

RECEIVED

MAR 08 2013

DEPARTMENT OF  
WATER RESOURCES

Norman M. Semanko, ISB No. 4761  
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED  
101 S. Capitol Blvd., 10th Floor  
Post Office Box 829  
Boise, Idaho 83701  
Telephone (208) 345-2000  
Facsimile (208) 385-5384  
nms@moffatt.com  
26002.0001

Attorneys for Claimant Jon Gravestock

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

In re CSRBA

Case No. 49576

Subcase No. 92-7219

**CLAIMANT JON GRAVESTOCK'S  
RESPONSES TO OBJECTOR'S FIRST  
REQUESTS FOR DISCOVERY**

Jon Gravestock,

Claimant,

vs.

Coeur d'Alene Tribe, a federally-recognized  
Indian tribe,

Objector.

COMES NOW Claimant Jon Gravestock, by and through undersigned counsel of  
record, and responds to Objector's First Requests for Discovery as follows:

**CLAIMANT JON GRAVESTOCK'S RESPONSES TO OBJECTOR'S  
FIRST REQUESTS FOR DISCOVERY - 1**

COPY

Client:4088600.1

## **REQUESTS FOR ADMISSION**

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimant also objects to this Request for Admission No. 1 because it seeks a legal conclusion regarding the ownership of "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimant denies Request for Admission No. 1.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimant also objects to this Request for Admission No. 2 because it seeks a legal conclusion

regarding the ownership of “the submerged bed and banks of Coeur d’Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d’Alene Indian Reservation.” Without waiving these objections, Claimant denies Request for Admission No. 2.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d’Alene Lake and the St. Joe River within the current boundaries of the Coeur d’Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to Request for Admission No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimant lacks sufficient information to either admit or deny Request for Admission No. 3 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d’Alene Tribe has the inherent right to exclude non-members of the Coeur d’Alene Tribe from tribally owned lands within the Coeur d’Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that it is vague and overly broad. Without waiving the objection, Claimant lacks sufficient information to either admit or deny Request for Admission No. 4 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d’Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that it is vague, overly broad, unduly burdensome

and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimant denies Request for Admission No. 5.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that it seeks a legal conclusion regarding the "OHWM for Coeur d'Alene and the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving these objections, Claimant denies Request for Admission No. 6.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that it seeks a legal conclusion regarding the "OHWM of the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving the objection, Claimant lacks sufficient information to either admit or deny Request for Admission No. 7 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)[] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. With waiving

the objection, Claimant lacks sufficient information to either admit or deny Request for Admission No. 8 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion regarding “the point of diversion for a water right” and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimant denies Request for Admission No. 9.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d’Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimant also objects to this Request for Admission No. 10 because it seeks a legal conclusion. Without waiving these objections, Claimant lacks sufficient information to either admit or deny Request for Admission No. 10 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to

encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimant also objects to this Request for Admission No. 11 because it seeks a legal conclusion. Without waiving these objections, Claimant lacks sufficient information to either admit or deny Request for Admission No. 11 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimant denies Request for Admission No. 12.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that it is vague. Responding Claimant also objects to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimant denies Request for Admission No. 13.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimant denies Request for Admission No. 14.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimant also objects to this Request for Admission No. 15 because it seeks a legal conclusion. Without waiving these objections, Claimant denies Request for Admission No. 15.

### **INTERROGATORIES**

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admissions No. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

“The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands.”

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that it seeks a legal conclusion. Notwithstanding the objection, the statement in Claimant’s response to the Tribe’s objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d’Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Objection is made to Interrogatory No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, the encroachment permits of Claimant, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)[] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, Claimant did not request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimant is unsure, at this time, whom he may call as witnesses at the time of hearing. Claimant reserves the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimant may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimant, Jon Gravestock, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

- (a) State the subject matter on which the expert is expected to testify;
- (b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;
- (c) Provide the facts, data or other information considered by the witness in forming his or her opinions;
- (d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,
- (e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimant is unsure, at this time, whom he may call as witnesses at the time of hearing. Claimant reserves the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)[] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, either Claimant or the State of Idaho owns the submerged lands underlying the Claimant's point of diversion.

## **REQUESTS FOR PRODUCTION**

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimant responds as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: See Exhibit B attached hereto.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection, documents requested in Request for Production No. 5 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the

location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection, documents requested in Request for Production No. 6 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx> and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at <http://www.srba.state.id.us/SREPT.HTM>. The responding Claimant does not have possession, custody or control of any additional photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property

at the location of your point of diversion. In this request the term “property” means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimant’s licensing file online on the Idaho Department of Water Resources’ website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx> and the Idaho Department of Water Resources’ Coeur d’Alene Spokane River Basin Adjudication claims database at <http://www.srba.state.id.us/SREPT.HTM>. The responding Claimant does not have possession, custody or control of any additional deeds, surveys, plats, or other documents which relate to the property at the location of the Claimant’s point of diversion. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimant’s licensing file online on the Idaho Department of Water Resources’ website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx> and by public records request to the Idaho Department of Lands.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimant is unsure, at this time, whom he may call as witnesses at the time of hearing. Claimant reserves the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection,

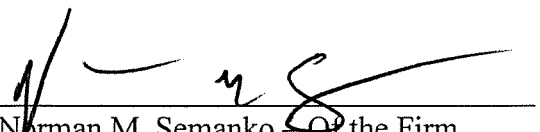
documents requested in Request for Production No. 12 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx> and the Coeur d'Alene Spokane River Basin Adjudication claims database at <http://www.srba.state.id.us/SREPT.HTM>.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx> and the Coeur d'Alene Spokane River Basin Adjudication claims database at <http://www.srba.state.id.us/SREPT.HTM>.

DATED this 7th day of March, 2016.

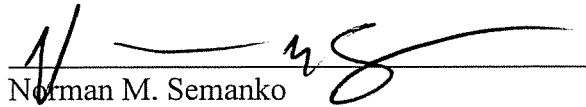
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By   
Norman M. Semanko Of the Firm  
Attorneys for Claimant Jon Gravestock

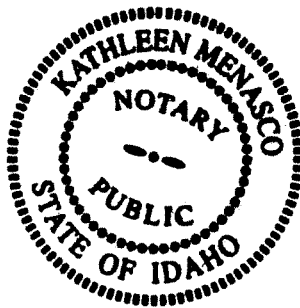
STATE OF IDAHO    )  
                              ) ss.  
County of Ada        )

**NORMAN M. SEMANKO**, being first duly sworn, deposes and says:

He is the attorney for the Claimant Jon Gravestock in the above-entitled cause and makes this verification for and on behalf of said Claimant; that he has read the foregoing **CLAIMANT JON GRAVESTOCK'S RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

  
Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 7th day of March, 2016.



  
NOTARY PUBLIC FOR IDAHO  
Residing at Meridian, Idaho  
My Commission Expires 10/19/19

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANT JON GRAVESTOCK'S RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke  
Kinzo H. Mihara  
Dylan Hedden-Nicely  
HOWARD FUNKE & ASSOCIATES, P.C.  
424 Sherman Avenue, Suite 308  
P.O. Box 969  
Coeur d'Alene, Idaho 83816-0969  
Facsimile (208) 667-4695

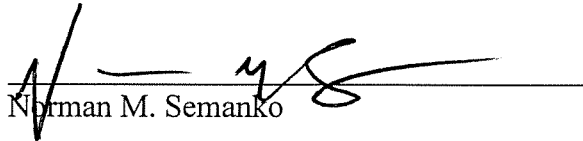
☒ U.S. Mail, Postage Prepaid  
( ) Hand Delivered  
( ) Overnight Mail  
( ) Facsimile

Chief, Natural Resources Division  
OFFICE OF THE ATTORNEY GENERAL  
STATE OF IDAHO  
P.O. Box 83720  
Boise, ID 83720-0010

☒ U.S. Mail, Postage Prepaid  
( ) Hand Delivered  
( ) Overnight Mail  
( ) Facsimile

Director  
IDAHO DEPARTMENT OF WATER RESOURCES  
P.O. Box 83720  
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid  
( ) Hand Delivered  
( ) Overnight Mail  
( ) Facsimile

  
Norman M. Semanko

# EXHIBIT A

---

PERSONAL REPRESENTATIVE'S DEED

This Deed, made by MARIE SHEPHERD, individually and as Personal Representative of the Estate of Clarence Shepherd, deceased, hereinafter called the Grantor, to JON W. GRAVESTOCK and MARESA A. GRAVESTOCK, husband and wife, of 1001 Jefferson Avenue, St. Maries, Idaho 83861, Grantees.

WHEREAS, Grantor is the qualified Personal Representative of said Estate of Clarence Shepherd, deceased, filed as Probate Case No. SP 88-9648 in the District Court of the First Judicial District of the State of Idaho, in and for the County of Benewah; and

WHEREAS, Grantees herein are the purchasers under contract of the hereinafter described real property from the said estate; now

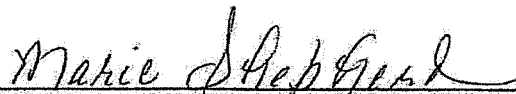
THEREFORE, for \$10.00 and other valuable consideration received, the Grantor sells and conveys to Grantees, all of the right, title and interest of Clarence Shepherd, deceased, in and to the following described real property situated in Benewah County, Idaho:

Lot Eighty (80), Shadowy St. Joe  
Lagoon First Addition, as recorded  
in Benewah County records,

SUBJECT TO AND TOGETHER WITH all current  
taxes, exceptions, easements, uses,  
rights-of-way, restrictions, covenants  
and reservations apparent or of record,

with all appurtenances.

IN WITNESS WHEREOF, the undersigned has  
executed this deed this 15<sup>th</sup> day of September, 1992.

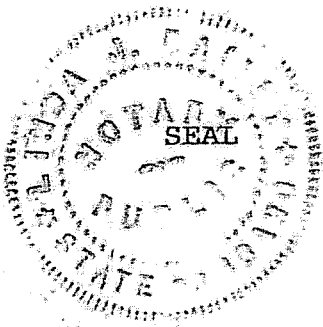
  
\_\_\_\_\_  
MARIE SHEPHERD, Personal  
Representative of the Estate  
of CLARENCE SHEPHERD, deceased.

92-9219

STATE OF IDAHO           )  
                                  : SS  
County of Benewah        )

THIS IS TO CERTIFY that before me, the undersigned Notary Public in and for the State and County aforesaid, personally appeared MARIE SHEPHERD, Personal Representative of the Estate of CLARENCE SHEPHERD, deceased, to me known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same in said capacity.

DATED this 15<sup>th</sup> day of September, 1992.



Linda G. Bailey  
Notary Public in and for Idaho  
Res. & P. O. Address: St. Maries  
Commission expires: 8-29-94

RECEIVED

0199812

35 FEB 15 P 3: 12

RECEIVED  
KAY SATHER, CLERK 6.00  
Bonnie Laeson deputy  
Benewah County Abstract

# EXHIBIT B

---

POLICY OF TITLE INSURANCE

92-7219

13 3195 60 000259

CHICAGO TITLE INSURANCE COMPANY OF IDAHO

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, CHICAGO TITLE INSURANCE COMPANY OF IDAHO, an Idaho corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

CHICAGO TITLE INSURANCE COMPANY OF IDAHO

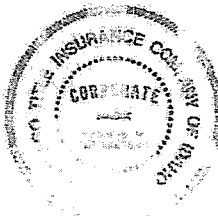
By:

Issued by:

BENEWAH COUNTY  
ABSTRACT COMPANY, INC.  
131 S. Eighth St. - P. O. Box 365  
St. Maries, Idaho 83861  
Phone: (208) 245-2525



President



By:



Secretary

  
Authorized Signature

ALTA OWNER'S POLICY (4-6-90)

|    |    |    |   |    |    |    |    |    |    |
|----|----|----|---|----|----|----|----|----|----|
| 6. | 7. | 8. | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
|    |    |    |   |    |    |    |    |    | s  |

92-7219

# OWNERS

\*\*\*\*\*

## SCHEDULE A

| OFFICE FILE NUMBER | POLICY NUMBER     | TIME    | DATE OF POLICY     | AMOUNT OF INSURANCE | PREMIUM AMOUNT |
|--------------------|-------------------|---------|--------------------|---------------------|----------------|
| 86-1327            | 13-3195-60-000259 | 3:23 pm | September 21, 1992 |                     |                |

1. Name of Insured:

JON W. GRAVESTOCK and MARESA A. GRAVESTOCK, husband and wife

2. The estate or interest in land which is covered by this Policy is:

A fee simple estate

3. Title to the estate or interest in the land is vested in:

MARIE SHEPHERD, individually and as Personal Representative of the Estate of CLARENCE SHEPHERD, deceased

4. The land referred to in this Policy is situated in the County of Benewah, State of Idaho:

Lot 80, Shadowy St. Joe Lagoon First Addition

## SCHEDULE A

This Policy valid only if Schedule B is attached

## EXCEPTIONS FROM COVERAGE

92-9219

This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) which arise by reason of:

### PART 1

#### General Exceptions:

- (1) Rights or claims of parties in possession not shown by public records.
- (2) Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey or inspection of the premises including, but not limited to, insufficient or impaired access or matters contradictory to any survey plat shown by the public records.
- (3) Easements, or claims of easements, not shown by the public records.
- (4) Any lien, or right to lien, for services, labor, or material hereto or hereafter furnished, imposed by law and not shown by the public records.
- (5) (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
- (6) Taxes or special assessments which are not shown as existing lien by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

#### Special Exceptions:

1. Property taxes, including any assessments collected with taxes, levied for the year 1992, which are a lien due and payable on or before December 20, of said year.

2. Covenants, conditions, and restrictions as set forth in a document.

Recorded: December 23, 1983 in Book 154 of Misc. at page 5858 as Instrument #161546, Benewah County Records

3. An easement for the purposes shown below and rights incidental thereto as shown or offered for dedication on the recorded Plat shown below.

Plat of: First Addition to Shadowy St. Joe Lagoon  
Purpose: ingress, egress, maintenance of water line, public utilities and maintenance of the dike

Recorded: December 23, 1983 in Book 154 page 5859 as Instrument #161547, Benewah County Records

4. A Memorandum of Real Property agreement by and between the parties listed below.

Vendor:

Vendee: JON W. GRAVESTOCK and MARESA A. GRAVESTOCK, husband and wife

Dated: MARIE SHEPHERD, individually and as Personal Representative of the Estate of CLARENCE SHEPHERD, deceased

Recorded: September 21, 1992 as Instrument #190388, Benewah County Records

"END SCHEDULE B"

NOTE: Paragraph 1 of the Exclusions from coverage in this policy includes within the exclusions any Indian Law, ordinance or governmental regulation and police power affecting the Coeur d'Alene Indian Reservation, of which the property in question is a part.

#### SCHEDULE B PART 1 (standard coverage)

Schedule B of this Policy consists of 1 pages.