially Unclaimed Water Rights Discovered During the Investigation of Claims).
Unclaimed rights were identified in Clark, Fremont, Jefferson and Madison Counties of Basin 21. In accordance with the Service Order, personnel under my direction researched the county assessor and recorder databases for Clark, Fremont, Jefferson and Madison Counties to determine the chain of title for the unclaimed places of use. See Service Order at 3. If ownership could not be ascertained, personnel under my direction used assessors' plat and subdivision maps, companion sheets, and database information to determine the current owner of the property as well as to identify all lien holders to the property. The list of current property owners was then reviewed to remove duplicate names as required by the Service Order. See Service Order at 4.

DATED this 21st day of October, 2005.

David R. Tuthill, Jr.

David R. Tuthill, Jr.
Administrator
Idaho Dept. of Water Resources
Water Management Division

SUBSCRIBED AND SWORN before me this 21st of October, 2005.

Patsy A. McQuarrie

NOTARY PUBLIC for Idaho

Residing at Boise

My Commission Expires 8-19-2010



CERTIFICATE OF SERVICE

I certify that on October 21, 2005, I caused to be served true and correct copies of the Affidavit of Second Round Service of Commencement Notice for Basin 21 (Clark, Fremont, Jefferson & Madison Counties), to the following persons, in the manner indicated and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

United States Dept. of Justice
Environment & Nat'l Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

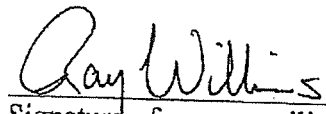
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile



Signature of person mailing form

Exhibit A

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re the General Adjudication of
Rights to the Use of Water from
the Snake River Basin Water System.

Civil No. Case No. 39576

SECOND ROUND SERVICE OF
COMMENCEMENT NOTICE
BASIN 21

IMPORTANT LEGAL NOTICE:

Records of the Idaho Department of Water Resources (IDWR) indicate that you may own or have an interest in a water right in the Snake River Basin, but you have **NOT** filed a Notice of Claim with IDWR for this water right. This notice serves as your second and **FINAL** notice of your responsibilities to file a Notice of Claim. **FAILURE TO FILE A REQUIRED NOTICE OF CLAIM WILL RESULT IN A DETERMINATION BY THE COURT THAT THE WATER RIGHT NO LONGER EXISTS.**

YOUR FILING DEADLINE FOR BASIN 21 IS JANUARY 6, 2006

On November 19, 1987, the District Court for the County of Twin Falls issued an order commencing a general adjudication of all water rights from the Snake River Basin water system in Idaho. A general adjudication is a court case, which will result in a decree determining all water rights from the water system. The purpose of the adjudication is to prepare an accurate schedule of water rights to assure the proper delivery of water in times of shortage. The purpose of this notice is to inform you of your legal responsibilities at this stage of the adjudication.

WHO NEEDS TO FILE A NOTICE OF CLAIM WITH IDWR?

Idaho Code § 42-1409 requires all persons owning water rights within the boundaries of the Snake River Basin water system in Idaho to file a Notice of Claim with IDWR for each water right, except for certain water rights specifically excluded by law. **Failure to file a required Notice of Claim will result in a determination by the court that the water right no longer exists.**

You **MUST** file a Notice of Claim with IDWR if your water right is based upon:

- a **CONSTITUTIONAL** or **HISTORIC USE RIGHT** (a diversion and application of water to a beneficial use, regardless of whether the water right has been recorded with IDWR pursuant to Idaho Code § 42-243);
- a **STATE** or **FEDERAL DECREE** (even if your water right was decreed in a previous adjudication you still must file a Notice of Claim with IDWR);
- a **LICENSED RIGHT** (based upon a license issued by IDWR, formerly known as the Idaho Department of Water Administration, the Idaho Department of Reclamation, and the State Engineer's Office);
- an **APPROPRIATION PERMIT** if proof of beneficial use was filed before November 19, 1987 (based upon a permit issued by IDWR, formerly known as the Idaho Department of Water Administration, the Idaho Department of Reclamation, and the State Engineer's Office); or
- a **FEDERAL LAW** (generally reserved rights claimed by the federal government, by or on behalf of the Indian Tribes, or by subsequent owners of former federal reserved lands).

WHO DOES NOT NEED TO FILE A NOTICE OF CLAIM WITH IDWR?

- **Small Domestic and Stockwater users:** A Notice of Claim may be, but is not required to be, filed at this time for water rights used solely for small Domestic and/or Stockwater purposes (D&S), as those terms are defined by Idaho Code § 42-1401A (4) & (11). However, even if you have a D&S water right, it might be to your advantage to file a claim on this water right in this adjudication for a number of reasons. First, you will be required to have the water right adjudicated before the water right can be distributed by a watermaster or before an application for change of the water right may be filed with IDWR. Furthermore, while the filing fee for a Notice of Claim with IDWR for a D&S water right is currently \$25, the costs of filing a motion with the district court at a later date to have the water right adjudicated will be considerably higher. Before deciding not to file a Notice of Claim for small D&S claims you should be certain that your water use qualifies for the special procedure.
- **Permits for which Proof of Beneficial Use was filed on or after November 19, 1987:** A Notice of Claim may be, but is not required to be, filed for permits for which proof of beneficial use was filed on or after November 19, 1987. The director of IDWR may at a later date require holders of such permits to file a Notice of Claim. If the director does issue such an order, the permit holder will be notified by mail.
- **Fire-Fighting and In-Stream Livestock:** A Notice of Claim may be, but is not required to be, filed for water rights arising under Idaho state law that are used solely for fire-fighting purposes or solely for in-stream livestock use as defined by Idaho Code § 42-113.
- **Water users who are not the owner of the water right:** A person using water from the Snake River Basin water system is not required to file a Notice of Claim if the water user is not the owner of the water right, but the water user should make sure that the owner has filed a Notice of Claim. For example, a water user need not file a Notice of Claim where the water user receives water solely by virtue of ownership of shares of stock in a water delivery organization, or solely by virtue of being located within the boundaries of a water user organization if the water delivery organization holds legal title to the water right and if the water delivery organization has filed a Notice of Claim. Examples of water delivery organizations include cities, water utility companies, and irrigation districts, among others.

WHAT WATER SOURCES ARE INCLUDED IN THE SNAKE RIVER BASIN ADJUDICATION AND WHAT ARE THE BOUNDARIES?

A Notice of Claim must be filed for water from any water source, including streams, springs, lakes, ground water, developed water, wastewater, or any other source for any purpose within the boundaries of the Snake River Basin water system in Idaho. A map showing the boundaries of the water system is included at the end of this notice.

WHAT ARE THE FEES AND DEADLINES FOR FILING A NOTICE OF CLAIM?

Idaho Code § 42-1414 requires each person who files a Notice of Claim, except those exempted by law, to pay a filing fee. Failure to pay the fee will result in rejection of the Notice of Claim.

The deadline for filing Notices of Claims to water rights is January 6, 2006. Late-filed Notices of Claims will be accepted prior to filing the director's report with the court, but failure to file a Notice of Claim by the deadline may result in assessment of a late fee of \$50.00 or 15% of the original filing fee, whichever is greater.

A late fee may also apply if you were previously served with a Commencement Notice and did not file your claim by the deadline set forth in the previous notice.

NOTICE OF CLAIM FORMS AND INSTRUCTIONS

Notices of Claims must be filed on forms prepared by IDWR or a reasonable facsimile. When filing at an IDWR office, bring a legal description of the property with Township, Section, Range and ¼, ¼. The

lot and block numbers are not sufficient. Claimants should always call the nearest regional office to make an appointment if desiring assistance to fill out a Notice of Claim. The Notice of Claim forms and instructions for completing and filing the forms are available on IDWR's website at www.idwr.state.id.us or at the following locations:

1. IDWR, Western Region, 2735 Airport Way, Boise, ID, 83705, Phone (208) 334-2190;
2. IDWR, Southern Region, 1341 Fillmore St., Suite 200, Twin Falls ID 83301, Phone (208) 736-3033;
3. IDWR, Eastern Region, 900 N. Skyline Drive, Suite A, Idaho Falls, ID 83402, Phone (208) 525-7161;
4. IDWR, Soda Springs Office, 15 W. Center St., Soda Springs ID 83276, Phone (208) 547-3993,
5. IDWR, Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene ID 83814, Phone (208) 769-1450;
6. IDWR, State Office, 322 East Front St., Boise ID 83270, Phone (208) 287-4800, or toll free 1-800-451-4129.

NOTICE TO IDWR OF CHANGE IN OWNERSHIP OR ADDRESS

Idaho Code § 42-1409(6) requires all purchasers of a water right to inquire of IDWR whether a Notice of Claim has been filed. If not, the purchaser must file any required Notice of Claim, as described above. If a Notice of Claim has been filed, the purchaser must file with IDWR a written notice of the change in ownership along with some evidence of ownership. "Purchaser" includes any person acquiring a water right from another water user, whether it is acquired by purchase, gift, inheritance, or any other means. Idaho Code § 42-1409(6) requires all persons who have filed a Notice of Claim to file a written notice of change in address with IDWR.

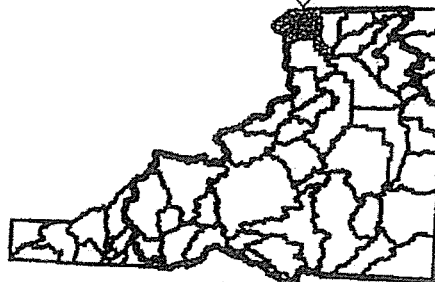
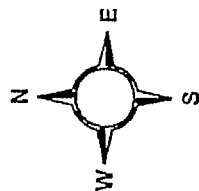
FURTHER INFORMATION

The files of the District Court for Clark, Fremont, Jefferson and Madison Counties will contain affidavits and other documents listing the persons served with copies of this notice. Assistance in filing Notices of Claims may be obtained at all offices of IDWR, which are listed above.

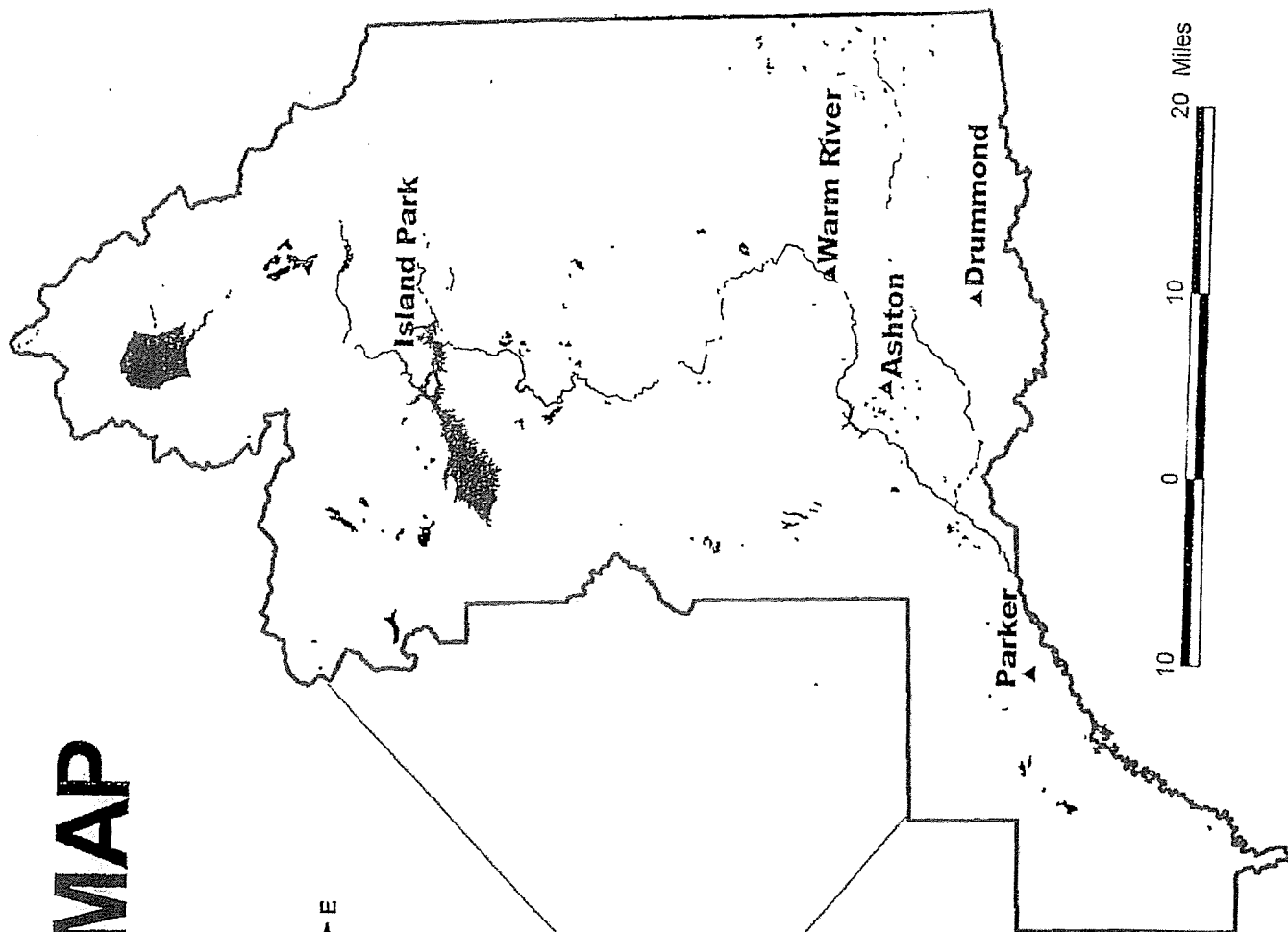
If you want information about Notices of Claims filed in this adjudication, which are filed with IDWR, you may inquire at any office of IDWR. If you want information concerning other documents filed in this adjudication, which are filed with the court, you may obtain a copy of the docket sheet from any office of IDWR or the SRBA website at www.srba.state.id.us/docket.htm. The docket sheet will be prepared each month and will reflect the court's schedule for the following three months. You can get a copy of a docket sheet for the cost of mailing and/or copying, or you can get a subscription to receive the docket sheet each month. The cost of the subscription is \$7.50 per year. The docket sheet will also be filed with the district court clerk for every county within the boundaries of the Snake River Basin water system in Idaho.

Karl Dreher, Director, Idaho Department of Water Resources

BASIN 21 MAP



SRBA BOUNDARY



Idaho Dept. of Water Resources
Snake River Basin Adjudication
Administrative Boundaries
Darril M Smith
Sept. 26, 2005

Exhibit B

Basin 21 Second Round Service Individual Mailing Labels

JASON DAVID ALLEN
3641 HWY 32
ASHTON ID 83420

DON BLANCHARD
2666 N 400 W
CEDAR CITY UT 97720

ROBERT & HELEN BRATT
3611 N RIVER RD
ASHTON ID 83420

CIRCLE G LLC
2428 N 8017 E
TETON ID 83451

CLAYMORE MANAGEMENT CORP
7050 UNION PARK AVE STE 600
MIDVALE UT 84047

DE VEARL DECKER
613 E 1000 S
SPRINGFIELD UT 84663

STEPHEN M DYNIA
112 COBBLE CREEK RD
BOZEMAN MT 59715

LILA GOLD
1960 E 350 N
ST ANTHONY ID 83445

MERLE HARSHBARGER TRUSTEE
HARSHBARGER LIVING TRUST
637 N 2800 E
ST ANTHONY ID 83445-5518

HENRYS FORK TETON VIEW
DEVELOPMENT GARY WIGHT
5990 GLEN EAGLES DR
IDAHO FALLS ID 83401

JEPPSON FAMILY TRUST
1674 W 1440 N
FARMINGTON UT 84025

JAMES R & JANETTE D JEPPSON
3116 CAMINO DE LA SIERRA NE
ALBUQUERQUE NM 87111

GOTT KANDLER TRUST
PROFESSIONAL PLAZA
REXBURG ID 83440

MICHAEL JACK LAWSON
PO BOX 487
ST ANTHONY ID 83445

JAMES G & COLLEEN MARSHALL
PO BOX 731
LYMAN WY 82937

M/T DALE MICKELSEN
MICKELSEN, LLOYD
PO BOX 628
RIGBY ID 83442

VERL R & CANDYCE H MILLER
3198 E 800 N PO BOX 36
CHESTER ID 83421

MICHAEL B MOED
3610 RED ROCK RD
RIGBY ID 83442

THE NATURE CONSERVANCY
116 FIRST AVE N
HAILEY ID 83333-8411

LARRY D & DEANNA S ORME
4334 E 1000 N SQUIRREL RD
ASHTON ID 83420

WENDELL B & JANE L ORR
1830 E 350 N
ST ANTHONY ID 83445

PLESNER RANCH LLC
572 9TH ST
IDAHO FALLS ID 83404

JACK REINWAND
PO BOX 107
PARKER ID 83438

SALISBURY CORP
PO BOX 50699
IDAHO FALLS ID 83405-0699

PETER & AMANDA SINGER
3770 ECKER HILL DR
PARK CITY UT 84098

JOHN STEVENS
PO BOX 77
ASHTON ID 83420

STIMSON ISLAND PARK LLC
5623 WILLOWCREEK RD
N LAS VEGAS NV 89031

RALPH & PATRICIA STURM
PO BOX 236
ASHTON ID 83420

JOHN TAFT 1990 TRUST
2158 BALDWIN RD
OJAI CA 93203

BRIAN & SUSANNE TAYLOR
3816 MOCCASIN RD
WASHINGTON UT 84780

TEMPLE STREET INVESTMENT
10 W 1 S #703
SALT LAKE CITY US 84101

GARY R & PAMELA WIGHT
4763 N 5 W
IDAHO FALLS ID 83401

DENNIS LEE WOHLSCHEGEL
278 WILLIAMSBURG CIRCLE
IDAHO FALLS ID 83404

ROGER K WOOD
PO BOX 92
REXBURG ID 83340

Basin 21 Second Round Service
Lien Holders Mailing Labels

CHARTER BANK LOAN #1506612
DEBTOR: JASON DAVID ALLEN
399 N CAPITAL
IDAHO FALLS ID 83402

BENEFICIAL MORTGAGE OF IDAHO 40175-08-501585
DEBTOR: ROBERT & HELEN BRATT
2217 E 17TH ST
IDAHO FALLS ID 83404

BEEHIVE FEDERAL CREDIT UNION
V DEBTOR: ERL R & CANDYCE H MILLER
65 SO CENTER
REXBURG ID 83440

BANK OF EASTERN IDAHO
DEBTOR: MICHAEL B MOED
4950 S DEBONIAR LN
MERIDIAN ID 83642-6869

KEY BANK NA 125601414070
DEBTOR: LARRY D & DEANNA S ORME
PO BOX 16430
BOISE ID 83715

WELLS FARGO 0651-651-825-3020-1998
DEBTOR: WENDELL B & JANE L ORR
PO BOX 16430
BILLINGS ID 59107

BEEHIVE FEDERAL CREDIT UNION REVOLVING CREDIT
DEBTOR: JACK REINWAND
65 S CENTER
REXBURG ID 83440

MESQUITE STATE BANK
DEBTOR: BRIAN & SUSANNE TAYLOR
11 PIONEER BLVD
MESQUITE NV 89027