

State of Idaho)
) ss.
County of Kootenai)

COMES NOW, Kinzo H. Mihara, after being duly sworn before an officer authorized to administer oaths, swears and declares as follows:

- (15) My name is Kinzo H. Mihara. I am an attorney duly authorized to practice law in the State of Idaho. I am one of the attorneys who represent the Objector in the above-noted subcases. I am over the age of 18 and am competent to testify to matters herein.
- (16) The paragraph numbers and exhibits herein are continued from the first affidavit submitted to the Court in support of the Tribe's motions to compel and to determine adequacy in order to avoid confusion.
- (17) On February 5, 2016 Objector served discovery in the CSRBA Case No. 49576, Subcase Nos. 91-4015; 91-7003; 91-7026; 91-7048; 91-7102; 91-7104; 91-7113; 91-7120; 91-7121; 91-7125; 91-7136; 91-7137; 91-7140; 91-7173; 91-7339; 91-7519; 91-7556; 92-0727; 92-7211; 91-7219; 92-7220; 92-7221; 92-7226; 92-7234; and 92-10521 upon counsel for Claimants. Those discovery requests identical. The responses received in such subcases, minus the documents actually produced, were also largely, if not totally, identical. The requests were served because at the time they were served Claimants' counsel had not advised either the Court or the parties as to which subcase he wished to substitute into the Court's existing trial scheduling order of December 4, 2015.
- (18) Attached hereto as Exhibit "6" is a true, accurate, and correct copy of the *Notice of Correct Subcase Numbers* on file with the Court. The last page, page 4, of Exhibit "6"

is a true, accurate, and correct copy of the front of the envelope which this office received its copy of said document.

(19) Attached hereto as Exhibit “7” is a true, accurate, and correct copy of the Affidavit of Sarah McCormack filed in support of Claimants’ response to Objector’s motions to compel and to determine adequacy. The first page of that document was a facsimile cover page and is not contained within Exhibit “7.” At the time of the preparation of this affidavit, this office has not received any Exhibits or attachments of Ms. McCormack’s affidavit.

(20) Attached hereto as Exhibit “8” is a true, accurate, and correct copy of the discovery responses received by this office on March 4, 2016 from the office of Morris & Wolff, P.A.

(21) During the meet and confer conference call on March 15, 2016 the issue of lack of verification of all discovery responses received, other than those in the *Buell* matter (subcase 92-7226), was expressly discussed as a “technical violation of the rules.” During the same call counsel for Objector set forth Objector’s concerns regarding Claimants’ answers, request by request, which mirror the concerns set forth in the motions to which this affidavit is in support – that the objections were unfounded and that the answers and responses were deficient, evasive, and were not responsive to the questions asked. Proposed paths forward were discussed, including whether Objector would be willing to offer amended requests and/or whether Claimants would be willing to offer amended responses. Opposing counsel were unable to articulate any rationale or justification for the responses served on March 4, 2016 and March 7, 2016, respectively.

This telephonic meeting lasted for over an hour. A follow up call was agreed to by all counsel for March 21, 2016 to allow opposing counsel to confer amongst themselves as to how to respond to the concerns set forth in the March 15, 2016 conference call. I categorically deny that any concessions were made as to whether interrogatory Nos. 8, 9, 12, 13, 14, and 15 called for legal conclusions. In fact, the record is clear that Objectors only asked 8 interrogatories. *See* Aff. Mihara (Apr. 15, 2016), Exs. 1-2.

(22) Attached hereto as Exhibit “9” is a true, accurate, and correct copy of an email I sent to opposing counsel in this matter on March 15, 2016.

(23) On March 21, 2016, I was present on the conference call scheduled on March 15, 2016. Counsel for Claimants was also on that call. Again, the topic of how to proceed was discussed. Claimants wished for Objector to file amended requests in all of the cases, however, Objector wished for Claimants to file amended responses. All counsel agreed that Claimants (as well as Mr. and Mrs. Buell, and other claimants in subcases 91-7104, 91-7120) would file amended responses. During this call it was agreed that amended responses in subcases 91-7102, 91-7104, 91-7120, and 91-7173 would be served by Friday, March 25, 2016 in order for Objector’s counsel to be able to review those amended responses ahead of the scheduled status conference on March 28, 2016. I noted that I would be out of town for the Easter weekend, however, if amended response were received by Friday, March 25, 2016, I could review them from the road in order to be prepared for the March 28, 2016 status conference. It was agreed that the *Buell* matter was less urgent and amended responses could be served thereafter. This telephonic meeting lasted between 15 and 30 minutes.

- (24) Attached hereto as Exhibit "10" is a true, accurate, and correct copy of an email I received from Mr. Semanko noting that discovery responses would not be forthcoming on March 25, 2016.
- (25) On March 28, 2016, at approximately 11:30 (Pacific) I had a telephone call with Mr. Semanko. During that call it was agreed that the test cases should be 91-7102 and 91-7173.
- (26) Attached hereto as Exhibit "11" is a true, accurate, and correct copy of an email I received from Mr. Semanko shortly before the Status Conference on March 28, 2016. This email memorializes advanced, electronic transmittal of amended discovery responses for subcases 91-7102 (Hawks), 91-7104 (Hopkins), 91-7120 (Bledsoe), and 91-7173 (Hawks).
- (27) Attached hereto as Exhibit "12" is a true, accurate, and correct copy of an email, with attachment, which I received from Ms. Mariah Dunham, of the firm Morris & Wolff, P.A., co-counsel for Mr. and Mrs. Buell in subcase No. 92-7226. Shortly thereafter I received a verification signed by Mr. Buell from the office of Morris & Wolff, P.A. The first page of Exhibit "12" is the email, the second page of Exhibit "12" is the verification which was subsequently received, and the latter pages are the attachment to the email received.
- (28) Attached hereto as Exhibit "13" is a true, accurate, and correct copy of an email I sent to opposing counsel on April 5, 2016 for the purpose of scheduling depositions of Mr. and Mrs. Hawks.

- (29) Attached hereto as Exhibit "14" is a true, accurate, and correct copy of an email I received from Ms. McCormack confirming dates Mr. Semanko and Mr. and Mrs. Hawks would be available for depositions in St. Maries, Idaho.
- (30) Pursuant to the emails noted in paragraphs 28 and 29 above, I sent out notices of deposition.
- (31) On April 12, 2016, this office served a second round of discovery upon Claimants. To date, no answers or response to that discovery has been received.
- (32) Attached hereto as Exhibit "16" are true, accurate, and correct copies of the certificate of service and facsimile confirmation of the second discovery requests served upon Claimants. The dates of those documents reflect service as of April 12, 2016.
- (33) On May 2, 2016, I was present at the depositions of Ms. Deanne Hawks and Mr. Steve Hawks. During those depositions it came to light that Mr. and Mrs. Hawks had a "file" in their possession in which additional documents were contained. Those documents included, but were not limited to, deeds and maps. The documentary exhibits discussed during the testimony which revealed the "file" were not part of any discovery responses received by Claimants in discovery and which were procured through independent investigation by counsel. During their depositions, Claimants, at least Mrs. Hawks, admitted to having such documents in their possession, custody, and control. Before, during, and after the depositions on May 2, 2016, neither Claimants nor their attorney said one word about verifications which were executed on April 30, 2016.
- (34) I have diligently attempted to secure an expedited copy of the deposition transcripts for Mr. and Mrs. Hawks for the depositions which took place on May 2, 2016.

I was informed by the manager of Naegeli Court Reporters that the earliest an expedited transcript could be available is on the day the Reply Brief in this matter is due, Monday, May 9, 2016. Attached hereto as Exhibit "17" a true, accurate, and correct copy of the email I received from the manager of Naegeli Court Reporters.

(35) After the end of business on May 3, 2016 my office received a facsimile which purported to be *Notice of Service of Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery with Claimants Verification*, along with prior copies of *Claimants' Amended Responses* in subcase 91-7102. Also included were verification pages of Steve and Deanne Hawks. Attached hereto as Exhibit "18" is a true, accurate, and correct copies of the documents noted in this paragraph. The verification pages are the last two pages of Exhibit "18."

(36) After the end of business on May 3, 2016 my office received a facsimile which purported to be *Notice of Service of Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery with Claimants Verification*, along with prior copies of *Claimants' Amended Responses* in subcase 91-7173. Also included were verification pages of Steve and Deanne Hawks. Attached hereto as Exhibit "19" is a true, accurate, and correct copies of the documents noted in this paragraph. The verification pages are the last two pages of Exhibit "19."

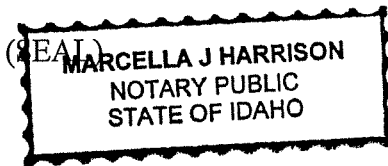
Further you affiant sayeth naught.

Respectfully submitted this 6th day of May, 2016.

Kinzo H. Mihara
Kinzo H. Mihara

NOTARIAL ATTESTATION

That on the 6th day of May, 2016, and after being duly sworn, Kinzo H. Mihara, personally known to me and upon showing sufficient identification, appeared before me and executed this document.



Marcella J. Harrison
Marcella J. Harrison, Notary Public
Residing at: Coeur d'Alene ID

My commission expires: 4/14/20

Certificate of Service

I hereby certify that on the 6th day of May, 2016, a copy of the foregoing Affidavit of Counsel was served on the following counsel of record and other entities via the method indicated below:

Norman Semanko

Moffatt, Thomas, Barrett, Rock & Fields, Chtd.

P.O. Box 829

Boise, Idaho 83701-0829

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 385-5384

☐ Hand-delivery

Counsel for Claimant(s) and Respondent NIWRA members

Clive Strong

Steven Strack

Office of the Attorney General

State of Idaho

P.O. Box 83720

Boise, Idaho 83720-0010

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 334-4143

☐ Hand-delivery

Counsel for Respondent State of Idaho

U.S. Department of Justice

Environment & Nat'l Resources

550 W. Fort St., MSC 033

Boise, Idaho 83724

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (303) 844-1350

☐ Hand-delivery

Idaho Department of Water Resources

P.O. Box 83720

Boise, Idaho 83720-0098

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 287-6700

☐ Hand-delivery

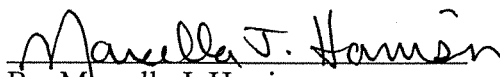

By: Marcella J. Harrison

EXHIBIT "6"

DISTRICT COURT - CSRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 22 2016	
By _____	Clerk
_____	Deputy Clerk

Norman M. Semanko, ISB No. 4761
Sarah A. McCormack, ISB No. 9683
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
sam@moffatt.com
26002.0000

Attorneys for Steve Hawks and Deanne Hawks,
Stephen G. Hopkins, and Members of the North
Idaho Water Rights Alliance

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. 91-7102, 91-7120, 91-7173,
AND 91-7104

NOTICE OF CORRECT SUBCASE NUMBERS

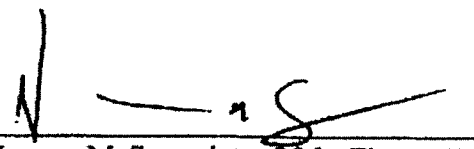
COMES NOW, Steve and Deanne Hawks, Stephen G. Hopkins, and the members of the North Idaho Water Rights Alliance, by and through undersigned counsel of record, pursuant to the Court's *Order Setting Deadline and Status Conference* (January 15, 2016), and hereby provides notice to the court and the parties that the correct subcase numbers that should be set for trial are Subcase Nos. 91-7102 and 91-7104. Subcase Nos. 91-7120 and 91-7173 were inadvertently identified previously. Undersigned counsel will be prepared to discuss with the

court and the parties further scheduling for the above-mentioned subcases at the status conference on March 16, 2016.

DATED this 10th day of February, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By


Norman M. Semanko – Of the Firm
Attorneys for Members of the North
Idaho Water Rights Alliance

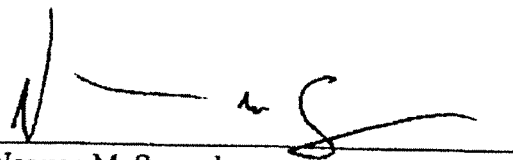
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of February, 2016, I caused a true and correct copy of the foregoing NOTICE OF CORRECT SUBCASE NUMBERS to be served by U.S. Mail and addressed to the following:

Chief Natural Resources Div.
OFFICE OF THE ATTORNEY GENERAL
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

Howard A. Funke
HOWARD FUNKE & ASSOCIATES, PC
424 Sherman Ave., Suite 308
P. O. Box 969
Coeur d'Alene, ID 83816-0969

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098


Norman M. Semanko

MOFFATT
THOMAS

Attorneys at Law

P.O. Box 829
Boise, Idaho 83701-0829

BOISE ID 837

HASLER

02/22/2016

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Howard A. Funke
HOWARD FUNKE & ASSOCIATES, PC
424 Sherman Ave., Suite 308
P. O. Box 969
Coeur d'Alene, ID 83816-0969

838160969

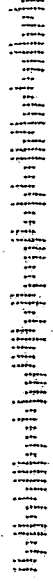


EXHIBIT "7"

COPY

Norman M. Semanko, ISB No. 4761
Sarah A. McCormack, ISB No. 9683
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
sam@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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. 91-7102; 91-7173

**AFFIDAVIT OF SARAH
MCCORMACK IN SUPPORT OF
CLAIMANTS' RESPONSE TO
OBJECTOR'S MOTION TO COMPEL
AND MOTION TO DETERMINE
SUFFICIENCY OF OBJECTIONS AND
TO DEEM CERTAIN MATTERS
ADMITTED**

Steve and Deanne Hawks,

Claimants,

vs.

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

Objector.

**AFFIDAVIT OF SARAH MCCORMACK IN SUPPORT OF CLAIMANTS'
RESPONSE TO OBJECTOR'S MOTION TO COMPEL AND MOTION
TO DETERMINE SUFFICIENCY OF OBJECTIONS AND TO DEEM
CERTAIN MATTERS ADMITTED - 1**

STATE OF IDAHO)
) ss.
County of Ada)

SARAH A. McCORMACK, being duly sworn upon oath, deposes and states as follows:

1. I am over eighteen years of age and am an attorney with the law firm Moffatt, Thomas, Barrett, Rock & Fields, Chartered, counsel of record for the above-named Claimants Steve and Deanna Hawks, and make this affidavit upon my own personal knowledge.
2. On February 5, 2016, the Coeur d'Alene Tribe ("Objector") served Claimants Steve and Deanne Hawks (collectively, "Claimants") with *Objector's First Requests for Discovery to Claimants* in Subcase Nos. 91-7102 and 91-7173. Attached hereto as **Exhibit A** are true and correct copies of *Objector's First Requests for Discovery to Claimants* in Subcase Nos. 91-7102 and 91-7173.
3. On March 4, 2016, claimants Jack and Nancy Buell (the "Buell") provided Objector with *Claimant(s) Buells' Response to Objector's First Request for Discovery* for Subcase No. 92-07226. Attached hereto as **Exhibit B** is a true and correct copy of *Claimant(s) Buells' Response to Objector's First Request for Discovery* for Subcase No. 92-07226.
4. On March 7, 2016, Claimants provided Objector with *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* for Subcase Nos. 91-7102 and 91-7173 (the "First Responses"). Attached hereto as **Exhibit C** are true and correct copies of *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* for Subcase Nos. 91-7102 and 91-7173.

AFFIDAVIT OF SARAH MCCORMACK IN SUPPORT OF CLAIMANTS' RESPONSE TO OBJECTOR'S MOTION TO COMPEL AND MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND TO DEEM CERTAIN MATTERS ADMITTED - 2

5. On March 15, 2016, I, along with Norman Semanko of this law firm, co-counsel for the Buells and counsel for Objector participated in a conference call regarding the discovery responses from the Buells. During the conference call counsel for Objector explained its concerns regarding the discovery responses, request by request. However, Objector did not address any of the issues described in its Motion to Compel regarding the Buells' response for Interrogatory No. 7. In fact, Objector informed counsel for Claimants that he found the Buells' licensing file online and had reviewed the documents.

6. During the March 15 conference call counsel for Objector admitted that some of the interrogatories, specifically Interrogatory Nos. 8, 9, 12, 13, 14 and 15, sought a legal conclusion and offered to consider amending those requests or, alternatively, offered that Claimants should provide qualified answers. However, during the March 21 conference call, counsel for Objector reneged on his earlier offer to amend the requests and insisted that Claimants provide qualified answers.

7. At the end of the March 15 conference call, counsel for the parties agreed to schedule a follow-up call for March 21, 2016, to give time for Claimants to develop a plan to address Objector's concerns.

8. On March 15, 2016, Kinzo Mihara, counsel for Objector, sent a follow-up e-mail confirming the agreement between the parties. Attached hereto as **Exhibit D** is a true and correct copy of Kinzo Mihara's e-mail to counsel regarding the March 15 conference call, dated March 15, 2016.

9. On March 21, 2016, I, along with Norman Semanko of this law firm, co-counsel for the Buells and counsel for Objector participated in a follow-up conference call

regarding the discussion at the March 15 conference call. During this conference call Claimants agreed to provide amended responses to Objector's discovery requests in accordance with concerns explained by Objector for the responses by the Buells.

10. On March 28, 2016, Claimants provided Objector with *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery Requests* for Subcase Nos. 91-7102 and 91-7173 (the "Amended Responses"). Attached hereto as **Exhibit E** are true and correct copies *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery Requests* for Subcase Nos. 91-7102 and 91-7173.

11. On April 13, 2016, Objector served Claimants with *Objector's Second Requests for Discovery to Claimants* for both Subcase Nos. 91-7102 and 91-7173. In addition, Objector deposed Claimants on May 2, 2016 in St. Maries, Idaho.

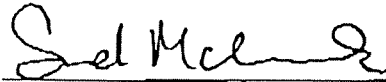
12. Objector made no contact or effort to meet and confer with counsel for Claimants regarding the Claimants' responses until April 15, 2016, when it served Claimants with its Motion to Compel and Motion to Determine Sufficiency of Objections and to Deem Certain Matters Admitted.

13. On May 3, 2016, Claimants provided Objector with *Claimants Steve and Deanne Hawks Amended Responses to Objectors First Requests for Discovery with Claimant Verification* for Subcase Nos. 91-7102 and 91-7173. Attached hereto as **Exhibit F** are true and

correct copies *Claimants Steve and Deanne Hawks Amended Responses to Objectors First*

Requests for Discovery with Claimant Verification for Subcase Nos. 91-7102 and 91-7173.

Further your affiant sayeth naught.



Sarah A. McCormack

SUBSCRIBED AND SWORN to before me this 4th day of May, 2016.




NOTARY PUBLIC FOR IDAHO
Residing at Mendenhall Idaho
My Commission Expires 10/9/19

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of May, 2016, I caused a true and correct copy of the foregoing **AFFIDAVIT OF SARAH MCCORMACK IN SUPPORT OF CLAIMANTS' RESPONSE TO OBJECTOR'S MOTION TO COMPEL AND MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND TO DEEM CERTAIN MATTERS ADMITTED** 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, ID 83816-0969
Facsimile (208) 667-4695
hfunke@indian-law.org
kmihara@indian-law.org
dhedden@indian-law.org

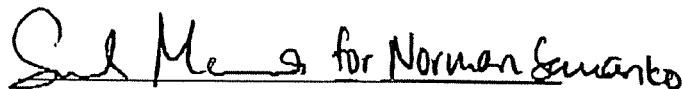
() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(X) Facsimile
() E-Mail

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
700 W. State St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0010
Facsimile (208) 854-8072

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(X) Facsimile
() E-Mail

Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098
Facsimile (208) 287-6700
gary.spackman@idwr.idaho.gov

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(X) Facsimile
() E-Mail


Norman M. Semanko

AFFIDAVIT OF SARAH MCCORMACK IN SUPPORT OF CLAIMANTS' RESPONSE TO OBJECTOR'S MOTION TO COMPEL AND MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND TO DEEM CERTAIN MATTERS ADMITTED - 6

EXHIBIT "8"

MORRIS AND WOLFF, P.A.
Nancy A. Wolff (ISB #2930)
Mariah R. Dunham (ISB #7287)
722 Main Avenue
St. Maries, Idaho 83861
Telephone: (208) 245-2523
Facsimile: (208) 245-4392

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(s) Jack A. Buell and/or Eleanor L. Buell

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. 92-7226

**CLAIMANT(S) BUELLS' RESPONSE
TO OBJECTOR'S FIRST REQUESTS
FOR DISCOVERY**

Jack A. Buell and/or Eleanor L. Buell,
husband and wife,

Claimant(s),

vs.

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

Objector.

COMES NOW Claimant(s) Jack A. Buell and/or Eleanor L. Buell, by and through undersigned counsel of record, and responds to Objector's First Requests for Discovery 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 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(s) also object 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(s) deny 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(s) also object to this Request for Admission No. 2 because it seeks a legal conclusion regarding the ownership of “the 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(s) deny 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(s) lack sufficient information to either admit or deny Request for Admission No. 3 at this time, and therefore, deny 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(s) lack sufficient information to either admit or deny Request for Admission No. 4 at this time, and therefore, deny 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(s) deny 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(s) deny 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 these objections, Claimant(s) lack sufficient information to either admit or deny Request for Admission No. 7 at this time, and therefore, deny 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. Without waiving the objection, Claimant(s) lack sufficient information to either admit or deny Request for Admission No. 8 at this time, and therefore, deny 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(s) deny 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(s) also object to this Request for Admission No. 10 because it seeks a legal conclusion.

Without waiving these objections, Claimant(s) lack sufficient information to either admit or deny Request for Admission No. 10 at this time, and therefore, deny 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(s) also object to this Request for Admission No. 11 because it seeks a legal conclusion. Without waiving these objections, Claimant(s) lack sufficient information to either admit or deny Request for Admission No. 11 at this time, and therefore, deny 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(s) deny 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(s) also object 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(s) deny 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(s) deny 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(s) also object to this Request for Admission No. 15 because it seeks a legal conclusion. Without waiving these objections, Claimant(s) deny 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 Requests 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 Claimants' 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: The responding Claimant(s) do not hold an encroachment permit from the Coeur d'Alene Tribe for any purpose.

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. 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, Claimant(s) 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(s) are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimant(s) reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

Claimant(s) may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

(a) Claimant, Jack A. Buell, c/o Morris and Wolff, P.A., Attorneys at Law, 722 Main Avenue, St. Maries, Idaho 83861.

(b) Claimant, Eleanor L. Buell, c/o Morris and Wolff, P.A., Attorneys at Law, 722 Main Avenue, St. Maries, Idaho 83861.

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(s) are unsure, at this time, whom they may call as expert witnesses at the time of hearing. Claimant(s) reserve 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(s). Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' 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(s) or the State of Idaho owns the submerged lands underlying the Claimants' 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(s) respond 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(s). Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' 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(s). Notwithstanding the objection, documents requested in Request for Production No. 5 are available in the Claimants' 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(s). Notwithstanding the objection, documents requested in Request for Production No. 6 are available in the Claimants' 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 Claimants' 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(s) do 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 Claimants’ 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(s) do not have possession, custody or control of any additional deeds, surveys, plats, or other document which relates 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 Claimant(s). Notwithstanding the objection, documents requested in Request for Production No. 9 are available in the Claimants’ 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(s) are unsure, at this time, whom they may call as expert witnesses at the time of hearing. Claimant(s) reserve 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(s). Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' 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(s). Notwithstanding the objection,

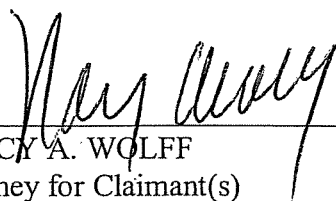
documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx> and the Idaho Department of Water Resources' Coeur d'Alene Spokane River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

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(s). Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' 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 4th day of March, 2016.

MORRIS AND WOLFF, P.A.

By 
NANCY A. WOLFF
Attorney for Claimant(s)
Jack A. Buell and/or Eleanor L. Buell

**CLAIMANT(S) BUELLS' RESPONSE TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**

Exhibit A

QUIT CLAIM DEED

LLOYD SELDER, a single man, hereinafter called the Grantor, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration in hand paid, and for the purpose of clearing and conveying title to the subject property, does hereby remise, release and forever quit claim all right, title and interest of Grantor unto JACK A. BUELL and ELEANOR L. BUELL, husband and wife, of 318 Highland Drive, St. Maries, Idaho 83861, in and to the following described real property situated in the County of Benewah, State of Idaho:

Lots Sixty-eight (68), Sixty-nine (69)
and Seventy (70), Shadowy St. Joe Lagoon
First Addition, as recorded in Benewah
County, Idaho,

with all appurtenances.

IN WITNESS WHEREOF, the Grantor has executed this deed this 19 day of July, 1989.

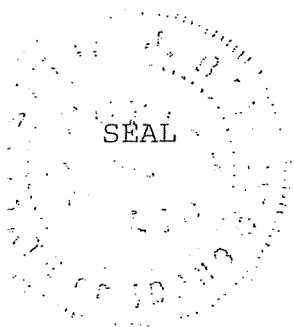


LLOYD SELDER

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 LLOYD SELDER, a single man, to me known to be the person whose name is subscribed to the foregoing Quit Claim Deed and, being duly sworn, acknowledged to me that he has read the same, is familiar with the facts therein stated, that the same are true to the best of his knowledge and belief, and that he executed said Quit Claim Deed.

DATED this 19th day of July, 1989.



Linda J. Bailey
Notary Public in and for Idaho
Res. & P. O. Address: L. Maria
Commission expires: 8-29-94

RECEIVED

181097

09 JUL 19 13:47

BEVERLY VALLARD
Lay Sather DEPUTY
#600

Bowen Agency

WARRANTY DEED

CLARENCE SHEPHERD and MARIE SHEPHERD, husband and wife, hereinafter called the Grantors, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration in hand paid, do hereby grant, convey and warrant to JACK A. BUELL and ELEANOR L. BUELL, husband and wife, of 318 Highland Drive, St. Maries, Idaho 83861, the following described real estate, situated in the County of Benewah, State of Idaho:

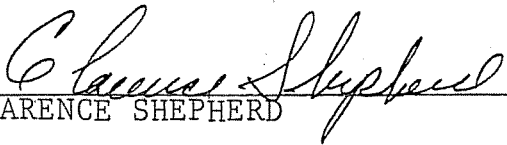
Lots Sixty-eight (68), Sixty-nine (69) and Seventy (70), Shadowy St. Joe Lagoon First Addition, as recorded in Benewah County records,

Subject to easements, rights-of-way and encumbrances apparent or of record,

with all appurtenances.

The Grantors further covenant and warrant that they are well seized of said real estate and have full right and lawful authority to convey the same.

IN WITNESS WHEREOF, the Grantors have executed this deed this 30 day of April, 1986.

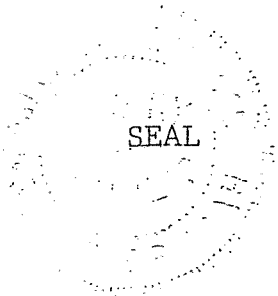

CLARENCE SHEPHERD


MARIE SHEPHERD

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 CLARENCE SHEPHERD and MARIE SHEPHERD, husband and wife, to me known to be the persons whose names are subscribed to the foregoing Warranty Deed and, being duly sworn, acknowledged to me that they have read the same, are familiar with the facts therein stated, and that the same are true to the best of their knowledge and belief.

DATED this 30 day of April, 1986.



Adrianne J. Anderson
Notary Public in and for Idaho
Res. & P. O. Address: St. Maries
Commission expires: 2-17-91

RECEIVED

181098

89 JUL 19 P 3: 49

BEVERLY VALLARD
Lay Setder DEPUTY
#622

Banner Agency

**CLAIMANT(S) BUELLS' RESPONSE TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**

Exhibit B

POLICY OF TITLE INSURANCE

ISSUED FROM THE OFFICE OF
BENEWAH COUNTY ABSTRACT COMPANY

131 South Eighth Street
St. Maries, Idaho 83861

Policy issuing Agent for

SAFECO TITLE INSURANCE COMPANY OF IDAHO

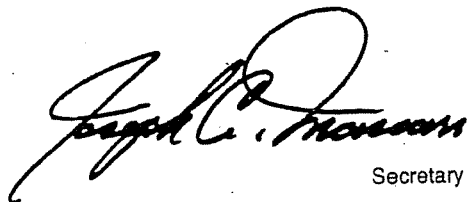
SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS CONTAINED IN SCHEDULE B AND THE PROVISIONS OF THE CONDITIONS AND STIPULATIONS HEREOF, SAFECO TITLE INSURANCE COMPANY OF IDAHO, an Idaho corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the amount of insurance stated in Schedule A, and costs, attorneys' fees and expenses which the Company may become obligated to pay hereunder, sustained or incurred by the insured by reason of:

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

and in addition, if a mortgage is referred to in Schedule A as the insured mortgage, by reason of:

5. The invalidity or unenforceability of the lien of the insured mortgage upon said estate or interest except to the extent that such invalidity or unenforceability, or claim thereof, arises out of the transaction evidenced by the insured mortgage and is based upon
 - a. usury, or
 - b. any consumer credit protection or truth in lending law;
6. The priority of any lien or encumbrance over the lien of the insured mortgage;
7. Any statutory lien for labor or material which now has gained or hereafter may gain priority over the lien of the insured mortgage, except any such lien arising from an improvement on the land contracted for and commenced subsequent to Date of Policy not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the Insured has advanced or is obligated to advance;
8. Any assessments for street improvements under construction or completed at Date of Policy which now have gained or hereafter may gain priority over the insured mortgage; or
9. The invalidity or unenforceability of any assignment, shown in Schedule A, of the insured mortgage or the failure of said assignment to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

In Witness Whereof, SAFECO Title Insurance Company of Idaho has caused its corporate name and seal to be hereunto affixed by its duly authorized officers as of Date of Policy shown in Schedule A.


Secretary




President


An Authorized Signature

SCHEDULE OF EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy:

1. (a) Governmental police power.
(b) Any law, ordinance or governmental regulation relating to environmental protection.
(c) Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part.
(d) The effect of any violation of the matters excluded under (a), (b) or (c) above, unless notice of a defect, lien or encumbrance resulting from a violation has been recorded at Date of Policy in those records in which under state statutes deeds, mortgages, lis pendens, liens or other title encumbrances must be recorded in order to impart constructive notice to purchasers of the land for value and without knowledge; provided, however, that without limitation, such records shall not be construed to include records in any of the offices of federal, state or local environmental protection, zoning, building, health or public safety authorities.
2. Rights of eminent domain unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy. The provisions of this sub-paragraph (e) shall not apply if this policy is issued to the owner of the indebtedness secured by the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company may have had against the named insured, those who succeed to the interest of such insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors. The term "insured" also includes (i) the owner of the indebtedness secured by the insured mortgage and each successor in ownership of such indebtedness (reserving, however, all rights and defenses as to any such successor who acquires the indebtedness by operation of law as described in the first sentence of this subparagraph (a) that the Company would have had against the successor's transferor), and further includes (ii) any governmental agency or instrumentality which is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing said indebtedness, or any part thereof, whether named as an insured herein or not, and (iii) the parties designated in paragraph 2(a) of these Conditions and Stipulations.

(b) "insured claimant": an insured claiming loss or damage hereunder.

(c) "knowledge": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of any public records.

(d) "land": the land described, specifically or by reference in Schedule A, and improvements affixed thereto which by law constitute real property; provided, however, the term "land" does not include any property beyond the lines of the area specifically described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": those records which by law impart constructive notice of matters relating to said land.

2. (a) CONTINUATION OF INSURANCE AFTER ACQUISITION OF TITLE

If a mortgage is referred to in Schedule A as the insured mortgage, this policy shall continue in force as of Date of Policy in favor of an insured who acquires all or any part of the estate or interest in the land described in Schedule A by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage, and if the insured is a corporation, its transferee of the estate or interest so acquired, provided the transferee is the parent or wholly owned subsidiary of the insured; and in favor of any governmental agency or instrumentality which acquires all or any part of the estate or interest pursuant to a contract of insurance or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage; provided that the amount of insurance hereunder after such acquisition, exclusive of costs, attorneys' fees and expenses which the Company may become obligated to pay, shall not exceed the least of: (i) the amount of insurance stated in Schedule A; (ii) the amount of the unpaid principal of the indebtedness as defined in paragraph 8 hereof, plus interest thereon, expenses of foreclosure and amounts advanced to protect the lien of the insured mortgage and secured by said insured mortgage at the time of acquisition of such estate or interest in the land; or (iii) the amount paid by any governmental agency or instrumentality, if such agency or instrumentality is the insured claimant, in the acquisition of such estate or interest in satisfaction of its insurance contract or guaranty.

(b) CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE

The coverage of this policy shall continue in force as of Date of Policy, in favor of an insured so long as such insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from such insured, or so long as such insured shall have liability by reason of covenants of warranty made by such insured in any transfer or conveyance of such estate or interest; provided, however, this policy shall not continue in force in favor of any purchaser from such insured of either said estate or interest or the indebtedness secured by a purchase money mortgage given to such insured.

3. DEFENSE AND PROSECUTION OF ACTIONS — NOTICE OF CLAIM TO BE GIVEN BY AN INSURED CLAIMANT

(a) The Company, at its own cost and without undue delay, shall provide for the defense of an insured in all litigation consisting of actions or proceedings commenced against such insured, or defenses, restraining orders or injunctions interposed against a foreclosure of the insured mortgage or a defense interposed against an insured in an action to enforce a contract for a sale of the indebtedness secured by the insured mortgage, or a sale of the estate or interest in said land, to the extent that such litigation is founded upon an alleged defect, lien, encumbrance, or other matter insured against by this policy.

(b) The insured shall notify the Company promptly in writing (i) in case any action or proceeding is begun or defense or restraining order or injunction is interposed as set forth in (a) above, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest or the lien of the insured mortgage, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest or the lien of the insured mortgage, as insured, is rejected as unmarketable. If such prompt notice shall not be given to the Company then as to such insured all liability of the Company shall cease and terminate in regard to the matter or matters for which such prompt notice is required; provided, however, that failure to notify shall in no case prejudice the rights of any such insured under this policy unless the Company shall be prejudiced by such failure and then only to the extent of such prejudice.

(c) The Company shall have the right at its own cost to institute and without undue delay prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured, and the Company may take any appropriate action under the terms of this policy, whether or not it shall be liable thereunder, and shall not thereby concede liability or waive any provision of this policy.

(d) Whenever the Company shall have brought any action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any such litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(e) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured hereunder shall secure to the Company the right to so prosecute or provide defense in such action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such insured for such purpose. Whenever requested by the Company, such insured shall give the Company all reasonable aid in any such action or proceeding, in effecting settlement, securing evidence, obtaining witnesses, or prosecuting or defending such action or proceeding, and the Company shall reimburse such insured for any expense so incurred.

(Conditions and Stipulations Continued and Concluded on Last Page of this Policy)

A. AGENT I.D. NO.: 3195 F. SAFECO CONTROL NO. OP 600039
B. _____ G. SIMUL. WITH NO.: _____
C. PREVIOUS LIAB.: \$ _____ H. PRIOR CONTROL NO.: _____
D. _____
E. PRICING CODE: 1010 REMARKS: _____
SPEC. DR/CR _____ \$ _____ \$ _____ \$ _____
CODE CODE CODE

THIS INFORMATION IS NOT A PART OF THE POLICY

Agent Order/ File No. 59-8646T

Premium: \$395.50

Amount of Insurance: \$ 80,900.00

Date of Policy: May 28, 1986

1. Name of Insured:

JACK A. BUELL and ELEANOR L. BUELL, husband and wife

2. The estate or interest in the land described herein and which is covered by this policy is

A fee simple estate

3. The estate or interest referred to herein is at Date of Policy vested in:

CLARENCE SHEPHERD and MARIE SHEPHERD, husband and wife

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

Situate in the County of Benewah, State of Idaho, to-wit:

Lots 68, 69 and 70, Shadowy St. Joe Lagoon, First Addition, as
recorded in Benewah County records

SCHEDULE B - PART A

(Standard Exceptions)

This policy does not insure against loss or damage by reason of the following:

- A. Taxes or special assessments which are not shown as existing liens by the public records; taxes not yet payable.
- B. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
- C. Easements, claims of easements or encumbrances which are not shown by the public records.
- D. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
- E. Unpatented minings claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims, or title to water.
- F. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

SCHEDULE B - PART B

(Special Exceptions)

1. Property taxes, including any assessments collected with taxes, levied for the year 1986, which are a lien due and payable on or before December 20, of said year.

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

Recorded: December 23, 1983 in Book 154 at page 5858
as instrument #161546, Benewah County records.

2. A land contract by and between the parties named below

Dated: April 30, 1986

Vendor: Clarence Shepherd and Marie Shepherd, husband
and wife

Vendee: Jack A. Buell and Eleanor L. Buell, husband
and wife

Recorded: May 22, 1986 as instrument #171172, Benewah
County records

3. Any claim arising from a difference in the mean high water level of the St. Joe River and the meander line.

4. Easements for roads and utilities presently in view, whether or not of record.

"END SCHEDULE B"

This Policy is not Valid without Schedule B, Part A

SCHEDULE B - PART B, (Special)

ALTA Single Form Policy - 1970 with ALTA Endorsement - Form 1 coverage
SAFECO Stock No. ID-304B (4-83)



CONDITIONS AND STIPULATIONS (Continued and Concluded From Reverse Side of Policy Face)

4. NOTICE OF LOSS — LIMITATION OF ACTION

In addition to the notices required under paragraph 3(b) of these Conditions and Stipulations, a statement in writing of any loss or damage, for which it is claimed the Company is liable under this policy, shall be furnished to the Company within 90 days after such loss or damage shall have been determined and no right of action shall accrue to an insured claimant until 30 days after such statement shall have been furnished. Failure to furnish such statement of loss or damage shall terminate any liability of the Company under this policy as to such loss or damage.

5. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS

The Company shall have the option to pay or otherwise settle for or in the name of an insured claimant any claim insured against or to terminate all liability and obligations of the Company hereunder by paying or tendering payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred up to the time of such payment or tender of payment, by the insured claimant and authorized by the Company. In case loss or damage is claimed under this policy by the owner of the indebtedness secured by the insured mortgage the Company shall have the further option to purchase such indebtedness for the amount owing thereon together with all costs, attorneys' fees and expenses which the Company is obligated hereunder to pay. If the Company offers to purchase said indebtedness as herein provided, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage and any collateral securing the same to the Company upon payment therefor as herein provided.

6. DETERMINATION AND PAYMENT OF LOSS

(a) The liability of the Company under this policy shall in no case exceed the least of: (i) the actual loss of the insured claimant; or (ii) the amount of insurance stated in Schedule A, or, if applicable, the amount of insurance as defined in paragraph 2(a) hereof; or (iii) if this policy insures the owner of the indebtedness secured by the insured mortgage, the amount of the indebtedness secured by the insured mortgage as determined under paragraph 8 hereof, at the time the loss or damage insured against hereunder occurs, together with interest thereon.

(b) The Company will pay, in addition to any loss insured against by this policy, all costs imposed upon an insured in litigation carried on by the Company for such insured, and all costs, attorneys' fees and expenses in litigation carried on by such insured with the written authorization of the Company.

(c) When liability has been definitely fixed in accordance with the conditions of this policy, the loss or damage shall be payable within 30 days thereafter.

7. LIMITATION OF LIABILITY

No claim shall arise or be maintainable under this policy (a) if the Company, after having received notice of an alleged defect, lien or encumbrance insured against hereunder, by litigation or otherwise, removes such defect, lien or encumbrance or establishes the title, or the lien of the insured mortgage, as insured, within a reasonable time after receipt of such notice; (b) in the event of litigation until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title or to the lien of the insured mortgage, as insured, as provided in paragraph 3 hereof; or (c) for liability voluntarily assumed by an insured in settling any claim or suit without prior written consent of the Company.

8. REDUCTION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto; provided, however, if the owner of the indebtedness secured by the insured mortgage is an insured hereunder, then such payments, prior to the acquisition of title to said estate or interest as provided in paragraph 2(a) of these Conditions and Stipulations, shall not reduce pro tanto the amount of the insurance afforded hereunder as to any such insured, except to the extent that such payments reduce the amount of the indebtedness secured by such mortgage.

Payment in full by any person or voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company to an insured owner of the indebtedness secured by the insured mortgage, except as provided in paragraph 2(a) hereof.

(b) The liability of the Company shall not be increased by additional principal indebtedness created subsequent to Date of Policy, except as to amounts advanced to protect the lien of the insured mortgage and secured thereby.

No payment shall be made without producing this policy for endorsement of such payment unless the policy be lost or destroyed, in which case proof of such loss or destruction shall be furnished to the satisfaction of the Company.

9. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy, as to the insured owner of the estate or interest covered by this policy, shall be reduced by any amount the Company may pay under any policy insuring either (a) a mortgage shown or referred to in Schedule B hereof which is a lien on the estate or interest covered by this policy, or (b) a mortgage hereafter executed by an insured which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy. The Company shall have the option to apply to the payment of any such mortgages any amount that otherwise would be payable hereunder to the insured owner of the estate or interest covered by this policy and the amount so paid shall be deemed a payment under this policy to said insured owner.

The provisions of this paragraph 9 shall not apply to an owner of the indebtedness secured by the insured mortgage, unless such insured acquires title to said estate or interest in satisfaction of said indebtedness or any part thereof, and then only as to payments under any policy insuring any mortgage thereafter executed by such insured and which is a charge or lien on the estate or interest described in Schedule A.

10. APPORTIONMENT

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of said parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each such parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement herein or by an endorsement attached hereto. The provisions of this paragraph shall not apply if this policy is issued to the owner of the indebtedness secured by the insured mortgage.

11. SUBROGATION UPON PAYMENT OR SETTLEMENT

Whenever the Company shall have settled a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant, except that the owner of the indebtedness secured by the insured mortgage may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the insured mortgage, or release any collateral security for the indebtedness, provided such act occurs prior to receipt by the insured of notice of any claim of title or interest adverse to the title to the estate or interest or the priority of the lien of the insured mortgage and does not result in any loss of priority of the lien of the insured mortgage. The Company shall be subrogated to and be entitled to all rights and remedies which such insured claimant would have had against any person or property in respect to such claim had this policy not been issued, and if requested by the Company, such insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right of subrogation and shall permit the Company to use the name of such insured claimant in any transaction or litigation involving such rights or remedies. If the payment does not cover the loss of such insured claimant, the Company shall be subrogated to such rights and remedies in the proportion which said payment bears to the amount of said loss, but such subrogation shall be insubordination to the insured mortgage. If loss of priority should result from any act of such insured claimant, such act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against hereunder which shall exceed the amount, if any, lost to the Company by reason of the impairment of the right of subrogation.

12. LIABILITY LIMITED TO THIS POLICY

This instrument together with all endorsements and other instruments, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company.

Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the lien of the insured mortgage or of the title to the estate or interest covered hereby or any action asserting such claim, shall be restricted to the provisions and conditions and stipulations of this policy.

No amendment of or endorsement to this policy can be made except by writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

13. NOTICES, WHERE SENT

All notices required to be given to the Company and any statement in writing required to be furnished the Company shall be addressed to it at the office which issued this policy or to:

SAFECO Title Insurance Company Of Idaho
Home Office Legal Department
300 North Sixth Street

POLICY OF
TITLE
INSURANCE



SAFECO TITLE INSURANCE COMPANY
OF IDAHO

HOME OFFICE
300 NORTH SIXTH STREET
BOISE, IDAHO 83701



EXHIBIT "9"

Kinzo Mihara

From: Kinzo Mihara
Sent: Tuesday, March 15, 2016 4:49 PM
To: 'Mariah Dunham'; 'Nancy Wolff'; nms@moffatt.com; 'Sarah McCormack'
Cc: Howard Funke; Dylan Hedden
Subject: RE: CSRBA Case 49576; Subcase No. 92-7226 (Buell)

Ladies and Norm,

Thank you for taking the time to meet today via telephone conference with Howard and I.

To reiterate, we believe the answers and responses to our discovery requests were deficient for the reasons articulated on our call.

While the discussion focused on the specific answers to the Buell matter, the theme of our concerns of deficiency run consistent throughout the discovery we received for all the encroachment cases.

I did not believe we fully resolved any of the issues, however, we did agree that you would meet and confer among yourselves to formulate a unified response to our concerns, at least in regards to the Buell matter. We agreed that you would advise us on how you propose to collectively proceed, in light of our concerns, by close of business on Monday, March 21, 2016. Please let me know if my understanding is incorrect.

Moving forward, it is my hope that we're able to find some middle ground. Again, I thank you for your time and willingness to address our concerns in good faith.

Regards,

Kinzo

Kinzo H. Mihara
Attorney at Law
Howard Funke & Associates, P.C.
424 Sherman Ave., Ste. 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

EXHIBIT "10"

Kinzo Mihara

From: Norm Semanko <nms@moffatt.com>
Sent: Friday, March 25, 2016 3:52 PM
To: Kinzo Mihara
Subject: CSRBA Test Subcases - Amended Discovery Responses

Kinzo,

I understand that you are out of the office today. I called your office this afternoon to inform you that we will be able to finalize our amended discovery responses in the test subcases on Monday morning and will plan to send them to you by email and regular mail then.

We had previously discussed having a call at 10:00 Pacific Time on Monday morning. Could we move that back to 11:30 Pacific Time instead? We will plan to call you then. Of course, this is still prior to our Status Conference for the test subcases at 1:00 Pacific Time.

Thank you, and Happy Easter.

Regards,

Norman M. Semanko
Moffatt Thomas

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EXHIBIT "11"

Kinzo Mihara

From: Norm Semanko <nms@moffatt.com>
Sent: Monday, March 28, 2016 11:35 AM
To: Kinzo Mihara
Subject: Amended Discovery Responses
Attachments: 4108626_1_2016-03-28 Claimants Hawks (No 91-7102) AMENDED Responses to Objectors First Requests for Discovery.PDF; 4108615_1_2016-03-28 Claimants Bledsoes (91-7120) AMENDED Responses to Objectors First Requests for Discovery.PDF; 4108614_1_2016-03-28 Claimant Hopkins (91-7104) AMENDED Response to Objectors First Requests for Discovery.PDF; 4108613_1_2016-03-28 Claimants Hawks (No. 91-7173) AMENDED Responses to Objectors First Requests for Discovery.PDF

Kinzo,

Here are pdf copies of what was placed in the mail today. Thank you.

Norman M. Semanko
Moffatt Thomas

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EXHIBIT "12"

Kinzo Mihara

From: Mariah Dunham <mdunham@morriswolff.net>
Sent: Friday, April 01, 2016 2:48 PM
To: Kinzo Mihara
Cc: 'Nancy Wolff'; nms@moffatt.com
Subject: CSRBA Case 49576; Subcase No. 92-7226 (Buell)
Attachments: Buell.Amended Discovery.Subcase.92-7226.PDF

Kinzo,

Please find attached Claimant(s) Buells' Amended Responses to Objector's First Request for Discovery for CSRBA Case 49576; Subcase No. 92-7226. Mr. Buell will sign the verification page on Monday and we will send you the finalized document via US mail.

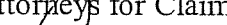
Mariah R. Dunham

Morris & Wolff, P.A.
722 Main Avenue
St. Maries, Idaho 83861
Phone (208) 245-2523
Facsimile (208) 245-4392

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DATED this 1 day of April, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Norman M. Semanko - Of the Firm
Attorneys for Claimant(s)
Jack A. Buell and/or Eleanor L. Buell

STATE OF IDAHO)
County of Benewah) ss.

JACK A. BUELL, being first duly sworn, deposes and says:

He has read the foregoing CLAIMANT(S) BUELLS' 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.

Jack A. Buell
Jack A. Buell, Claimant

SUBSCRIBED AND SWORN to before me this 1st day of April, 2016.

**TINA J. HOWARD
NOTARY PUBLIC
STATE OF IDAHO**

Lina J. Howard
NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires 11/8/2016

MORRIS AND WOLFF, P.A.
Nancy A. Wolff (ISB #2930)
Mariah R. Dunham (ISB #7287)
722 Main Avenue
St. Maries, Idaho 83861
Telephone: (208) 245-2523
Facsimile: (208) 245-4392

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(s) Jack A. Buell and/or Eleanor L. Buell

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. 92-7226

**CLAIMANT(S) BUELLS' AMENDED
RESPONSES TO OBJECTOR'S FIRST
REQUESTS FOR DISCOVERY**

Jack A. Buell and/or Eleanor L. Buell,
husband and wife,

Claimants,

vs.

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

Objector.

COME NOW Claimant(s) Jack A. Buell and/or Eleanor L. Buell, by and through undersigned counsel of record, and provide 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 4, 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(s) also object 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(s) admit 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(s) deny 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(s) admit 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(s) deny 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(s) admit 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(s) deny 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(s) admit 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(s) deny that the Coeur d’Alene Tribe has any right to exclude Claimant(s) 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(s) admit that the point of diversion for this claim is located within the current boundary of the Coeur d’Alene Indian Reservation. However, Claimant(s) deny 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(s) admit 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(s) deny 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(s) admit 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(s) deny 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 deny 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(s) also object 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(s) admit 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(s) therefore deny 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(s) also object 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(s) admit that they 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(s) deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversion works may have been constructed and further deny 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(s) also object 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(s) admit that they have 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(s) deny that the United States or the Coeur d’Alene Tribe owns the land upon which the diversionary works may have been constructed and further deny 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(s) therefore deny 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(s) also object 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(s) to their diversion works. Without waiving these

objections, Claimant(s) deny 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(s) also object 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(s) therefore deny the same, including any assertion that Claimant(s) have trespassed or are 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(s) also object 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(s) therefore deny the same, including

any assertion that Claimant(s) have 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(s) 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. The responding Claimant(s) do not believe they hold an encroachment permit from the Coeur d'Alene Tribe for any purpose.

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(s) also object 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(s) 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 their diversionary works. However, Claimant(s) 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(s) are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimant(s) reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimant(s) may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

(a) Claimant, Jack A. Buell, c/o Morris and Wolff, P.A., Attorneys at Law,
722 Main Avenue, St. Maries, Idaho 83861.

(b) Claimant, Eleanor L. Buell, c/o Morris and Wolff, P.A., Attorneys at Law,
722 Main Avenue, St. Maries, Idaho 83861.

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(s) are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimant(s) reserve 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(s).

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(s) do not have possession, custody or control of any additional description of their diversion works and water system, but reserve 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(s) also object 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(s) or the State of Idaho own the submerged lands underlying the Claimant(s)' point of diversion. The name and contact information are as follows: Claimant, Jack A. Buell, c/o Morris and Wolff, P.A., Attorneys at Law, 722 Main Avenue, St. Maries, Idaho 83861; Claimant, Eleanor L. Buell, c/o Morris and Wolff, P.A., Attorneys at Law, 722 Main Avenue, St. Maries, Idaho 83861; 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(s) respond 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(s). 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(s) do not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimant(s)' water-system, but reserve 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(s). 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(s). 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(s) do not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserve 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(s) do 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 reserve 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(s). 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(s) are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimant(s) reserve 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(s). 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(s) do 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 reserve 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: See Exhibit C attached hereto, related to City of St. Maries municipal water source used by the Claimant(s) on the property for Claimant(s)' residence. Objection is made to the remaining portion of Request for Production No. 12 on the grounds that the information requested is equally available to the Tribe as to the Claimant(s). 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(s). 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(s) do 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 reserve the right to supplement this answer in a timely manner.

DATED this 7 day of April, 2016.

MORRIS AND WOLFF, P.A.

By 

NANCY A. WOLFF

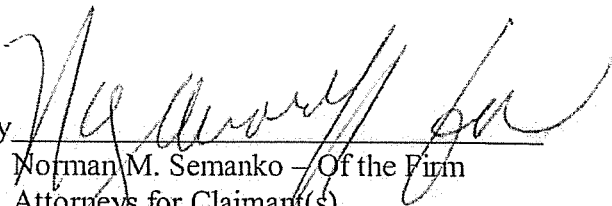
Attorney for Claimant(s)

Jack A. Buell and/or Eleanor L. Buell

DATED this 1 day of April, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By


Norman M. Semanko - Of the Firm
Attorneys for Claimant(s)
Jack A. Buell and/or Eleanor L. Buell

STATE OF IDAHO)
) ss.
County of Benewah)

JACK A. BUELL, being first duly sworn, deposes and says:

He has read the foregoing **CLAIMANT(S) BUELLS' 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.

Jack A. Buell, Claimant

SUBSCRIBED AND SWORN to before me this 1st day of April, 2016.

NOTARY PUBLIC FOR IDAHO
Residing at _____
My Commission Expires _____

**CLAIMANT(S) BUELLS' AMENDED RESPONSE TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**

Exhibit A

QUIT CLAIM DEED

LLOYD SELDER, a single man, hereinafter called the Grantor, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration in hand paid, and for the purpose of clearing and conveying title to the subject property, does hereby remise, release and forever quit claim all right, title and interest of Grantor unto JACK A. BUELL and ELEANOR L. BUELL, husband and wife, of 318 Highland Drive, St. Maries, Idaho 83861, in and to the following described real property situated in the County of Benewah, State of Idaho:

Lots Sixty-eight (68), Sixty-nine (69)
and Seventy (70), Shadowy St. Joe Lagoon
First Addition, as recorded in Benewah
County, Idaho,

with all appurtenances.

IN WITNESS WHEREOF, the Grantor has executed this deed this 19 day of July, 1989.

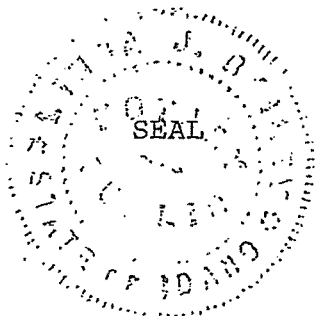


LLOYD SELDER

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 LLOYD SELDER, a single man, to me known to be the person whose name is subscribed to the foregoing Quit Claim Deed and, being duly sworn, acknowledged to me that he has read the same, is familiar with the facts therein stated, that the same are true to the best of his knowledge and belief, and that he executed said Quit Claim Deed.

DATED this 19th day of July, 1989.



Linda J. Bailey
Notary Public in and for Idaho
Res. & P. O. Address: LD. Maris
Commission expires: 8-29-94

RECEIVED

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BEVERLY VALLARD
Lay Satterlee DEPUTY
#600

Bowen Agency

WARRANTY DEED

CLARENCE SHEPHERD and MARIE SHEPHERD, husband and wife, hereinafter called the Grantors, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration in hand paid, do hereby grant, convey and warrant to JACK A. BUELL and ELEANOR L. BUELL, husband and wife, of 318 Highland Drive, St. Maries, Idaho 83861, the following described real estate, situated in the County of Benewah, State of Idaho:

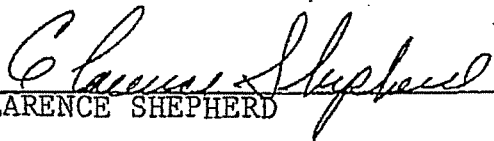
Lots Sixty-eight (68), Sixty-nine (69) and Seventy (70), Shadowy St. Joe Lagoon First Addition, as recorded in Benewah County records,

Subject to easements, rights-of-way and encumbrances apparent or of record,

with all appurtenances.

The Grantors further covenant and warrant that they are well seized of said real estate and have full right and lawful authority to convey the same.

IN WITNESS WHEREOF, the Grantors have executed this deed this 30 day of April, 1986.


CLARENCE SHEPHERD


MARIE SHEPHERD

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 CLARENCE SHEPHERD and MARIE SHEPHERD, husband and wife, to me known to be the persons whose names are subscribed to the foregoing Warranty Deed and, being duly sworn, acknowledged to me that they have read the same, are familiar with the facts therein stated, and that the same are true to the best of their knowledge and belief.

DATED this 30 day of April, 1986.



Adrianne J. Anderson
Notary Public in and for Idaho
Res. & P. O. Address: St. Maries
Commission expires: 2-17-91

RECEIVED

181098

89 JUL 19 P3:49

BEVERLY VALLARD
[Signature] DEPUTY
#6
Lawrence Agency

**CLAIMANT(S) BUELLS' AMENDED RESPONSE TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**

Exhibit B

POLICY OF TITLE INSURANCE

ISSUED FROM THE OFFICE OF
BENEWAH COUNTY ABSTRACT COMPANY
131 South Elghth Street
St. Maries, Idaho 83861

Policy issuing Agent for

SAFECO TITLE INSURANCE COMPANY OF IDAHO

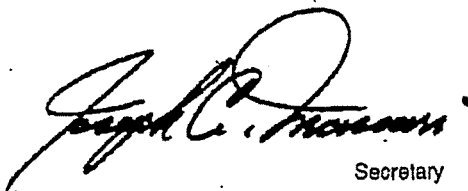
SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS CONTAINED IN SCHEDULE B AND THE PROVISIONS OF THE CONDITIONS AND STIPULATIONS HEREOF, SAFECO TITLE INSURANCE COMPANY OF IDAHO, an Idaho corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the amount of insurance stated in Schedule A, and costs, attorneys' fees and expenses which the Company may become obligated to pay hereunder, sustained or incurred by the insured by reason of:

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

and in addition, if a mortgage is referred to in Schedule A as the insured mortgage, by reason of:

5. The invalidity or unenforceability of the lien of the insured mortgage upon said estate or interest except to the extent that such invalidity or unenforceability, or claim thereof, arises out of the transaction evidenced by the insured mortgage and is based upon
 - a. usury, or ..
 - b. any consumer credit protection or truth in lending law;
6. The priority of any lien or encumbrance over the lien of the insured mortgage;
7. Any statutory lien for labor or material which now has gained or hereafter may gain priority over the lien of the insured mortgage, except any such lien arising from an improvement on the land contracted for and commenced subsequent to Date of Policy not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance;
8. Any assessments for street improvements under construction or completed at Date of Policy which now have gained or hereafter may gain priority over the insured mortgage; or
9. The invalidity or unenforceability of any assignment, shown in Schedule A, of the insured mortgage or the failure of said assignment to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

In Witness Whereof, SAFECO Title Insurance Company of Idaho has caused its corporate name and seal to be hereunto affixed by its duly authorized officers as of Date of Policy shown in Schedule A.


Secretary
President
An Authorized Signature

ALTA Single Form Policy - 1970 (Rev. 10-17-70 and 10-17-84)
with ALTA Indorsement - Form 1 coverage

SCHEDULE OF EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy:

1. (a) Governmental police power.
 (b) Any law, ordinance or governmental regulation relating to environmental protection.
 (c) Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part.
 (d) The effect of any violation of the matters excluded under (a), (b) or (c) above, unless notice of a defect, lien or encumbrance resulting from a violation has been recorded at Date of Policy in those records in which under state statutes deeds, mortgages, lis pendens, liens or other title encumbrances must be recorded in order to impart constructive notice to purchasers of the land for value and without knowledge; provided, however, that without limitation, such records shall not be construed to include records in any of the offices of federal, state or local environmental protection, zoning, building, health or public safety authorities.
2. Rights of eminent domain unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy. The provisions of this sub-paragraph (e) shall not apply if this policy is issued to the owner of the indebtedness secured by the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company may have had against the named insured, those who succeed to the interest of such insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors. The term "insured" also includes (i) the owner of the indebtedness secured by the insured mortgage and each successor in ownership of such indebtedness (reserving, however, all rights and defenses as to any such successor who acquires the indebtedness by operation of law as described in the first sentence of this subparagraph (a) that the Company would have had against the successor's transferor), and further includes (ii) any governmental agency or instrumentality which is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing said indebtedness, or any part thereof, whether named as an insured herein or not, and (iii) the parties designated in paragraph 2(a) of these Conditions and Stipulations.
- (b) "insured claimant": an insured claiming loss or damage hereunder.
- (c) "knowledge": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of any public records.
- (d) "land": the land described, specifically or by reference in Schedule A, and improvements affixed thereto which by law constitute real property; provided, however, the term "land" does not include any property beyond the lines of the area specifically described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (f) "public records": those records which by law impart constructive notice of matters relating to said land.

2. (a) CONTINUATION OF INSURANCE AFTER ACQUISITION OF TITLE

If a mortgage is referred to in Schedule A as the insured mortgage, this policy shall continue in force as of Date of Policy in favor of an insured who acquires all or any part of the estate or interest in the land described in Schedule A by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage, and if the insured is a corporation, its transferee of the estate or interest so acquired, provided the transferee is the parent or wholly owned subsidiary of the insured; and in favor of any governmental agency or instrumentality which acquires all or any part of the estate or interest pursuant to a contract of insurance or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage; provided that the amount of insurance hereunder after such acquisition, exclusive of costs, attorneys' fees and expenses which the Company may become obligated to pay, shall not exceed the least of: (i) the amount of insurance stated in Schedule A; (ii) the amount of the unpaid principal of the indebtedness as defined in paragraph 8 hereof, plus interest thereon, expenses of foreclosure and amounts advanced to protect the lien of the insured mortgage and secured by said insured mortgage at the time of acquisition of such estate or interest in the land; or (iii) the amount paid by any governmental agency or instrumentality, if such agency or instrumentality is the insured claimant, in the acquisition of such estate or interest in satisfaction of its insurance contract or guaranty.

(b) CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE

The coverage of this policy shall continue in force as of Date of Policy, in favor of an insured so long as such insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from such insured, or so long as such insured shall have liability by reason of covenants of warranty made by such insured in any transfer or conveyance of such estate or interest; provided, however, this policy shall not continue in force in favor of any purchaser from such insured of either said estate or interest or the indebtedness secured by a purchase money mortgage given to such insured.

3. DEFENSE AND PROSECUTION OF ACTIONS — NOTICE OF CLAIM TO BE GIVEN BY AN INSURED CLAIMANT

(a) The Company, at its own cost and without undue delay, shall provide for the defense of an insured in all litigation consisting of actions or proceedings commenced against such insured, or defenses, restraining orders or injunctions interposed against a foreclosure of the insured mortgage or a defense interposed against an insured in an action to enforce a contract for a sale of the indebtedness secured by the insured mortgage, or a sale of the estate or interest in said land, to the extent that such litigation is founded upon an alleged defect, lien, encumbrance, or other matter insured against by this policy.

(b) The insured shall notify the Company promptly in writing (i) in case any action or proceeding is begun or defense or restraining order or injunction is interposed as set forth in (a) above, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest or the lien of the insured mortgage, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest or the lien of the insured mortgage, as insured, is rejected as unmarketable. If such prompt notice shall not be given to the Company then as to such insured all liability of the Company shall cease and terminate in regard to the matter or matters for which such prompt notice is required; provided, however, that failure to notify shall in no case prejudice the rights of any such insured under this policy unless the Company shall be prejudiced by such failure and then only to the extent of such prejudice.

(c) The Company shall have the right at its own cost to institute and without undue delay prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured, and the Company may take any appropriate action under the terms of this policy, whether or not it shall be liable thereunder, and shall not thereby concede liability or waive any provision of this policy.

(d) Whenever the Company shall have brought any action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any such litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(e) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured hereunder shall secure to the Company the right to so prosecute or provide defense in such action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such insured for such purpose. Whenever requested by the Company, such insured shall give the Company all reasonable aid in any such action or proceeding, in effecting settlement, securing evidence, obtaining witnesses, or prosecuting or defending such action or proceeding, and the Company shall reimburse such insured for any expense so incurred.

A. AGENT I.D. NO.:	3195	F. SAFECO CONTROL NO. OP	600039
B.		G. SIMUL. WITH NO.:	
C. PREVIOUS LIAB.:	\$	H. PRIOR CONTROL NO.:	
D.			
E. PRICING CODE:	1010	REMARKS:	
SPEC. DR/CR	\$	\$	\$
CODE	CODE	CODE	
THIS INFORMATION IS NOT A PART OF THE POLICY			

Agent Order/ File No. 59-8646T

Premium: \$395.50

Amount of Insurance: \$ 80,900.00

Date of Policy: May 28, 1986

1. Name of Insured:

JACK A. BUELL and ELEANOR L. BUELL, husband and wife

2. The estate or interest in the land described herein and which is covered by this policy is

A fee simple estate

3. The estate or interest referred to herein is at Date of Policy vested in:

CLARENCE SHEPHERD and MARIE SHEPHERD, husband and wife

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

Situate in the County of Benewah, State of Idaho, to-wit:

Lots 68, 69 and 70, Shadowy St. Joe Lagoon, First Addition, as recorded in Benewah County records

SCHEDULE B - PART A

(Standard Exceptions)

This policy does not insure against loss or damage by reason of the following:

- A. Taxes or special assessments which are not shown as existing liens by the public records; taxes not yet payable.
- B. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
- C. Easements, claims of easements or encumbrances which are not shown by the public records.
- D. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
- E. Unpatented minings claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims, or title to water.
- F. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

SCHEDULE B - PART B

(Special Exceptions)

1. Property taxes, including any assessments collected with taxes, levied for the year 1986, which are a lien due and payable on or before December 20, of said year.

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

Recorded: December 23, 1983 in Book 154 at page 5858
as instrument #161546, Benewah County records.

2. A land contract by and between the parties named below

Dated: April 30, 1986

Vendor: Clarence Shepherd and Marie Shepherd, husband
and wife

Vendee: Jack A. Buell and Eleanor L. Buell, husband
and wife

Recorded: May 22, 1986 as instrument #171172, Benewah
County records

3. Any claim arising from a difference in the mean high water level of the St. Joe River and the meander line.

4. Easements for roads and utilities presently in view, whether or not of record.

"END SCHEDULE B"

This Policy is not Valid without Schedule B, Part A

SCHEDULE B - PART B, (Special)

ALTA Single Form Policy - 1970 with ALTA Endorsement - Form 1 coverage
SAFECO Stock No. ID-304B (4-83)



CONDITIONS AND STIPULATIONS (Continued and Concluded From Reverse Side of Policy Face)

4. NOTICE OF LOSS — LIMITATION OF ACTION

In addition to the notices required under paragraph 3(b) of these Conditions and Stipulations, a statement in writing of any loss or damage, for which it is claimed the Company is liable under this policy, shall be furnished to the Company within 90 days after such loss or damage shall have been determined and no right of action shall accrue to an insured claimant until 30 days after such statement shall have been furnished. Failure to furnish such statement of loss or damage shall terminate any liability of the Company under this policy as to such loss or damage.

5. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS

The Company shall have the option to pay or otherwise settle for or in the name of an insured claimant any claim insured against or to terminate all liability and obligations of the Company hereunder by paying or tendering payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred up to the time of such payment or tender of payment, by the insured claimant and authorized by the Company. In case loss or damage is claimed under this policy by the owner of the indebtedness secured by the insured mortgage the Company shall have the further option to purchase such indebtedness for the amount owing thereon together with all costs, attorneys' fees and expenses which the Company is obligated hereunder to pay. If the Company offers to purchase said indebtedness as herein provided, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage and any collateral securing the same to the Company upon payment therefor as herein provided.

6. DETERMINATION AND PAYMENT OF LOSS

(a) The liability of the Company under this policy shall in no case exceed the least of: (i) the actual loss of the insured claimant; or (ii) the amount of insurance stated in Schedule A, or, if applicable, the amount of insurance as defined in paragraph 2(a) hereof; or (iii) if this policy insures the owner of the indebtedness secured by the insured mortgage, the amount of the indebtedness secured by the insured mortgage as determined under paragraph 8 hereof, at the time the loss or damage insured against hereunder occurs, together with interest thereon.

(b) The Company will pay, in addition to any loss insured against by this policy, all costs imposed upon an insured in litigation carried on by the Company for such insured, and all costs, attorneys' fees and expenses in litigation carried on by such insured with the written authorization of the Company.

(c) When liability has been definitely fixed in accordance with the conditions of this policy, the loss or damage shall be payable within 30 days thereafter.

7. LIMITATION OF LIABILITY

No claim shall arise or be maintainable under this policy (a) if the Company, after having received notice of an alleged defect, lien or encumbrance insured against hereunder, by litigation or otherwise, removes such defect, lien or encumbrance or establishes the title, or the lien of the insured mortgage, as insured, within a reasonable time after receipt of such notice; (b) in the event of litigation until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title or to the lien of the insured mortgage, as insured, as provided in paragraph 3 hereof; or (c) for liability voluntarily assumed by an insured in settling any claim or suit without prior written consent of the Company.

8. REDUCTION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto; provided, however, if the owner of the indebtedness secured by the insured mortgage is an insured hereunder, then such payments, prior to the acquisition of title to said estate or interest as provided in paragraph 2(a) of these Conditions and Stipulations, shall not reduce pro tanto the amount of the insurance afforded hereunder as to any such insured, except to the extent that such payments reduce the amount of the indebtedness secured by such mortgage.

Payment in full by any person or voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company to an insured owner of the indebtedness secured by the insured mortgage, except as provided in paragraph 2(a) hereof.

(b) The liability of the Company shall not be increased by additional principal indebtedness created subsequent to Date of Policy, except as to amounts advanced to protect the lien of the insured mortgage and secured thereby.

No payment shall be made without producing this policy for endorsement of such payment unless the policy be lost or destroyed, in which case proof of such loss or destruction shall be furnished to the satisfaction of the Company.

9. LIABILITY - NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy, as to the insured owner of the estate or interest covered by this policy, shall be reduced by any amount the Company may pay under any policy insuring either (a) a mortgage shown or referred to in Schedule B hereof which is a lien on the estate or interest covered by this policy, or (b) a mortgage hereafter executed by an insured which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy. The Company shall have the option to apply to the payment of any such mortgages any amount that otherwise would be payable hereunder to the insured owner of the estate or interest covered by this policy and the amount so paid shall be deemed a payment under this policy to said insured owner.

The provisions of this paragraph 9 shall not apply to an owner of the indebtedness secured by the insured mortgage, unless such insured acquires title to said estate or interest in satisfaction of said indebtedness or any part thereof, and then only as to payments under any policy insuring any mortgage thereafter executed by such insured and which is a charge or lien on the estate or interest described in Schedule A.

10. APPORTIONMENT

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of said parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each such parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement herein or by an endorsement attached hereto. The provisions of this paragraph shall not apply if this policy is issued to the owner of the indebtedness secured by the insured mortgage.

11. SUBROGATION UPON PAYMENT OR SETTLEMENT

Whenever the Company shall have settled a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant, except that the owner of the indebtedness secured by the insured mortgage may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the insured mortgage, or release any collateral security for the indebtedness, provided such act occurs prior to receipt by the insured of notice of any claim of title or interest adverse to the title to the estate or interest or the priority of the lien of the insured mortgage and does not result in any loss of priority of the lien of the insured mortgage. The Company shall be subrogated to and be entitled to all rights and remedies which such insured claimant would have had against any person or property in respect to such claim had this policy not been issued, and if requested by the Company, such insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right of subrogation and shall permit the Company to use the name of such insured claimant in any transaction or litigation involving such rights or remedies. If the payment does not cover the loss of such insured claimant, the Company shall be subrogated to such rights and remedies in the proportion which said payment bears to the amount of said loss, but such subrogation shall be insubordination to the insured mortgage. If loss of priority should result from any act of such insured claimant, such act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against hereunder which shall exceed the amount, if any, lost to the Company by reason of the impairment of the right of subrogation.

12. LIABILITY LIMITED TO THIS POLICY

This instrument together with all endorsements and other instruments, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company.

Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the lien of the insured mortgage or of the title to the estate or interest covered hereby or any action asserting such claim, shall be restricted to the provisions and conditions and stipulations of this policy.

No amendment of or endorsement to this policy can be made except by writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

13. NOTICES, WHERE SENT

All notices required to be given to the Company and any statement in writing required to be furnished the Company shall be addressed to it at the office which issued this policy or to:

SAFECO Title Insurance Company Of Idaho
Home Office Legal Department
300 North Sixth Street
Boise, Idaho 83701



POLICY OF
TITLE
INSURANCE



SAFECO TITLE INSURANCE COMPANY
OF IDAHO
HOME OFFICE
300 NORTH SIXTH STREET
BOISE, IDAHO 83701



**CLAIMANT(S) BUELLS' AMENDED RESPONSE TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**

Exhibit C

City of St. Maries
602 College Avenue

St. Maries ID 83861
(208) 245-2577

Account Number:	14170.0-00
Service Address:	1452 SHEPHERD ROAD
Billing Date:	03/31/2016
Current Charges:	59.00
Past Due Charges:	0.00
Amount Due by 04/15/2016:	59.00

Check here if you have had a mailing address change
and indicate this change on the back of the stub.

JACK BUELL
318 HIGHLAND AVENUE
ST. MARIES ID 83861

Amount Enclosed: _____

Please detach and submit with payment. Thanks!

Account Number:	14170.0-00
Service Address:	1452 SHEPHERD ROAD
Last Payment:	59.00 - 03/14/2016
Billing Date:	03/31/2016

BUELL, JACK
318 HIGHLAND AVENUE
ST. MARIES ID 83861

Current Reading:	/ /	0
Previous Reading:	/ /	0
Usage:		NONE

Important Messages

PLEASE SLOW DOWN IN SCHOOL ZONES AND PARK AREAS.

Service	Current	Past-Due	Balance
WATER	32.00	0.00	32.00
COUNTY SEWER	27.00	0.00	27.00
Totals:	59.00	0.00	59.00
DUE DATE			04/15/2016

THANK YOU FOR YOUR PREVIOUS PAYMENT

USAGE HISTORY IN GALLONS

MAR 2015	APR 2015	MAY 2015	JUN 2015	JUL 2015	AUG 2015	SEP 2015	OCT 2015	NOV 2015	DEC 2015	JAN 2016	FEB 2016	MAR 2016

City of St. Maries
(208) 245-2577

EXHIBIT "13"

Kinzo Mihara

From: Kinzo Mihara
Sent: Tuesday, April 05, 2016 2:11 PM
To: nms@moffatt.com; 'Sarah McCormack' (SAM@moffatt.com)
Cc: Howard Funke; Dylan Hedden
Subject: CSRBA; Subcase Nos. 91-7102 and 91-7173

Norm and Sarah –

Please let this email memorialize a VM I just left on Norm's machine.

The Tribe is interested in taking the deposition of Steve and Deanne Hawks in the above-noted subcase numbers. To that end, I was calling to check on your clients' and your availability to do so.

We would like to schedule the deposition during the latter part of April or the early part of May in order to be able to get the transcript back in time for the motion for summary judgment deadline.

Please give me a call at your earliest convenience so we can schedule a mutually-available date and time to do so.

Thanks and regards,

Kinzo

Kinzo H. Mihara
Attorney at Law
Howard Funke & Associates, P.C.
424 Sherman Ave., Ste. 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

EXHIBIT "14"

Kinzo Mihara

From: Sarah McCormack <SAM@moffatt.com>
Sent: Thursday, April 07, 2016 1:36 PM
To: Kinzo Mihara
Cc: Howard Funke; Dylan Hedden; Norm Semanko
Subject: RE: CSRBA; Subcase Nos. 91-7102 and 91-7173 [MT-C.FID677279]

Kinzo,

I spoke with Norm this afternoon and he wanted me to let you know that he and the Hawks are available for depositions on the morning of Monday, May 2 in St. Maries. Please let us know if that works for you.

Thank you,
Sarah

SARAH A. MCCORMACK
Attorney



Direct 208 385 5474
Main 208 345 2000
Fax 208 385 5384
SAM@moffatt.com
<http://www.moffatt.com>

Mailing Address:	Physical Address:
P.O. Box 829	101 S. Capitol Blvd., 10th Floor
Boise, ID 83701-0829	Boise, ID 83702-7710

From: Kinzo Mihara [<mailto:kmihara@indian-law.org>]
Sent: Tuesday, April 05, 2016 3:11 PM
To: Norm Semanko; Sarah McCormack
Cc: Howard Funke; Dylan Hedden
Subject: CSRBA; Subcase Nos. 91-7102 and 91-7173

Norm and Sarah –

Please let this email memorialize a VM I just left on Norm's machine.

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Please give me a call at your earliest convenience so we can schedule a mutually-available date and time to do so.

Thanks and regards,

Kinzo

Kinzo H. Mihara
Attorney at Law
Howard Funke & Associates, P.C.
424 Sherman Ave., Ste. 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

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EXHIBIT "15"

Kinzo Mihara

From: Norm Semanko <nms@moffatt.com>
Sent: Friday, April 22, 2016 10:13 AM
To: Howard Funke
Cc: Dylan Hedden; Kinzo Mihara; Sarah McCormack
Subject: Subcase Nos. 91-7102 and 91-7173: Request to Reschedule Hearings on Motion to Compel and Motion to Determine Sufficiency of Objections and Deem Certain Matters Admitted [MT-C.FID677279]

Mr. Funke,

We have received your Notice of Hearing for Motion to Compel and Notice of Hearing for Motion to Determine Sufficiency of Objections and Deem Certain Matters Admitted. As you know, the hearings are set for May 4. As I informed Kinzo Mihara earlier this morning, and we have also informed the Court, I am not available on May 4. We have taken the liberty of inquiring with the Court and have been advised that an alternate hearing time is available at 9:00 PT/10:00 MT on May 11. Assuming that you are available, if you would be so kind as to file an Amended Notice of Hearing resetting the hearing from May 4 to May 11, I would greatly appreciate it.

Thank you.

Norman M. Semanko
Moffatt Thomas

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EXHIBIT "16"

Certificate of Service

I hereby certify that on the 12th day of April, 2016, a copy of the foregoing Objector's Second Requests for Discovery to Claimant(s) was served on the following counsel of record and other entities via the method indicated below:

Norman Semanko

Moffatt, Thomas, Barrett, Rock & Fields, Chtd.

P.O. Box 829

Boise, Idaho 83701-0829

☐ First Class Mail, Postage Prepaid

☒ Facsimile @ (208) 385-5384

☐ Hand-delivery

Counsel for Claimant(s) and Respondent NIWRA members

Clive Strong

Steven Strack

Office of the Attorney General

State of Idaho

P.O. Box 83720

Boise, Idaho 83720-0010

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 334-4143

☐ Hand-delivery

Counsel for Respondent State of Idaho

U.S. Department of Justice

Environment & Nat'l Resources

550 W. Fort St., MSC 033

Boise, Idaho 83724

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (303) 844-1350

☐ Hand-delivery

Idaho Department of Water Resources

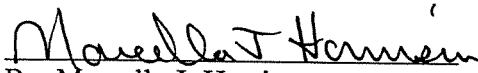
P.O. Box 83720

Boise, Idaho 83720-0098

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 287-6700

☐ Hand-delivery



By: Marcella J. Harrison

Transaction Report

Send

Transaction(s) completed

TX Date/Time	Destination	Duration	P.#	Result	Mode
758 APR-12 15:43	12083855384--1919	0'13'10"	033	OK	Normal

HOWARD A. FUNKE & ASSOCIATES

ATTORNEYS AT LAW

424 SHERMAN AVENUE P.O. BOX 969

COEUR D'ALENE, IDAHO 83816-0969

TELEPHONE: (208) 667-5486

FAX: (208) 667-4695

DATE: April 12, 2016**SENT BY: Marcy Harrison**

TO:	Norm Semanko
FAX NUMBER:	208-385-5384
NO OF PAGES:	33
FROM:	Howard Funke
RE:	In Re CSRBA, Case No. 49576, Subcase Nos. 91-7102 and 91-7173
MESSAGE:	Attached please find Objector's Second Request for Discovery to Claimants and Notice of Service of Objector's Second Request for Discovery to Claimants.
	If you have any questions, please contact our office

***** IMPORTANT MESSAGE *****

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EXHIBIT "17"

Kinzo Mihara

From: Alicia Dahlem <alicia@naegeliusa.com>
Sent: Thursday, May 05, 2016 12:18 PM
To: Kinzo Mihara
Subject: RE: CSRBA / DEANNE HAWKS AND STEVE HAWKS / TAKEN MONDAY, MAY 2, 2016 / NDT FILE #21391-1

Good afternoon Mr. Mihara,

The soonest we are able to get the final transcripts of Deanne Hawks and Steve Hawks to your office is Monday, May 9, 2016. Per our conversation just now, NAEGELI Deposition and Trial will proceed with the standard turnaround request of 7-10 business days initially requested on the date these depositions were taken.

Yours in service,

Alicia J. Dahlem | Manager

NAEGELI Deposition and Trial

Alicia@NaegeliUSA.com <<mailto:Alicia@NaegeliUSA.com>> | [NaegeliUSA.com](http://www.naegeliusa.com/) <<http://www.naegeliusa.com/>>

COEUR D'ALENE (208) 667-1163 | NATIONAL (800) 528-3335

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EXHIBIT "18"

答：(1) 因为 $\lim_{x \rightarrow +\infty} f(x) = 0$, 故 $f(x)$ 在 $(-\infty, +\infty)$ 上有界.

3

178

1

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 Claimants Steve Hawks and Deanne Hawks

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 Nos. 91-7102

**NOTICE OF SERVICE OF
CLAIMANTS STEVE HAWKS AND
DEANNE HAWKS' AMENDED
RESPONSES TO OBJECTOR'S FIRST
REQUESTS FOR DISCOVERY WITH
CLAIMANT VERIFICATION**

Steve Hawks and Deanne Hawks,

Claimants,

vs.

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

Objector.

NOTICE IS HEREBY GIVEN that on the 3rd day of April, 2016, the original of
CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY WITH CLAIMANT
VERIFICATION and a copy of the **NOTICE OF SERVICE** were served by the method
indicated below and addressed to the following at the address shown below:

Howard A. Funke	☒ U.S. Mail, Postage Prepaid
Kinzo H. Mihara	☐ Hand Delivered
Dylan Hedden-Nicely	☐ Overnight Mail
HOWARD FUNKE & ASSOCIATES, P.C.	☒ Facsimile
424 Sherman Avenue, Suite 308	
P.O. Box 969	
Coeur d'Alene, Idaho 83816-0969	
Facsimile (208) 667-4695	

and true copies of the **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS'**
AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY
WITH CLAIMANT VERIFICATION and **NOTICE OF SERVICE** were served by the
method indicated below and addressed to the following:

Chief, Natural Resources Division	☒ U.S. Mail, Postage Prepaid
OFFICE OF THE ATTORNEY GENERAL	☐ Hand Delivered
STATE OF IDAHO	☐ Overnight Mail
P.O. Box 83720	☒ Facsimile
Boise, ID 83720-0010	

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

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

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By  for Norman Semanko
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve Hawks
and Deanne Hawks

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 Claimants Steve and Deanne Hawks

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. 91-7102

**CLAIMANTS STEVE AND DEANNE
HAWKS' AMENDED RESPONSES TO
OBJECTOR'S FIRST REQUESTS FOR
DISCOVERY**

Steve and Deanne Hawks,

Claimants,

vs.

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

Objector.

**CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED
RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY - 1**

Client:4106095.1

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, and provide amended responses to Objector's First Requests for Discovery, which replace in total Claimants' 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 Claimants also object 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, Claimants admit 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, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' 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, Claimants admit 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, Claimants deny 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 Claimants' 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, Claimants admit 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, Claimants deny that the State of Idaho is permanently enjoined from asserting a right, title or interest in or to the bed and banks at Claimants' 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, Claimants admit 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, Claimants deny that the Coeur d'Alene Tribe has any right to exclude Claimants from the lands at Claimants' 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, Claimants admit that the point of diversion for this claim is located within the current boundary of the Coeur d'Alene Indian Reservation. However, Claimants deny that the United States and the Coeur d'Alene Tribe own the lands at Claimants' 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, Claimants admit 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, Claimants deny 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-captioned 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, Claimants admit 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, Claimants deny 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 deny 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 Claimants also object 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 Claimants' water diversion point are navigable." Without waiving these objections, Claimants admit that said waters are "navigable" according to Claimants' 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, Claimants therefore deny 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 Claimants also object 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, Claimants admit that they 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, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversion works may have been constructed and further deny 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

Claimants also object 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, Claimants admit that they have 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 Claimants' diversion works. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversionary works may have been constructed and further deny 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, Claimants therefore deny 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 Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion regarding who owns the lands at Claimants' point of diversion and the rights of Claimants to their diversion works. Without waiving these

objections, Claimants deny the Request for Admission No. 13, including any assertion that the Coeur d'Alene Tribe owns the lands at Claimants' 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 Claimants also object 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, Claimants therefore deny the same, including any assertion that Claimants have trespassed or are 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 Claimants also object 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, Claimants therefore deny the same, including

any assertion that Claimants have 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 Claimants 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: Claimants' 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 Claimants also object 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, Claimants 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 their diversionary works. However, Claimants 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: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants Steve and Deanne Hawks, 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: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve 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 Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Claimants do not have possession, custody or control of any additional description of their

diversion works and water system, but reserve 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 Claimants also object 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, Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion. The name and contact information are as follows: Steve and Deanne Hawks, 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, Claimants respond 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: Claimants do not have documents responsive to this request, but reserve the right to supplement this answer in a timely manner.

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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Claimants do not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimants' water-system, but reserve 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 Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 5, if any, is available in the Claimants' 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 Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 6, if any, is available in the Claimants' 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 Claimants' 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>. Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserve 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 Claimants' 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>. Claimants do 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 Claimants'

point of diversion, but reserve 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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' 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: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve 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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Claimants do 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 reserve 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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 12 are available in the Claimants' 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.

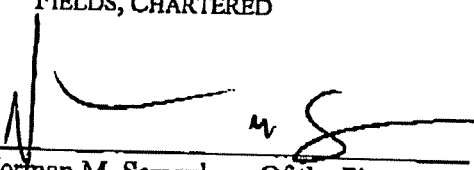
RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to

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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' 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>. Claimants do not have possession, custody or control of any additional documents which may be relevant to, or support, Claimants' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter, but reserve the right to supplement this answer in a timely manner.

DATED this 25th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

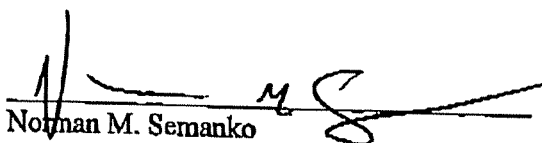
By


Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve and
Deanne Hawks

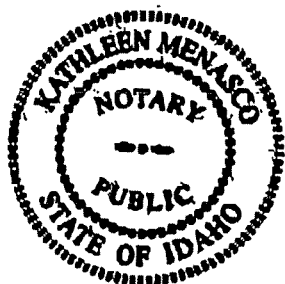
STATE OF IDAHO)
) ss.
County of Ada)

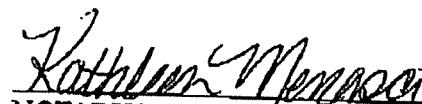
NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' 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 ²⁸25th day of March, 2016.




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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2016, I caused a true and correct copy of the foregoing CLAIMANTS STEVE AND DEANNE HAWKS' 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

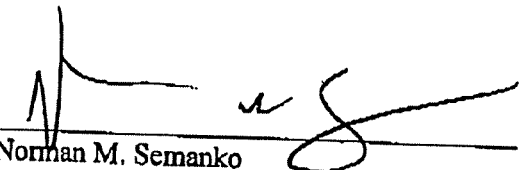
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile

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

Rx Date/Time MAY-03-2016(TUE) 16:45
05/03/2016 18:08 FAX 2083855384 1

2083855384 1
MOFFATT THOMAS

P. 027
027/069

EXHIBIT A

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Moore & Wolff, P.A.
723 Main Avenue
St. Maries, Idaho 83861

Instrument # 289173

BENNEVH COUNTY
7-23-2016 12:25:16 No. of Pages: 3
Recorded by: MOFFATT THOMAS
BENNEVH COUNTY CLERK
E-mail: moffatt@bennevh.org
www.bennevh.org

91-7102
L-4

(Space Above For Recorder's Use)

DEED OF DISTRIBUTION SUBJECT TO A LIFE ESTATE

THIS DEED is made and executed by Donna Hawks, as Personal Representative of the
Estate of Mr. Charles F. Hawks, hereinafter referred to as the ("Grantor"), to:
BLANKET BLOCK 2, SYLVIA'S HAVEN, a limited liability company, with its principal
office at 155 NW Woodbrook Drive, Grants Pass, Oregon 97526, hereinafter referred to as the
("Grantee").

WHEREAS, Grantor is the qualified Personal Representative of said Estate, filed as
Probate Case Number CV 2014-231 in Bennevh County, Idaho;

WHEREAS, Grantee is entitled to distribution of the hereafter described real property;

THHEREFORE, Grantor authorizes, transfers, and conveys to Grantee the following
described real property in Bennevh County, Idaho:

Lot 4, Block 2, Sylvia's Haven, according to the recorded plat thereof, Bennevh County,
Idaho.

TOGETHER WITH any water rights that may be conveyed by that
certain Water Agreement and Easement dated April 29, 1982 and
recorded July 8, 1982 as Instrument No. 136175 records of
Bennevh County, Idaho.

And:

Lot 5, Block 2, Sylvia's Haven, according to the recorded plat thereof, Bennevh County,
Idaho.

TOGETHER WITH any water rights that may be conveyed by that
certain Water Agreement and Easement dated April 29, 1982 and
recorded July 8, 1982 as Instrument No. 136175 records of
Bennevh County, Idaho.

And

Lot 9, Block 2, SYLVIA'S HAVEN, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

That part of LOT 9, BLOCK 2, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 124646, recorded December 8, 1988, records of Benewah County, Idaho; situated in the SE 1/4 section 2, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho; more particularly described as follows:

BEING THE LINE at the Northwest corner of LOT 9, BLOCK 2 of said Plat, monumented with a steel stake

thence South 17°45' East, 40.00 feet (of record as South 17°45' East and South 17°12'00" West) along the West line of said LOT 9 to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence leaving said West line, South 47°58' East, 162.12 feet (of record as South 45°47'00" East, 162.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 702;

thence South 0°49'28" East, 49.00 feet (of record as South 1°12'00" East, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South 88°45'10" East, 125.00 feet (of record as South 88°41'15" East, 125.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703, THE POINT OF BEGINNING;

thence South 82°47'17" East, 96.00 feet (of record as South 82°42'00" East, 96.00 feet) to a point on the northerly right-of-way line of STATE HIGHWAY No. 3, said point monumented with an iron rod, 3/8 inch diameter, with a plastic cap marked PLS 703;

thence South 82°09'16" East, 161.00 feet (of record as 161.00 feet) along said northerly right-of-way line to a steel stake

thence South 82°00'29" East, 40.00 feet (of record as South 82°30'00" East) along said northerly right-of-way line to a point on the centerline of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129187, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6788;

thence North 48°38'42" West, 160.72 feet (of record as North 48°18' West) along said centerline, and leaving said northerly right-of-way line to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6788;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline to the POINT OF BEGINNING.

And

These parts of LOTS 5, 8 and 9, all in BLOCK 1, 5th WYSS HAVEN, according to the plat on file, as instrument No. 144846, recorded December 9, 1958, records of Benewah County, Idaho and that part of that certain roadway vacated by an ORDER OF VACATION, recorded as instrument No. 129197, on April 9, 1974, records of said County, all situated in the E1/4, section 7, Township 48 North, Range 2 West, Boise Meridian, Benewah County, Idaho, more particularly described as follows:

COMMENCING at the Southeast corner of said LOT 8, monumented with a drill steel;

thence North 0°03'18" West, 187.29 feet (of record as North 1°08' West, 187.25 feet and North 1°08'06" West) along the East line of said LOT 8, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 676A, the POINT OF BEGINNING;

thence North 88°57'18" West, 80.55 feet (of record as West, 80.55 feet), and leaving said East line to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 676B;

thence South 0°03'18" East, 80.55 feet (of record as South 1°08' East, 80.55 feet), and leaving said East line to the Northeast corner of that certain roadway vacated by an ORDER OF VACATION, recorded as instrument No. 129197, on April 9, 1974, and on said corner, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 676C;

thence South 44°21'19" West, 200.00 feet, and leaving said centerline line, to an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2 inches diameter, marked with PLS 676D;

thence continuing South 44°21'19" West, 500 feet to a point on the centerline of said vacated roadway, which is witnessed by the aforementioned monument;

thence traversing said centerline, as follows:

North 45°28'42" West, 65.78 feet (of record as North 46°19' West) to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 676E;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence continuing North 85°45'10" West, 123.83 feet (of record as North 86°21'31" West, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 45°28'42" West, 46.98 feet (of record as North 46°20'00" West, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 85°45'10" West, 162.05 feet (of record as North 86°21'31" West, 162.00 feet) to a point on the West line of said LOT 8, said point monumented with an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 1°14'51" West, 40.37 feet (of record as North 1°12'00" West and North 1°12'00" East) along said West line to the Northwest corner of said LOT 8, said corner monumented with a drill steel;

thence North 88°08'45" East, 54.77 feet (of record as North 87°55' East, 54.77 feet) along the North line of said LOT 9 and an easterly extension of said North line, and leaving said West line, to a point on the centerline of said dedicated roadway, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 8788;

thence traversing said centerline, as follows:

North 70°29'05" East, 107.75 feet (of record as North 70°04' East, 107.65 feet), and leaving said North line extended, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence North 40°22'36" East, 130.58 feet (of record as North 40°03' East, 130.45 feet) to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence North 74°12'43" East, 180.90 feet (of record as North 73°23' East, 180.45 feet) to a point on the westerly extension of the North line of said LOT 9, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence South 88°24'28" East, 72.80 feet (of record as South 87°28' East) along said westerly extension, and leaving said centerline, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence North 7°00'00" West, 12.50 feet, and leaving said westerly extension, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence North 63°00'00" East, 28.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence South 7°00'00" East, 19.74 feet to a point on the North line of said LOT 9, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence South 88°24'28" East, 71.92 feet (of record as South 87°28' East) along said North line to the Northeast corner of said LOT 9, said corner monumented with a drill steel;

thence South 0°55'51" East, 150.49 feet (of record as South 0°55' East and South 1°08'00" East) along the East line of said LOT 9, and leaving said North line, to an iron rod, 1 inch diameter;

thence South 0°03'18" East, 208.71 feet (of record as South 1°08' East and South 1°08'00" East) continuing along said East line, to the POINT OF BEGINNING.

SUBJECT TO A LIFE ESTATE GRANTED TO DEANNE HAWKS AND STEVE HAWKS, HUSBAND AND WIFE, WHOSE ADDRESS IS 8221 RIVER ST. ST. MARIES, BENTON COUNTY, IDAHO 83801, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP.

This conveyance shall include any and all appurtenances, estate, right, title, interest, tenements, hereditaments, reversions, remainders, easements, rents, issues, profits, rights-of-way and water rights in anywise appertaining to the property herein described, as well in law as in equity.

DATED this 30th day of July, 2014.

ESTATE OF HILL LORENE PERKINS

Deanna Hawks, P.R.
Deanna Hawks, Personal Representative

STATE OF IDAHO)
County of Benewah) ss.

On this 30th day of July, 2014, before me, a notary public, personally appeared Deanna Hawks, known to me to be the person whose name is subscribed to the within instrument as Personal Representative of the ESTATE OF HILL LORENE PERKINS, and acknowledged to me that she executed the same as such personal Representative.

TRIA J. RHODES
NOTARY PUBLIC
STATE OF IDAHO

Trija Rhodes
NOTARY PUBLIC FOR IDAHO
Residing at St. Paul, MN
My Commission Expires 7/1/2016

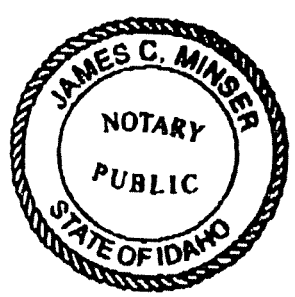
STATE OF IDAHO)
) ss.
County of Benewah)

STEVE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.

Steve Hawks
Steve Hawks

SUBSCRIBED AND SWORN to before me this 30th day of April, 2016.



James C. Minser
NOTARY PUBLIC FOR IDAHO
Residing at St. Maurice
My Commission Expires April 7, 2020

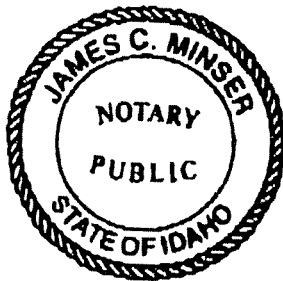
STATE OF IDAHO)
) ss.
County of Benewah)

DEANNE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.

Deanne Hawks
Deanne Hawks

SUBSCRIBED AND SWORN to before me this 30th day of April, 2016.



James C. Minser
NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires Apr. 17, 2020

EXHIBIT "19"

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 Claimants Steve Hawks and Deanne Hawks

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 Nos. 91-7173

**NOTICE OF SERVICE OF
CLAIMANTS STEVE HAWKS AND
DEANNE HAWKS' AMENDED
RESPONSES TO OBJECTOR'S FIRST
REQUESTS FOR DISCOVERY WITH
CLAIMANT VERIFICATION**

Steve Hawks and Deanne Hawks,

Claimants,

vs.

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

Objector.

NOTICE IS HEREBY GIVEN that on the 3rd day of April, 2016, the original
CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY WITH CLAIMANT
VERIFICATION and a copy of the **NOTICE OF SERVICE** were served by the method
indicated below and addressed to the following at the address shown below:

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

and true copies of the **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS'**
AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY
WITH CLAIMANT VERIFICATION and **NOTICE OF SERVICE** were served by the
method indicated below and addressed to the following:

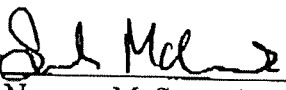
Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

☒ U.S. Mail, Postage Prepaid
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☐ Overnight Mail
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Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
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MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By  for Norman Semanko
Norman M. Semanko - Of the Firm
Attorneys for Claimants Steve Hawks
and Deanne Hawks

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 Claimants Steve Hawks and Deanne Hawks

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. 91-7173

**CLAIMANTS STEVE HAWKS AND
DEANNE HAWKS' AMENDED
RESPONSES TO OBJECTOR'S FIRST
REQUESTS FOR DISCOVERY**

Steve Hawks and Deanne Hawks,

Claimants,

vs.

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

Objector.

**CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED
RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY - 1**

Client:4107155.1

COME NOW Claimants Steve Hawks and Deanne Hawks, by and through undersigned counsel of record, and provide amended responses to Objector's First Requests for Discovery, which replace in total Claimants' 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 Claimants also object 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, Claimants admit 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, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' 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, Claimants admit 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, Claimants deny 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 Claimants' 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, Claimants admit 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, Claimants deny that the State of Idaho is permanently enjoined from asserting a right, title or interest in or to the bed and banks at Claimants' 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, Claimants admit 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, Claimants deny that the Coeur d'Alene Tribe has any right to exclude Claimants from the lands at Claimants' 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, Claimants admit that the point of diversion for this claim is located within the current boundary of the Coeur d'Alene Indian Reservation. However, Claimants deny that the United States and the Coeur d'Alene Tribe own the lands at Claimants' 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, Claimants admit 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, Claimants deny 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, Claimants admit 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, Claimants deny 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 deny 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 Claimants also object 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 Claimants' water diversion point are navigable." Without waiving these objections, Claimants admit that said waters are "navigable" according to Claimants' 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, Claimants therefore deny 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 Claimants also object 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, Claimants admit that they 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, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversion works may have been constructed and further deny 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

Claimants also object 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, Claimants admit that they have 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 Claimants' diversion works. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversionary works may have been constructed and further deny 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, Claimants therefore deny 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 Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion regarding who owns the lands at Claimants' point of diversion and the rights of Claimants to their diversion works. Without waiving these

objections, Claimants deny the Request for Admission No. 13, including any assertion that the Coeur d'Alene Tribe owns the lands at Claimants' 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 Claimants also object 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, Claimants therefore deny the same, including any assertion that Claimants have trespassed or are 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 Claimants also object 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, Claimants therefore deny the same, including

any assertion that Claimants have 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 Claimants 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: Claimants' 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 Claimants also object 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, Claimants 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 their diversionary works. However, Claimants 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: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants, Steve Hawks and Deanne Hawks, 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: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve 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 Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Claimants do not have possession, custody or control of any additional description of their

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

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Cocur 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 Claimants also object 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, Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion. The name and contact information are as follows: Steve and Deanne Hawks, 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, Claimants respond 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: Claimants do not have documents responsive to this request, but reserve the right to supplement this answer in a timely manner.

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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Claimants do not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimants' water-system, but reserve 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 Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 5, if any, is available in the Claimants' 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 Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 6, if any, is available in the Claimants' 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 Claimants' 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>. Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserve 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 Claimants' 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>. Claimants do 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 Claimants'

point of diversion, but reserve 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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' 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: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve 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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Claimants do 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 reserve 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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 12 are available in the Claimants' 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 Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' 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>. Claimants do not have possession, custody or control of any additional documents which may be relevant to, or support, Claimants' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter, but reserve the right to supplement this answer in a timely manner.

28
DATED this 28th day of March, 2016.

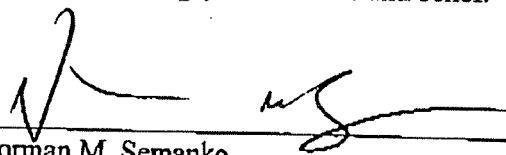
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Norman M. Semanko - Of the Firm
Attorneys for Claimants Steve Hawks
and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

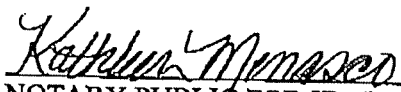
NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve Hawks and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' 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 ²⁸25th day of March, 2016.




NOTARY PUBLIC FOR IDAHO
Residing at Mendota, Idaho
My Commission Expires 10/29/2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ²⁸25th day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' 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

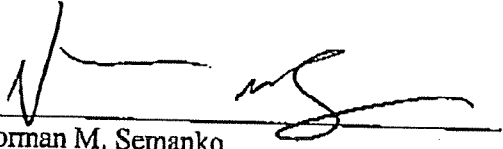
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

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

Rx Date/Time MAY-03-2016(TUE) 16:45
05/03/2016 18:13 FAX 2083855384 1

2083855384 1
MOFFATT THOMAS

P.059
059/069

EXHIBIT A

474252-SW

Return To:

Mission Credit Union
PO Box 400
Spokane Valley, WA 99037
ATTN: Casey

RECEIVED
2016 Aug 18 AM 09:43
BENEDICT COUNTY
DEANNA BRAMBLETTE, CLERK
208519
FIRST AMERICAN TITLE - SAIN
FEE: \$49.00

[Space Above This Line For Record Use Data]

DEED OF TRUST

(DEBT AND CREDIT - FUTURE ADVANCES SECURED)

THIS DEED OF TRUST, Security Instrument, made this August 17, 2016,
The grantor is David P. Moffatt and Patricia J. Moffatt.

The grantor is David P. Moffatt and Patricia J. Moffatt.
The beneficiary is Mission Credit Union.

THIS DEED OF TRUST is made in and under the laws of the State of Idaho,
and more fully known as 2083855384 1, Spokane Valley, WA 99037 (County), Benedict County, Idaho.

The grantor(s) with London, WA 98148, David P. Moffatt, under the terms and conditions of which borrower(s) have agreed to pay, upon
the terms and conditions of this agreement, an amount equal to the Maximum Debt (Principal) of \$100,000.00 (One Hundred
Thousand and 00/100 Dollars) to the beneficiary, Mission Credit Union, for the purpose of financing the purchase of real property.
The beneficiary provides monthly payments with the full debt of \$100,000.00 due and payable on August 22, 2035.
The beneficiary provides the payment of the debt under the terms and conditions of this agreement, with interest and all fees, extensions and
modification of this agreement, to the payment of all other debts, with interest, advanced under paragraph 5, to the payment of the debt of the
modification of this agreement, and (c) the performance of borrower(s) obligations and representation under this Security Instrument and
this agreement. For this purpose, borrower(s) hereby grant and convey to the beneficiary, in trust, with power of sale, the following described
property located in Benedict, County, Idaho.

FROM THE UNDIVIDED HOBBY 1ST ADDITION, ACCORDING TO PLAT RECORDED
IN BENEDICT COUNTY, IDAHO.

PARCEL# 51510002W

Which has the address of 1640 EATONWOOD DR.

ST. MARIES

(Block)

(Block)

Idaho.

83861.

(Zip Code)

(Property Address)

Rx Date/Time MAY-03-2016(TUE) 16:45
05/03/2016 18:13 FAX 2083855384 1

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MOFFATT THOMAS

P. 061
061/069

EXHIBIT B

Rx Date/Time MAY-03-2016(TUE) 16:45
05/03/2016 18:13 FAX 2083855384 1

2083855384 1
MOFFATT THOMAS

P.063
063/069

(1) [illegible]
(2) [illegible]
(3) [illegible]
(4) [illegible]
(5) [illegible]

SCHEDULE A

First American Title Insurance Company

First American Title Company
831 Main Avenue
St. Maries, ID 83861

File No.: 229947-SM
Loan No.: 601146781
Address Reference: 1898 Cottonwood Drive St. Maries, ID
83861

Policy No.: 229947-SM

Amount of Insurance: ~~_____~~
Date of Policy: October 17, 2007 at 3:55 p.m.

Premium: ~~_____~~

1. Name of Insured:

Sterling Savings Bank, its successors and assigns, as their interests may appear, as
defined in the instrument entitled "Definitions of Terms" contained in this Policy.

2. The estate or interest in the land that is encumbered by the insured mortgage is:

Fee Simple

3. Title is vested in:

David Bledsoe and Ruth Bledsoe, husband and wife

4. The insured mortgage and its assignments, if any, are described as follows:

Deed of Trust dated October 15, 2007 to secure an indebtedness of ~~_____~~
Recorded: October 17, 2007 as Instrument No.: 248891
Grantor: David Bledsoe and Ruth Bledsoe, husband and wife
Trustee: BRAD WILLIAMS OF BTR INCORPORATED, A WASHINGTON CORPORATION
Beneficiary: Sterling Savings Bank

5. The land referred to in this Policy is described as follows:

Lot 27A, Cottonwood Point First Addition, according to plat recorded in Benewah
County, Idaho.

SCHEDULE B

PLA No. 229947-2M

EXCEPTIONS FROM COVERAGE

PART I

[Except as provided in Schedule B, Part II,] This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title including discrepancies, conflicts in boundary lines, shortage in area, or any other facts that would be disclosed by an accurate and complete land survey of the land and that are not shown in 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. Any liens or rights to a lien for services, labor or materials theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Agreements, if any, related to future assessment obligations not yet due and payable, which appear in the public records.
8. Agreements, covenants, conditions, restrictions and/or declarations affecting title, or violations thereof, if any, which appear in the public records or are shown on any recorded subdivision map or survey.
9. Easements or encroachments, if any, which appear in the public records or are shown on any recorded subdivision map or survey.
10. Any reservation or conveyance of minerals, gas, oil, sand, gravel or timber, or rights related thereto, including leases of said interests, which appear in the public records.

11. 2007 taxes are an accruing lien, not yet due and payable until the fourth Monday in November of the current year. The first one-half is not delinquent until after December 20 of the current year, the second one-half is not delinquent until after June 20 of the following year. Taxes which may be assessed and entered on the property roll for 2007 with respect to new improvements and first occupancy, which may be included on the regular property, which are an accruing lien, not yet due and payable.

General taxes as set forth below. Any amounts not paid when due will accrue penalties and interest in addition to the amount stated herein:

Year	Original Amount	Amount Paid	Parcel Number
2006	[REDACTED]	[REDACTED]	RF00100020027AA

Homeowners Exemption IS in effect for 2006.
Circuit breaker IS NOT in effect for 2006.
Agricultural Exemption IS NOT in effect for 2006.

12. Deed of Trust dated September 23, 2005, to secure an original indebtedness of [REDACTED] and any other amounts and/or obligations secured thereby. Recorded September 26, 2005, as Instrument No. 219205. Grantor: David Bledsoe and Ruth Bledsoe, husband and wife. Trustee: First Idaho Title Company. Beneficiary: Sterling Savings Bank.

Modification Agreement recorded April 25, 2006, as Instrument No. 242389.

13. Deed of Trust dated April 13, 2006, to secure an original indebtedness of [REDACTED] and any other amounts and/or obligations secured thereby. Recorded April 25, 2006, as Instrument No. 242388. Grantor: David Bledsoe and Ruth Bledsoe, husband and wife. Trustee: FIRST AMERICAN TITLE CO. Beneficiary: Sterling Savings Bank.

Modification Agreement recorded June 30, 2006, as Instrument No. 243827.

14. Paragraphs 1 and 2 of the Exclusions from Coverage are expressly extended to include those laws, ordinances or regulations of an Indian tribe or nation.
15. Public Records as defined in this Policy do not include records of an Indian tribe or nation, or any other repository of Indian Land Records, including, but not limited to the Bureau of Indian Affairs Land Titles and Records Office.

Rx Date/Time MAY-03-2016(TUE) 16:45
05/03/2016 18:14 FAX 2083855384 1

MOFFATT THOMAS

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067/069

SCHEDULE B

PART II

In addition to the matters set forth in Part I of this schedule, the Title is subject to the following matters:
and the Company insures against loss or damage sustained in the event that they are not subordinated
to the Insured Mortgage;

NONE.

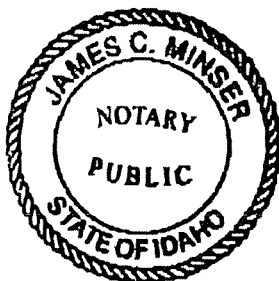
STATE OF IDAHO)
) ss.
County of Benewah)

STEVE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.

Steve Hawks
Steve Hawks

SUBSCRIBED AND SWORN to before me this 30th day of April, 2016.

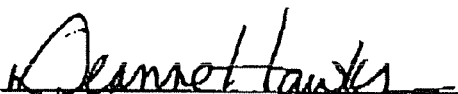


James C. Minser
NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires April 7, 2020

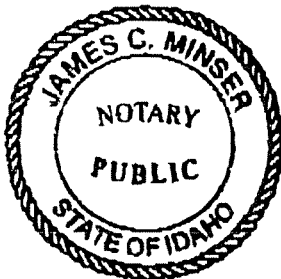
STATE OF IDAHO)
) ss.
County of Benewah)

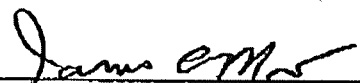
DEANNE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.


Deanne Hawks

SUBSCRIBED AND SWORN to before me this 30th day of April, 2016.




NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires Apr. 17, 2020