

Attorney for Objectors

In Re SRBA	)	A. Subcase No.: 61-12301
	)	
Case No. 39576	)	SUPPLEMENTAL REASONS
	)	SUPPORTING OBJECTION
	)	
	)	

SUPPLEMENTAL REASONS SUPPORTING OBJECTIONS, Page 1

Said Objection is supplemented at Paragraph “E”, entitled “REASONS SUPPORTING OBJECTION(S)”, with the following:

- 1) Claimants Jackie and Teresa Weece (Weeces) base their claim for adjudication on purported ownership in a well owned and controlled solely by the objectors Holdens. In their filing with this Court dated March 10, 2015, Weeces attached a “JOINT WELL USE AND MAINTENANCE AGREEMENT” dated May 10, 2001 by and between the Holdens and Loree M. Sanders. This agreement has no force nor effect based on the following –
 - a. The Agreement contains erroneous descriptions of the subject properties and misidentifies ownership of those properties and as such, is *void ab initio*. See “JOINT WELL USE AND MAINTENANCE AGREEMENT” attached as Exhibit #1.
 - b. At the time of its execution, the Agreement was intended merely as an accommodation by the Holdens for their friend, Loree Saunders, for the limited purpose of Saunders to be eligible for financing to purchase property from the Holdens and was not intended to convey any interest in land or an appurtenant water right.
 - c. The Agreement lapsed under its own terms upon the foreclosure of the mortgage executed by Saunders for her property wherein Saunders successor-in-interest never obtained an assignment of the Agreement from Saunders in direct contravention of the Agreement. See Exhibit #1 at Paragraph #8.

- d. The Agreement also lapsed under its own terms upon the foreclosure of the mortgage executed by Saunders for her property wherein Saunders successor-in-interest failed to make any payments in direct contravention of the Agreement. See Exhibit #1 at Paragraph #7.
- 2) The fact that no water right was ever appurtenant to the Weeces' property is evidenced in the Warranty Deed from Holdens to Saunders (Weeces' predecessor-in-interest) for the subject property. See "Warranty Deed" (Instrument #328476) attached as Exhibit #2.
- 3) The fact that no water right was ever appurtenant to the Weeces' property is further evidenced in the re-conveyance document from the assignee/successor of the mortgage interest of the Saunders property (Weeces' predecessor-in-interest) where no appurtenant water rights are mentioned in the re-conveyance language. See "Trustee's Deed" (Instrument #362156) attached as Exhibit #3.
- 4) The fact that no water right was ever appurtenant to the Weeces' property is further evidenced in the conveyance document from the prior owner to the Weeces where no appurtenant water rights are mentioned in the conveyance language. See "Corporation Warranty Deed" (Instrument #366484) attached as Exhibit #4.
- 5) Any use of the water by the Weeces from the well owned by the Holdens has been a temporary accommodation pending resolution of the change in permitting, claims, and adjudications by the Holdens with the Idaho Department of Water Resources.

DATED this 30th day of July 2015.

THOMAS J. KATSILOMETES, P.L.L.C.


Thomas J. Katsilometes

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of July, 2015, a true and correct copy of the above and foregoing document was served by:

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	<u>XX</u> US Mail ____ Facsimile (208) 736-2121 ____ Overnight Mail
2. Copies to Claimants: Jackie & Teresa Weece c/o Robert Ward, Esq. Hall, Friedly, & Ward 340 East 2 nd North Mountain Home, ID 83647	<u>XX</u> US Mail ____ Facsimile (208) 587-3144 ____ Overnight Mail
3. Copies to: IDWR Document Depository P.O. Box 83720 Boise, ID 83720-0098	<u>XX</u> US Mail ____ Facsimile (208) 287-6700 ____ Overnight Mail
United States Department of Justice Environment & Natural Resources Div. 550 W. Fort Street, MSC 033 Boise, ID 83724	<u>XX</u> US Mail ____ Facsimile (208) 334-1414 ____ Overnight Mail
Chief, Natural Resources Division Office of the Attorney General State of Idaho P.O. Box 83720 Boise, ID 83720-0010	<u>XX</u> US Mail ____ Facsimile (208) 854-8072 ____ Overnight Mail

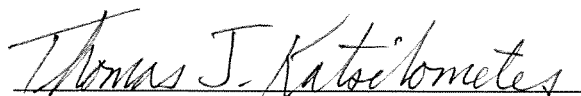

Thomas J. Katsilometes

Exhibit 1 - p. 1 JOINT WELL USE AND MAINTENANCE AGREEMENT
SRBA 61-12301

Water Resources

THIS AGREEMENT is entered into by and between
and Ricky C. Holden and Kimberly M. Holden, husband and wife

owners of tracts of land described as: the E1/2 of Lot 16, Block 1, Airport Subdivision

AND Loree M. Saunders

owners of tract of land described as:
The well is located in the E1/2 of Lot 17, Block 1, Airport Subdivision

RECEIVED

MAY 13 2014

WATER RESOURCES
SOUTHWESTERN REGION

At the present time a domestic well is located upon said tract as "Exhibit B" and it is the purpose of this agreement to provide for and the joint ownership, use and maintenance of said wells or any other wells which the parties hereto might hereafter decide to provide for joint use.

IT IS THEREFORE HEREBY AGREED between parties hereto as follows:

1. That each party hereto conveys to the other a sufficient interest so that each party shall own an interest in the wells, in the pumping equipment located therein or thereon, the well house and in the water produced by said wells, which said water shall be used for domestic purposes.

2. For the purpose of conveying water from either of said wells or any other wells hereafter provided, each party shall be solely responsible for the installation and maintenance of underground water lines from said wells to their respective property.

3. All expenses for electrical power and maintenance of the pump and motor in each wells, or for replacement of the same, shall be paid by the parties hereto in equal prorrations, payable in monthly installments and within ten days from the due date for payment of such expenses. In addition each party (parties) name herein shall pay 25.00 per month to be deposited in a reserve account in such bank as the parties hereto shall select which funds shall be used for future replacement or repair of pumping equipment, and deposited in the name of the "owners of Exhibit B" and funds may be withdrawn from said fund upon checks signed by any two members of the joint venture.

4. For the purpose of installing and maintaining underground waterlines from the wells to the respective residence of each party, each party gives to the other an easement over their respective tracts, which easement shall be 10 feet wide and the centerline of said easement shall be the underground line first installed for the purpose of conveying water from said wells to the respective tract owned by each party to this agreement.

5. Water shall be used for domestic purposes only, and to irrigate any yard (with shallow well only) and each party shall use said water in an economical manner and shall not waste the same. For a charge of \$25.00 monthly)

6. Controlling interest shall stay with the owners of "Exhibit B" (wells location). Each of the parties hereto shall have an equal say in any decisions concerning the maintenance, operation, repair and replacement or additions to the well or wells, pumps, or motors, pump houses, if any, and other equipment. In the event of disagreement, the decision of the majority shall prevail.

7. If any party fails or refuses to pay their share of electrical and maintenance expenses or fails to pay the monthly charge for the reserve account or otherwise fails to comply with the terms of this agreement, then the other parties shall have the right to disconnect the nonpaying or noncomplying parties' water service, after first giving such party 30 days advance notice in writing, and the defaulting parties' connection to said water system shall not be reconnected until all delinquent payments have been made, including payment for the expense, if any, of disconnecting and reconnecting the water hookup, and reasonable attorney's fees, if any are incurred.

Central District
Health

Weeee

8. The right of each party to the ownership of the wells, pump, motor and other equipment and to the water produced by said wells shall be appurtenant to the real property owned by each respective party and the covenants and agreements herein contained shall run with the land and shall extend to and be binding upon the heirs, personal representatives and assigns of the respective parties hereto. In the event any of the parties hereto shall hereafter sell their residence which is receiving water under the provisions of this agreement, then such parties shall have the right to assign and transfer the buyer all of their rights under this agreement, insofar as the buyer of the same shall be subject to all of the duties and obligations of the seller as set forth under the provisions of this agreement.

9. The provisions of this agreement shall be binding upon inure to the benefits of the heirs, personal representatives and assigns of each respective party hereto.

DATED THIS 10th DAY OF May 2001
Loree M. Saunders
Loree M. Saunders
Kimberly M. Holden
Kimberly M. Holden

STATE OF IDAHO

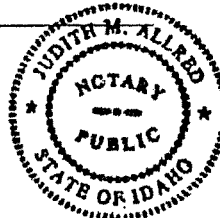
County of

On this day personally appeared before me the undersigned, a Notary Public in and for State, personally appeared Loree M. Saunders, Ricky C. Holden and Kimberly M. Holden known or identified to me to be the person S whose name S subscribed to the within instrument, and acknowledged to me that they executed the same.

Signature: Judith M. Allred

Name: JUDITH M. ALLRED

Residing: MTN HOME
Commission Expires: 05-22-06



328478

ELMORE COUNTY, IDAHO ss
Request of
GUARANTY TITLE, INC.

Time: 4:30 P.M.
Date: May 10, 2001
GAIL L. WEST, Recorder
Cheryl M. Lyle
Fee: 6.00

Weeee

Exhibit 2
SRBA 61-12301

WARRANTY DEED

FOR VALUE RECEIVED

Ricky C. Holden and Kimberly M. Holden, husband and wife

GRANTOR(S), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto
Loree M. Saunders, a single person

GRANTEE(S), whose current address is: 1085 South 36th West St. Mountain Home, Id 83647
the following described real property in Elmore County, State of Idaho,
more particularly described as follows, to wit:

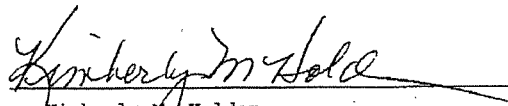
The East one half of Lot 16, Block 1, Airport Subdivision, Elmore County,
Idaho, according to the official plat thereof on file and of record in the
office of the County Recorder of Elmore County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and
Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said
Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all
encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done
by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements,
(if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the
current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all
lawful claims whatsoever, except those of record.

Dated: May 10, 2001



Ricky C. Holden

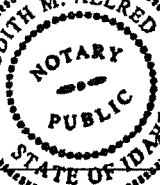


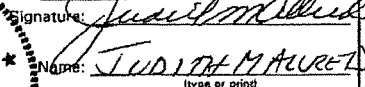
Kimberly M. Holden

STATE OF Idaho, County of Elmore, ss.

On this 10th day of May
in the year of 2001, before me, the undersigned, a Notary
Public in and for said State, personally appeared
Ricky C. Holden and Kimberly M. Holden

known or identified to me to be the person(s) whose name
are subscribed to the within instrument, and
they acknowledged to me that they executed the same.



Signature: 
Name: JUDITH M. ALLRED
(Type or print)

Residing at: Mountain Home

My commission expires: 05-22-06

328476

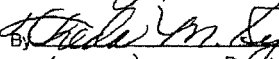
ELMORE COUNTY, IDAHO ss.
Request of

GUARANTY TITLE, INC.

Time 4:30 P.M.

Date May 10, 2001

GAIL L. BEST, Recorder

By 
Deputy

Fee \$3.00



TRUSTEE'S DEED

First American Title Company of Idaho, Inc., an Idaho Corporation (herein called Trustee) as successor trustee under the Deed of Trust hereinafter particularly described, does hereby Bargain, Sell and Convey, without warranty, to CHASE MANHATTAN MORTGAGE CORPORATION, 3415 Vision Drive, Columbus, OH 43219-6009, (therein called Grantee) all of the real property situated in the County of Elmore, State of Idaho, described as follows:

The East One-Half of Lot 16 in Block 1 of AIRPORT SUBDIVISION, Elmore County, Idaho, according to the official plat thereof on file and of record in the office of the County Recorder of Elmore County, Idaho.

This conveyance is made pursuant to the powers conferred upon Trustee by the deed of trust between LOREE M SAUNDERS, a single woman, as grantor for the benefit and security of First Horizon Home Loan Corporation, as beneficiary, recorded May 10, 2001, as Instrument No. 328477, and assigned to CHASE MANHATTAN MORTGAGE CORPORATION, successor by merger with Chase Mortgage Company, as beneficiary by assignment recorded May 31, 2002, as Instrument No. 337062, Mortgage Records of Elmore County, Idaho and after the fulfillment of the conditions specified in said deed of trust authorizing this conveyance as follows:

(a) Default occurred in the obligations for which said deed of trust was given as security and the beneficiary made demand upon the said trustee to sell said property pursuant to the terms of said deed of trust.

Notice of Default was recorded as Instrument No. 358891, Mortgage Records of Elmore County, Idaho and in the office of the Recorder of each other county in which the property described in said deed of trust, or any part thereof, is situated, the nature of such default being as set forth in said notice of default. Such default still existed at the time of sale.

(b) After recordation of said Notice of Default, trustee gave notice of the time and place of the sale of said property by registered/certified mail, return receipt requested, by personal service upon the occupants of said real property and/or by posting in a conspicuous place on said premises and by publishing in a newspaper of general circulation in each of the counties in which the property is situated as more fully appears in affidavits recorded at least 20 days prior to date of sale as Instrument No. 360787, Instrument No. 360788, Instrument No. 360789, Mortgage Records of Elmore County, Idaho.

(c) The provisions, recitals and contents of the Notice of Default referred to in paragraph (a) supra and of the Affidavits referred to in paragraph (b) supra shall be and there are hereby incorporated herein and made an integral part hereof for all purposes as though set forth herein at length.

(d) All requirements of law regarding the mailing, personal service, posting, publication and recording of notice of default, and notice of sale and all other notices have been complied with.

(e) Not less than 120 days elapsed between the giving of notice of sale by registered or certified mail and the sale of said property.

(f) Trustee, at the time and place of sale fixed by said notice, at public auction, in one parcel, struck off to Grantee, being the highest bidder therefor, the property herein described, for the sum of \$96,297.77, subject however to all prior liens and encumbrances. No person or corporation offered to take any part of said property less than the whole thereof for the amount of principal, interest, advances and costs.

IN WITNESS WHEREOF, The Trustee, pursuant to a resolution of its Board of Directors has caused its corporate name to be hereunto subscribed by its Assistant Vice President, this 9th day of December, 2004.

Instrument # 362156
Elmore County, Idaho
Dec. 13, 2004
01:24pm
For: FIRST AMERICAN TITLE COMPANY
No. of Pages: 1 Fee: \$3.00
GAIL L. BEST, Recorder
Deputy: DLE

FIRST AMERICAN TITLE COMPANY OF IDAHO, INC., Trustee

By Monnie Cole
Monnie Cole Asst. Vice President

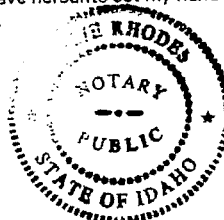
STATE OF IDAHO)

ss.

COUNTY OF ADA)

On this 9th day of December, 2004, before me, a Notary Public in and for said State, personally appeared Monnie Cole, known to me to be the Assistant Vice President of the corporation that executed this instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Julie Rhodes
Notary Public

JULIE RHODES
Notary Public, State of Idaho
Residing in Idaho
My Commission Expires October 18, 2008

FA-18293/rcb-cmm/fha

Exhibit 4
SRBA 61-12301

Order No. FA-13473

CORPORATION WARRANTY DEED

FOR VALUE RECEIVED,

Chase Manhattan Mortgage Corporation

a corporation duly organized and existing under the laws of the State of IDAHO, does hereby GRANT,
BARGAIN, SELL and CONVEY unto

Jackie G. Weece and Teresa D. Weece, husband and wife

GRANTEE whose address is: **PO Box 103, Grand View, ID 83624**

the following described real property in **ELMORE** County, Idaho, to wit:

The East one-half of Lot 16 in Block 1 of AIRPORT SUBDIVISION, Elmore County, Idaho, according to the official plat thereof on file and of record in the office of the County Recorder of Elmore County, Idaho.

Subject to: Taxes, easements and restrictions of record.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, the Grantor, pursuant to a resolution of its Board of Directors has caused its corporate name to be hereunto subscribed by its _____

Dated: 05/13/05

**Chase Home Finance LLC, successor by merger to
Chase Manhattan Mortgage Corporation**

By: _____

JOE LANNING, VICE PRESIDENT

State of IDAHO

County of ELMORE

Instrument # 366484
Elmore County, Idaho
04:51pm May 31, 2005
For: FIRST AMERICAN TITLE COMPAN
No. of Pages: 1 Fee: \$3.00
GAIL L. BEST, Recorder
Deputy: DLE

On May 20, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared JOE LANNING, VICE PRESIDENT personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed the within instrument as Vice president on behalf of Chase Manhattan Mortgage, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



Gena C. Rotter
Notary Public

Residing at: _____

Commission Expires: _____