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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Claimant Stephen G. Hopkins

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. 91-7104

**CLAIMANT STEPHEN HOPKINS'
AMENDED RESPONSES TO
OBJECTOR'S FIRST REQUESTS FOR
DISCOVERY**

Stephen G. Hopkins,

Claimant,

vs.

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

Objector.

COPY

**CLAIMANT(S) STEPHEN HOPKINS' AMENDED RESPONSES TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY - 1**

Client:4107223.1

COMES NOW Claimant Stephen G. Hopkins, by and through undersigned counsel of record, and provides amended responses to Objector's First Requests for Discovery, which replace in total Claimant's previous Responses to Objector's First Requests for Discovery, dated March 7, 2016, as follows:

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 the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is vague. Responding Claimant also objects to this Request for Admission No. 1 because it seeks a legal conclusion or opinion regarding who owns "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 admits that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]itle is quieted in favor of the United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimant denies that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimant's point of diversion.

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 seeks a legal conclusion or opinion regarding who owns "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." Without waiving this objection, Claimant admits that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are 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 lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimant denies that the United States and the Coeur d'Alene Tribe are entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks at Claimant's point of diversion.

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 this Request for Admission No. 3 because it seeks a legal conclusion or opinion regarding the State of Idaho's right, title or 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." Without

waiving this objection, Claimant admits that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: “[t]he State of 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 lying within the current boundaries of the Coeur d’Alene Indian Reservation.” However, Claimant denies that the State of Idaho is permanently enjoined from asserting a right, title or interest in or to the bed and banks at Claimant’s point of diversion.

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 the terms “inherent right,” “non-members,” and “tribally owned lands within the Coeur d’Alene Reservation” are vague and that this Request is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimant admits that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: “[t]he Coeur d’Alene Tribe of Idaho, 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 lying within the current boundaries of the Coeur d’Alene Indian Reservation.” However, Claimant denies that the Coeur d’Alene Tribe has any right to exclude Claimant from the lands at Claimant’s point of diversion.

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 the term “exterior boundary of the Coeur d’Alene Indian Reservation” is vague. Without waiving this objection, Claimant admits that the point of diversion for this claim is located within the current boundary of the Coeur d’Alene Indian Reservation. However, Claimant denies that the United States and the Coeur d’Alene Tribe own the lands at Claimant’s point of diversion.

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 the term “presumed OHWM” is vague and without temporal context. Without waiving this objection, Claimant admits that in *City of Coeur d’Alene v. Mackin (In re Ownership of Sanders Beach)*, the court stated the following: “[t]he current OHWM of the Lake is 2128 feet” and “the OHWM of Lake Coeur d’Alene has been 2128 feet since 1907.” 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimant denies that the historic OHWM or the natural high water mark for Coeur d’Alene Lake and the St. Joe River is or has always been 2128 feet.

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 the term “presumed OHWM” is vague and without temporal context. Without waiving this objection, Claimant admits that in *City of Coeur*

d'Alene v. Mackin (In re Ownership of Sanders Beach), the court stated the following: “[t]he current OHWM of the Lake is 2128 feet” and “the OHWM of Lake Coeur d’Alene has been 2128 feet since 1907.” 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimant denies that the historic OHWM or the natural high water mark for Coeur d’Alene Lake and the St. Joe River is or has always been 2128 feet and further denies that the point of diversion and/or some or all of the diversion works at issue in this claim are below the applicable natural or ordinary high water mark.

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 the term “navigable” is vague. Responding Claimant also objects to this Request for Admission No. 8 because it seeks a legal conclusion or opinion regarding whether “the waters overlying the bed and banks at the location of Claimant’s water diversion point are navigable.” Without waiving these objections, Claimant admits that said waters are “navigable” according to Claimant’s understanding of the definition in Idaho Code Section 36-1601 and the definition in 33 U.S.C. § 1362.

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 or opinion on what constitutes “the point of diversion for a water right” under Idaho law and is not reasonably

calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimant therefore denies the same.

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 the term "permission to encroach upon the submerged lands of the St. Joe River" is vague. Responding Claimant also objects to this Request for Admission No. 10 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimant admits that he did not have a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim. However, Claimant denies that the United States or the Coeur d'Alene Tribe owns the land upon which the diversion works may have been constructed and further denies that any such permission was needed.

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 the term "permission to encroach upon the submerged lands of the St. Joe River" is vague and the Request is vague as to time. Responding

Claimant also objects to this Request for Admission No. 11 because it seeks a legal conclusion or opinion regarding who owns the “submerged lands of the St. Joe River.” Without waiving these objections, Claimant admits that he has never received a permit from either the United States or the Coeur d’Alene Tribe to encroach upon the submerged lands of the St. Joe River for Claimant’s diversion works. However, Claimant denies that the United States or the Coeur d’Alene Tribe owns the land upon which the diversionary works may have been constructed and further denies that any such permission was needed.

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 or opinion on initiating a water right and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimant therefore denies the same.

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 the terms “right” and “purposes of maintaining” are vague. Responding Claimant also objects to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion regarding who owns the lands at Claimant’s point of diversion and the rights of Claimant to his diversion works. Without waiving these

objections, Claimant denies the Request for Admission No. 13, including any assertion that the Coeur d'Alene Tribe owns the lands at Claimant's point of diversion.

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 the terms "IDWR water permit or license" and "for any purpose" are vague. Responding Claimant also objects to this Request for Admission No. 14 because it seeks a legal conclusion or opinion on the rights of a water right holder and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving these objections, Claimant therefore denies the same, including any assertion that Claimant has trespassed or is trespassing on the land of another.

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 the term "right to maintain adjacency to navigable waters" is vague. Responding Claimant also objects to this Request for Admission No. 15 because it seeks a legal conclusion or opinion on riparian rights under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimant therefore denies the same, including

any assertion that Claimant has no right to make any consumptive use of water or right of access for the appropriation of water.

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 Admission Nos. 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 the Claimant did not file the above-mentioned response to the Tribe's objection.

Notwithstanding the objection, the 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: Claimant's encroachment permits from the Coeur d'Alene Tribe, 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 the term “permission...to encroach upon the submerged lands of the St. Joe River” is vague and the Interrogatory is vague as to time. Responding Claimant also objects to this Interrogatory No. 4 because it seeks a legal conclusion or opinion regarding who owns the “submerged lands of the St. Joe River.” Without waiving these objections, Claimant did not request permission of either the United States or the Coeur d’Alene Tribe to encroach upon the submerged lands of the St. Joe River for the installation of his diversionary works. However, Claimant did not need such permission because the United States and the Coeur d’Alene Tribe do not own the land upon which the diversionary works may have been installed.

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, Stephen G. Hopkins, 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>. Claimant does not have possession, custody or control of any additional description of his

diversion works and water system, but reserves the right to supplement this answer in a timely manner.

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 the Interrogatory is vague as to time. Responding Claimant also objects to this Interrogatory No. 8 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands underlying the claimant's point of diversion." Notwithstanding the objection, Claimant or the State of Idaho own the submerged lands underlying the Claimant's point of diversion. The name and contact information are as follows: Stephen G. Hopkins, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829; State of Idaho, c/o Attorney General's Office, P.O. Box 83720, Boise, ID 83720-0010.

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 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>. Claimant does not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimant's water-system, but reserves the right to supplement this answer in a timely manner.

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, the documented information requested in Request for Production No. 5, if any, is 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, the documented information requested in Request for Production No. 6, if any, is 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, 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 the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at <http://www.srba.state.id.us/SREPT.HTM>. Claimant does not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserves the right to supplement this answer in a timely manner.

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>. Claimant does not have possession, custody or control of any additional deeds, surveys, plats, or other documents that relate to the property at the location of the Claimant's

point of diversion, but reserves the right to supplement this answer in a timely manner. 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 the information requested is equally available to the Tribe as to the Claimant. 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 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>. Claimant does not have possession, custody or control of any additional documents related to available water use data for the diversion works and/or the property, but reserves the right to supplement this answer in a timely manner.

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 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.

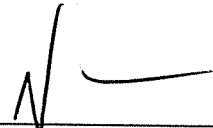
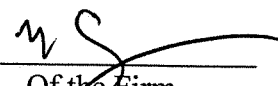
RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to

Request for Production No. 13 on the grounds that it is overly broad 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>. Claimant does not have possession, custody or control of any additional 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, but reserves the right to supplement this answer in a timely manner.

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DATED this ~~25~~²⁸th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

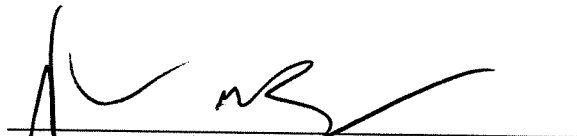
By

 
Norman M. Semanko – Of the Firm
Attorneys for Claimant
Stephen G. Hopkins

STATE OF IDAHO)
) ss.
County of Ada)

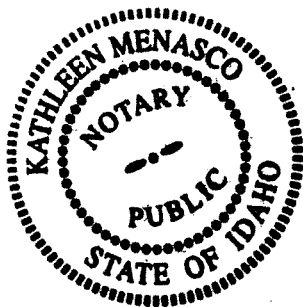
NORMAN M. SEMANKO, being first duly sworn, deposes and says:

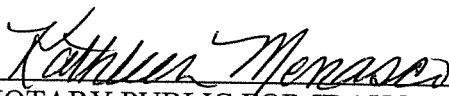
He is the attorney for the Claimant Stephen G. Hopkins in the above-entitled cause and makes this verification for and on behalf of said Claimant Stephen G. Hopkins; that he has read the foregoing **CLAIMANT STEPHEN HOPKINS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents 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 ²⁸~~25~~th day of March, 2016.





NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/09/2019

CERTIFICATE OF SERVICE

28

I HEREBY CERTIFY that on this ~~28~~²⁸th day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANT STEPHEN HOPKINS' AMENDED 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

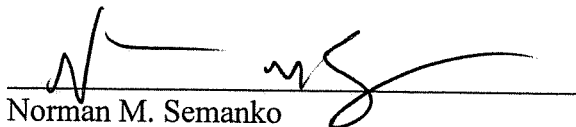

Norman M. Semanko

EXHIBIT A

RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL TO:
First American Title Company
831 Main Avenue
St. Maries, ID 83861

242409

RECEIVED

2006 APR 27 PM 4 39

BENEWAH COUNTY

KAY SATHER, CLERK

Quinn Schuchman
To Cash

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: 157558-SM (ps)

Date: April 18, 2006

For Value Received, Dean A. Anderson, an unmarried man, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto Stephen Hopkins and Edith M. Hopkins, husband and wife, hereinafter called the Grantee, whose current address is 89281 Highway 3 N, St. Maries, ID 83861, the following described premises, situated in Benewah County, Idaho, to-wit:

314 Edison Terrace Boise, ID 83705

A parcel of land located in Section 7, Township 46 North, Range 2 West, B.M., being a part of Tracts 6 and 7, Castlio's Tracts, which lies northerly of State Highway 95A as now laid out, bounded on the North by Lot 6, Block 2 and on the East by Lots 7 and 9, Block 1, Sylvia's Haven, a platted subdivision in Benewah County, Idaho, more particularly described as follows:

Beginning at a point on the northerly right of way line of Highway 95A, said point being on the West line of Tract 6, Castlio's Tracts; thence N 1° 17' West, a distance of 277.03 feet to the Southwest corner of Lot 6, Block 2, Sylvia's Haven; thence North 79° 50' E a distance of 535.68 feet to a point on the West line of Lot 7, Block 1, Sylvia's Haven (East line of Tract 7, Castlio's Tracts); thence S 1° 12' West a distance of 378.32 feet to a point on the Northerly right of way of Highway 95A as now laid out, thence Southwesterly along the Highway right of way line a distance of 530.10 feet to the place of beginning.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

242409

Date: 04/18/2006

Warranty Deed
- continued

File No.: 157558-SM (ps)

Dean A. Anderson
Dean A. Anderson

STATE OF Idaho)
COUNTY OF Benewah)
SS.

On this 27th day of April, 2006, before me, a Notary Public in and for said State, personally appeared Dean A. Anderson, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

Pamela Shawver

Notary Public for the State of Idaho
Residing at: St. Maries
My Commission Expires: 1-20-10

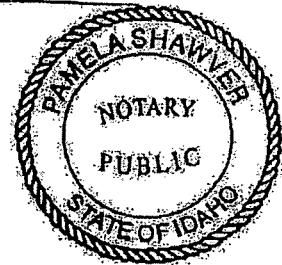


EXHIBIT B



First American Title Company

831 Main Avenue, St. Maries, ID 83861
Phone (208)245-3664 - Fax (208)245-4099

Escrow Officer: Pamela Shawver
Title Officer: Debra Boller

To: Dean Anderson
89281 Highway 3 North
St. Maries, ID 83861

Order No.: 157558-SM

Attn:

Your Ref:

Re: Property Address: 89281 Hwy 3 N, St. Maries, ID 83861

COMMITMENT FOR TITLE INSURANCE

Issued by
FIRST AMERICAN TITLE INSURANCE COMPANY
Agreement to Issue Policy

We agree to issue a policy to you according to the terms of this Commitment.

When we show the policy amount and your name as the proposed Insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:

- The Provisions in Schedule A;
- The Requirements in Schedule B-1;
- The Exceptions in Schedule B-2;
- The Conditions;

This Commitment is not valid without Schedule A and Section 1 and 2 of Schedule B.

First American Title Insurance Company

By: *[Signature]* President

Attest: *[Signature]* Secretary

Countersigned

First American Title Company

[Large handwritten signature] *[Signature]*

**Third COMMITMENT
SCHEDULE A**

1. Commitment Date : April 14, 2006 at 8:00 a.m.

2. Policy or Policies to be issued:

	Policy Amount	Premium Amount
Owner's Policy		
Standard Owner's Policy (10/17/92) Form 1402-92	\$ 2,000.00	\$ 2,000.00
with applied credit of		\$ 2,000.00
Proposed Insured:		
Stephen Hopkins and Edith M. Hopkins, husband and wife		
Loan Policy		
ext Loan Policy (10-17-92) Form 1056-92	\$ 2,000.00	\$ 4,000.00
with applied credit of		\$ None
Proposed Insured:		
Trinity Home Mortgage, its successor's and/or assigns		
Endorsements: 100/116/8.1		\$ 2,000.00

3. A fee simple interest in the land described in this Commitment is owned, at the Commitment Date by:

Dean A. Anderson, an unmarried man

4. The land referred to in this Commitment is described as follows:

A parcel of land located in Section 7, Township 46 North, Range 2 West, B.M., being a part of Tracts 6 and 7, Castillo's Tracts, which lies northerly of State Highway 95A as now laid out, bounded on the North by Lot 6, Block 2 and on the East by Lots 7 and 9, Block 1, Sylvia's Haven, a platted subdivision in Benewah County, Idaho, more particularly described as follows:

Beginning at a point on the northerly right of way line of Highway 95A, said point being on the West line of Tract 6, Castillo's Tracts; thence N 1°17' West, a distance of 277.03 feet to the Southwest corner of Lot 6, Block 2, Sylvia's Haven; thence North 79°50' E a distance of 535.68 feet to a point on the West line of Lot 7, Block 1, Sylvia's Haven (East line of Tract 7, Castillo's Tracts); thence S 1°12' West a distance of 378.32 feet to a point on the Northerly right of way of Highway 95A as now laid out, thence Southwesterly along the Highway right of way line a distance of 530.10 feet to the place of beginning.

Commonly known as: 89281 Hwy 3 N St. Maries, ID 83861