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MAY 27 2016

DEPARTMENT OF
WATER RESOURCES

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 Claimant Hazel Jean Marquardt

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. 91-7003

**CLAIMANT HAZEL JEAN
MARQUARDT'S SUPPLEMENTAL
RESPONSES TO OBJECTOR'S FIRST
REQUESTS FOR DISCOVERY**

Hazel Jean Marquardt,

Claimant,

vs.

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

Objector.

COMES NOW Claimant Hazel Jean Marquardt, by and through undersigned counsel of record, and provides supplemental responses to Objector's First Requests for Discovery, dated March 7, 2016, as follows:

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: Claimant does not have documents responsive to this request, but reserves the right to supplement this answer in a timely manner.

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

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

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

point of diversion, but reserves the right to supplement this answer in a timely manner. *See also* Response to Request for Production No. 2.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

See Exhibit C attached hereto.

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

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

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

See Exhibit D attached hereto.

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly broad and the information requested is equally available to the Tribe as to the Claimant. Notwithstanding the objection,

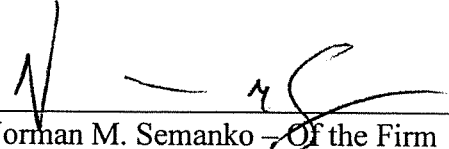
documents requested in Request for Production No. 13 are available in the Claimant's licensing file online on the Idaho Department of Water Resources' website at <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx> and the Coeur d'Alene Spokane River Basin Adjudication claims database at <http://www.srba.state.id.us/SREPT.HTM>. Claimant does not have possession, custody or control of any additional documents which may be relevant to, or support, Claimant's water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter, but reserves the right to supplement this answer in a timely manner.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

See Exhibit E and Exhibit F attached hereto.

DATED this 25 day of May, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of May, 2016, I caused a true and correct copy of the foregoing **CLAIMANT HAZEL JEAN MARQUARDT'S SUPPLEMENTAL 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, 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
() 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
() 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
() Facsimile
() E-Mail


Norman M. Semanko

91-7003

Old Republic National Title Insurance Company
400 Second Avenue South
Minneapolis, Minnesota 55401

COPY



OLD REPUBLIC
National Title Insurance Company

Commitment To Insure

Issued through the Office of:

Land Title Company of Benewah County, Inc.
831 Main Ave.
St. Maries, Idaho 83861
(208) 245-3713
(208) 245-4082 (fax)

EXHIBIT B

COMMITMENT

SCHEDULE A

FILE NUMBER: B-9576

1. Policy (or Policies) to be issued: Policy Amount

(a) ALTA OWNER'S POLICY (as per form dated 10-17-92)

\$ T.B.D.

() STANDARD () EXTENDED Premium Amount:

\$ T.B.D.

Proposed Insured:

TO BE DETERMINED

(b) ALTA LOAN POLICY (as per form dated 10-17-92)

\$ N/A

() STANDARD () EXTENDED Premium Amount:

\$ N/A

Proposed Insured:

2. Effective Date: November 26, 2004 at 5:00 p.m.

3. The estate or interest in the land described or referred to in this Commitment and covered herein is a FEE SIMPLE, and title thereto is at the effective date hereof vested in:

THE HEIRS AND DEVISEES OF REUBEN E. MARQUARDT, deceased.

And

HAZEL J. MARQUARDT

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

SEE ATTACHED LEGAL DESCRIPTION - SCHEDULE A.

SCHEDULE A

FILE NUMBER: B-9576

PAGE 2.

PARCEL 1:

Tax #155, located in Section 16, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho, described as follows:

That part of Government Lot 2, Section 16, that lies easterly of the State Highway 95A;

EXCEPTING the North 150 feet thereof in Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho.

ALSO EXCEPTING a parcel of land being on the Northeasterly side of the Northeasterly right of way line of State Highway No. 3 Project No. STR-5170 (612) Highway Survey as shown on the plans thereof now on file in the office of the Idaho Transportation Department, (all stationing on the plans and this description are metric) and being a portion of Government Lot 2 of Section 16, Township 46 North, Range 2 West, Boise Meridian, described as follows, to-wit:

Commencing at the Northeast corner of Government Lot 2, Section 16, Township 46 North, Range 2 West, Boise Meridian;

thence South $0^{\circ}24'08''$ West along the East line of said Government Lot 2 a distance of 152.47 feet to the Northeast corner of a parcel of land as described in that certain Deed of Executor recorded in Book 100 of Deeds at Page 2364, Records of Benewah County, Idaho, being the **REAL POINT OF BEGINNING**;

thence extending South $0^{\circ}24'08''$ West along said East line 409.93 feet to a point in the Northeasterly right of way line of said State Highway No. 3, Project No. STR-5170 (612) that bears North $54^{\circ}17'08''$ East - 230.16 feet from Station 37 + 17.56 of said Highway Survey;

thence North $31^{\circ}00'43''$ West along said Northeasterly right of way line 481.40 feet to a point in the North line of the said parcel that bears North $69^{\circ}41'22''$ East - 182.56 feet from Station 38 + 82.564 of said Highway Survey;

thence South $89^{\circ}23'23''$ East along said North line 250.91 feet to the **REAL POINT OF BEGINNING**.

ALSO EXCEPTING a parcel of land being on the both sides of the centerline of State Highway No. 3 Project No. STR-5170 (612) Highway Survey as shown on the plans thereof now on file in the office of the Idaho Transportation Department, (all stationing on the plans and this description are metric) and being a portion of Government Lot 2 of Section 16, Township 46 North, Range 2 West, Boise Meridian, described as follows, to-wit:

SCHEDULE A CONTINUED ON PAGE 3.



ORT Form 3120

SCHEDULE A CONTINUED.

FILE NUMBER: B-9576

PAGE 3.

Commencing at the Northeast corner of Government Lot 2, Section 16, Township 46 North, Range 2 West, Boise Meridian;

Thence South $0^{\circ}24'08''$ West along the East line of said Government Lot 2, a distance of 562.40 feet to a point that bears North $54^{\circ}17'08''$ East 230.16 feet from Station 37 + 17.56 of said State Highway No. 3, Project No. STR-5170 (612) Highway Survey being the REAL POINT OF BEGINNING;

Thence extending South $0^{\circ}24'08''$ West along said East line 363.50 feet to a point that bears South $29^{\circ}04'46''$ West 49.75 feet from Station 36 + 31.782 of said Highway Survey;

Thence North $78^{\circ}51'54''$ West 187.92 feet to a point that bears South $42^{\circ}31'53''$ West 128.71 feet from Station 36 + 77.565 of said Highway Survey;

Thence North $47^{\circ}47'18''$ West 160.07 feet to a point that bears South $54^{\circ}17'04''$ West 146.09 feet from Station 37 + 17.564 of said Highway Survey;

Thence North $13^{\circ}58'10''$ West 162.54 feet to a point that bears South $66^{\circ}02'14''$ West 101.41 feet from Station 37 + 57.564 of said Highway Survey;

Thence North $16^{\circ}15'53''$ West 255.95 feet to a point in the centerline of existing SH-3, Project No. F A P -31A that bears South $85^{\circ}46'34''$ West 111.25 feet from Station 39 + 07.179 of said Highway Survey;

Thence Northeasterly along said existing centerline as follows:

North $28^{\circ}10'58''$ East 64.14 feet;

Southeasterly along a 246.063 foot radius curve left, (the long chord of which bears South $7^{\circ}21'40''$ East - 174.93 feet) an arc length of 178.43 feet to a point in the North line extended of a parcel of land as described in that certain Deed of Executor recorded as Instrument No. 126531, Records of Benewah County, Idaho;

Thence South $89^{\circ}23'23''$ East along said extended North line and the North line 115.70 feet to a point that bears North $69^{\circ}41'22''$ East - 102.56 feet from Station 38 + 82.564 of said Highway Survey;

Thence South $31^{\circ}00'43''$ East 481.40 feet to the REAL POINT OF BEGINNING.

SCHEDULE A CONTINUED ON PAGE 4.



OFT Form 3120

SCHEDULE A CONTINUED.

FILE NUMBER: B-9576

PAGE 4.

AND

PARCEL 2:

A strip of land located in the Southeast portion of Government Lot 2, Section 16, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho, described as follows:

Commencing at the Point of intersection of the Southerly right-of-way line of State Highway No. 3, as the same is now laid out and existing, with the East boundary line of Government Lot 2, Section 16, Township 46 North, Range 2 West, Boise Meridian;

Thence in a general Southwesterly direction along said South right-of-way line of State Highway No. 3, a distance of 321 feet;

Thence South to the North bank of the St. Joe River;

Thence in a general Northeasterly direction along the Northerly bank of the St. Joe River to the point of intersection with the East line of Government Lot 2, Section 16, Township 46 North, Range 2 West, Boise Meridian;

Thence North along said East line of Government Lot 2, to the POINT OF BEGINNING.

END OF SCHEDULE A.



ORT Form 3120

SCHEDULE B

FILE NUMBER: B-9576

PAGE 5.

- I. The following are the requirements to be complied with:
1. Instruments necessary to create the estate or interest to be insured must be properly executed, delivered, and duly filed for record.

NOTE:

Paragraphs a, b, c, d, f, g, and h, as listed below under Standard Exceptions, will not appear as printed on Extended Coverage Loan Policies, except as to such parts thereof which may be typed as a "Special Exception" in Schedule B.

- II. Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:
1. Defects, liens, encumbrances, adverse claims, or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
 2. Standard Exceptions:
 - (a) Rights or claims of parties in possession or claiming to be in possession not shown by the public records.
 - (b) Easements, or claims of easements, not shown by the public records.
 - (c) Encroachments, or questions of location, boundary, and area which are dependant upon a correct survey or inspection of the premises for determination.
 - (d) 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.
 - (e) Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
 - (f) Any service, installation or connection charge for sewer, water, or electricity.
 - (g) General taxes not now payable; matters relating to special levies or assessments, if any, preceding the same becoming a lien.
 - (h) Any right, title, or interest in any minerals, mineral rights, or related matters, including but not limited to oil, gas, coal, and other hydrocarbons.

Special Exceptions

- I. GENERAL TAXES, which are a lien, Parcel Number RP46N02W16430AA; RP46N02W16440DA are as follows:

Parcel Number - RP46N02W16430AA

Year	Amount	Status
2004 1 st Half	\$506.19	Due on or before December 20, 2004.
2004 2 nd Half	\$506.19	Due on or before June 20, 2005.

Parcel Number - RP46N02W16440DA

Year	Amount	Status
2004 1 st Half	\$29.65	Due on or before December 20, 2004.
2004 2 nd Half	\$29.65	Due on or before June 20, 2005.

SCHEDULE B CONTINUED ON PAGE 6.



ORT Form 3128

SCHEDULE B

FILE NUMBER: B-9576

PAGE 6.

2. Said land lies within the boundary of The Coeur d'Alene Indian Reservation.

1. (a) Any law, ordinance, or regulation of an Indian Tribe or Nation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting, or relating to (I) the occupancy, use, or enjoyment of the land; (II) the character, dimensions, or location of any improvement now or hereafter erected on the land; (III) 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; or (IV) environmental protection, or the effect of any violation of these laws, ordinances, or regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

(b) Any exercise of police power by an Indian Tribe or Nation not excluded by (a) above except to the extent that a notice of the exercise thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

2. Rights of eminent domain exercised by an Indian Tribe or Nation unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

3. THE POLICY WILL NOT INSURE title to any portion of the property lying below the ordinary high water mark of the St. Joe River or any rights in the adjoining water, nor is the right to own or maintain a dock insured.

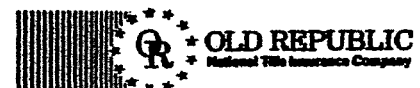
4. TERMS, CONDITIONS, AND PROVISIONS of an agreement between CLARENCE L. BOUTILIER and WASHINGTON WATER POWER COMPANY, as evidenced in instrument recorded December 29, 1913 in Book B of Miscellaneous at Page 138, records of Benewah County, Idaho, which recites in part as follows:

...damages past, present, and future which may be done to the said lands by reason of the dam at Post Falls....

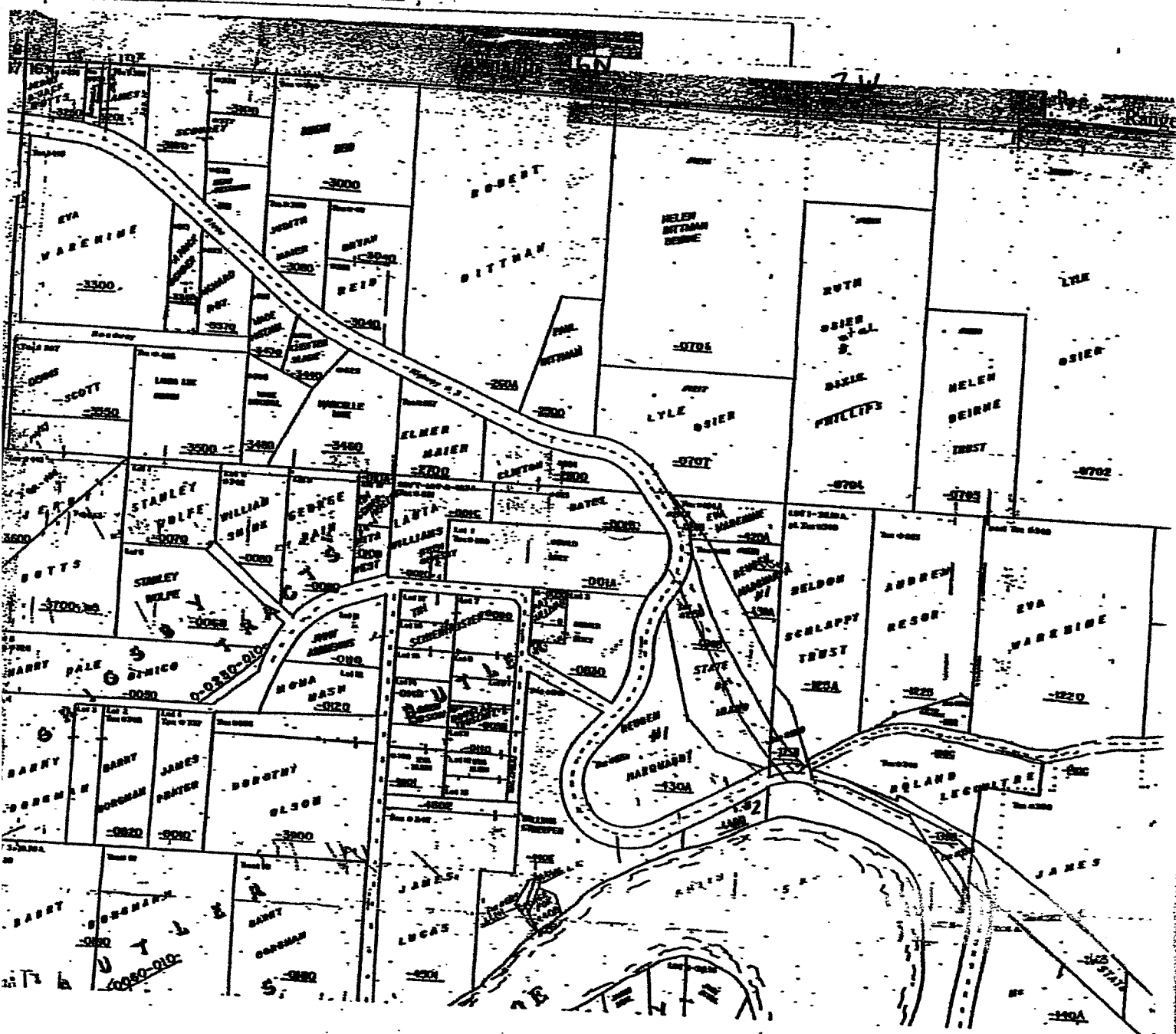
5. RELEASE OF DAMAGES AND DEED TO RIGHT OF WAY, by and between MARY C. BOUTELIER and CLARENCE BOUTELIER conveyed to Kootenai County, Idaho (now Benewah County, Idaho) a road forty feet in width, for a public road, recorded April 23, 1914, in Book G of Deeds at Page 157, Records of Benewah County, Idaho.

6. RIGHT OF WAY AGREEMENT, by and between MARY C. BOUTELIER and CLARENCE L. BOUTELIER to SCENIC BETTER-ROADS HIGHWAY DISTRICT, a right of way for road purposes to the public, over, through and across said land, recorded October 26, 1920 in Book 2 of Miscellaneous at Page 196, Records of Benewah County, Idaho.

SCHEDULE B CONTINUED ON PAGE 7.



ORT Form 3120



NOTICE: THIS IS FURNISHED MERELY AS A CONVENIENCE TO AID YOU IN LOCATING THE LAND INDICATED HEREON WITH REFERENCE TO STREETS AND OTHER LAND. NO LIABILITY IS ASSUMED BY REASONS OF ANY RELIANCE HEREON.

Section 16
 Township 46 North
 Range 2 West
 B.M., Berewah County, ID

Document Number 13727
RELEASE OF DAMAGES
AND DEED TO RIGHT-OF-WAY

Date: January 12th, 1921.

Grantor: Mary G. Boutelier.

Grantee: Scenic Better-Roads highway District, Benewah Co.
State of Idaho.

Granting Clause: Does hereby grant and convey.

Releasing Clause: Releases all claims to damages by reason
of survey, construction etc. of said road.

Description: Road 66 feet wide known as Federal Aid Project
#31 surveyed during the year 1920 by Idaho State Highway
Deptt by request of the board of Highway commissioners
of the Scenic Better-Roads highway district on petition
across Lot 2 Section 16 Twp 46 N. Rge 2 W. B. M.

This deed being for a strip of land 66 feet wide,
the center line of which is more particularly described as
follows, to-wit: Beginning at a point on the east line
of lot 2 Section 16, Township 46 N. Range 2 West of Boise
Meridian, a distance of 909.3 feet south of the NE corner
of said lot 2 Section 16, said point being survey station
114 & 75.0 and running thence along a 30° curve to the left
a distance of 83.6 feet thence S. 57°35' W. a distance of
417.4 feet, thence along a 29° curve to the right a distance
of 586.2 feet, thence N. 47°35' E. a distance of 83.5 feet
thence along a 26° curve to the left a distance of 172.0
feet; thence N 2°51' E. a distance of 126.7 feet thence along
a 20 degree curve to the right a distance of 156.3 feet,
thence N. 36°06' E. a distance of 33.2 feet thence along
a 28° curve to the left a distance of 267.9 feet thence
N. 38°54' W. a distance of 96.8 feet to a point on the
North line of the said Lot 2 Section 16 Township 46 North
Range 2 West of Boise Meridian, a distance of 525. feet west
Northeast corner of said lot 2 Section 16 and containing
3.09 acres more or less.

Signed: Mary G. Boutelier

Witness:

Acknowledged: In State of Idaho, County of Benewah, January
12th, 1921 by Mary G. Boutelier before C. F. Bessee, Notary
Public. Seal.

Filed: January 14th, 1921 at 9:35 A. M.

Recorded: Book I of Deeds on page 443

Consideration: valuable.

Document Number 13727
RELEASE OF DAMAGES
AND DEED TO RIGHT-OF-WAY

Date: January 12th, 1921.

Grantor: Mary C. Boutelier.

Grantee: Scenic Better-Roads highway District, Benewah Co.,
State of Idaho.

Granting Clause: Does hereby grant and convey.

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Description: Road 66 feet wide known as Federal Aid Project
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114 1 75.0 and running thence along a 30° curve to the left
a distance of 83.6 feet thence S. 57°35' W. a distance of
417.4 feet, thence along a 29° curve to the right a distance
of 586.2 feet, thence N. 47°35' E. a distance of 83.5 feet
thence along a 26° curve to the left a distance of 172°
feet; thence N 2°51' E. a distance of 126.7 feet thence along
a 20 degree curve to the right a distance of 166.3 feet,
thence N. 36°06' E. a distance of 33.2 feet thence along
a 28° curve to the left a distance of 257.9 feet thence
N. 38°54' W. a distance of 96.8 feet to a point on the
North line of the said Lot 2 Section 16 Township 46 North
Range 2 West of Boise Meridian, a distance of 525. feet west
Northeast corner of said lot 2 Section 16 and containing
3.09 acres more or less.

Signed: Mary C. Boutelier

Witness:

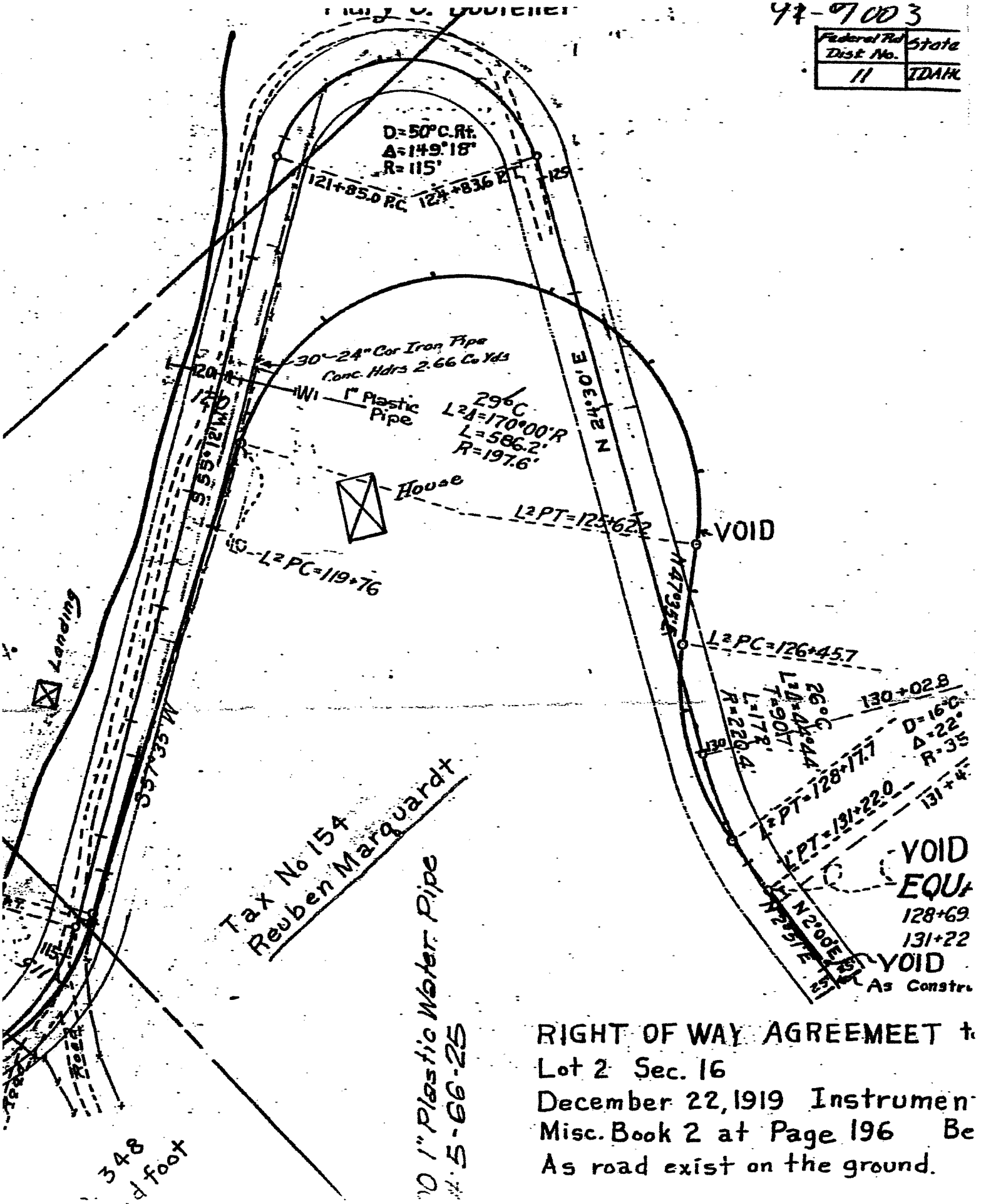
Acknowledged: In State of Idaho, County of Benewah, January
12th, 1921 by Mary C. Boutelier before C. F. Bessee, Notary
Public. Seal.

Filed: January 14th, 1921 at 9:35 A. M.

Recorded: Book I of Deeds on page 443

97-07003

Federal Rd	State
Dist No.	IDAHO
11	



RIGHT OF WAY AGREEMENT to
 Lot 2 Sec. 16
 December 22, 1919 Instrument
 Misc. Book 2 at Page 196 Be
 As road exist on the ground.

PRIVILEGED AND CONFIDENTIAL COMMUNICATIONS

SUBCASE REVIEW AND DOCUMENT RECORD

ELEMENTS: Encroachment/ Trespass

SUBCASE No.	92 7003	Claim is for	Irrigation	Priority Date	5/14/1971
Client	Hazel Marquardt Estate	Licence or Beneficial use?		License	
Address	Shepard Rd S.M. 83861	Claimed ownership of POD?		Benewah County Right of Way	
Property Legal	T46N R2w Sect 16 SWNE Lot 2	Name on Original License		Elma Cerney	
Contact Info	245-2928	Home phone			
C/O Connie		Cell phone			
Mueller		Email			

Documents:	Land Patent	# 164721	Type: Indian Fee Patent	Date issued	12/8/1910
Deed	☒		Name on Patent	Clarence Boutelier I.A. 609	
Tax Records	☐	Avidavit	☐	Record of Survey?	☐
				Survey Date	☐

Washington Water Power easement or perpetual lease for submerged lands found? ☐

Additional Discovery Documents required

Recent Photos of diversion works? ☐ No photos available

Mortgage Insurance Policy ☐ NONE

Dock Permit with CDA Tribe ☐ NONE

Encroachment permit from IDL ☐ NONE

Other Notes:

Pumphouse on county Right of way by road.

Pipe on edge of bank extending about 2 ft on length

*Find easement/agreement - WWP - Clarence
Boutelier Dec 29, 1913 Book B Pg 138*

EXHIBIT D

17

The United States of America,

609.

On all to whom these presents shall come, Greeting:

WHEREAS, an Order of the Secretary of the Interior has been deposited in the General Land Office, directing that a fee simple patent issue to the claimant CLARENCE BOUTELIER, AN INDIAN ON THE COEUR D'ALENE RESERVATION, FOR THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE LOTS TWO AND THREE OF SECTION SIXTEEN AND THE LOTS SIX AND FOURTEEN AND THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION SEVENTEEN IN TOWNSHIP FORTY-SIX NORTH OF RANGE TWO WEST OF THE BOISE MERIDIAN, IDAHO, CONTAINING ONE HUNDRED SIXTY-THREE AND TEN HUNDREDTHS ACRES.

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant and to the heirs of the said claimant the Land above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, WILLIAM H. TAFT,

President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the EIGHTH day of DECEMBER in the year of our Lord one thousand nine hundred and TEN and of the Independence of the United States the one hundred and THIRTY-FIFTH.

By the President:

By

Wm. H. Taft
M. P. Le Roy
H. W. Bump

Secretary,

Recorder of the General Land Office.

RECORD OF PATENTS: Patent Number

164721

4-211

EXHIBIT E

plaintiff, Peter Fidler, within thirty days (30) from the date hereof, a good and sufficient deed of conveyance to the said land, above described, and to deliver possession of said premises to said plaintiff, then in that case D. E. Danby, Clerk of this Court, be, and he is hereby appointed a Commissioner of this court, and is hereby directed, authorized and empowered for and in the name, place and stead of said Leonard Fidler, to make and deliver to the said Peter Fidler, a good and sufficient deed to the said premises, described as follows, to-wit:

"Beginning at a point on the south section line of said section nine (9), forty (40) rods east of the Southwest (SW) corner of said section nine (9), Township forty-six (46), N. Range four (4) W.B. M., running thence east forty (40) rods along the section line between sections nine (9) and sixteen (16), thence north one hundred twenty (120) rods, parallel with the west section line of said section nine (9), thence west forty (40) rods, thence south one hundred twenty (120) rods, parallel with the west section line to the place of beginning."

And that said deed, when so made, shall have the same force and effect as if he, the said Leonard Fidler, had made, executed the same.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED, That Plaintiff have and recover his costs herein expended and taxed in the sum of \$.....

Dated this 4th day of December, A. D., 1913.

R. H. Dunn, District Judge.

STATE OF IDAHO,)
County of Kootenai) ss

I, D. E. Danby, Clerk of the District Court of the Eighth Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify the foregoing to be a full, true and correct copy of the original Judgment in case of Peter Fidler vs. Leonard Fidler now on file in my office in the above entitled action.

WITNESS my hand and the seal of said court this, the 27th day of Dec., 1913.

D. E. Danby, Clerk.

By Emil Elder, Deputy.

(Court Seal)
STATE OF IDAHO,)
County of Kootenai) ss

Filed for record at the request of T. A. Wade, on the 27 day of Dec., 1913, at 3:20 o'clock P. M., and recorded in Book 1 of Mis. Rec. on page 117.

Fee \$1.25

D. E. Danby, County Recorder.

71797.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF IDAHO, COMPARED
NORTHERN DIVISION. By 257C

Clarence L. Boutlier,)
Plaintiff,)
v.)
The Washington Water Power Company,)
a Corporation,)
Defendant.)

No. 475. JUDGMENT.

The above entitled cause having come on fully for trial before the court and a jury empaneled and sworn, the plaintiff appearing in person and by his attorneys, R.L. Black and A.G. Elston, and the defendant appearing by its attorney, John P. Gray, and evidence having been introduced by the respective parties, and the court having instructed the jury that the dam and power plant referred to in the complaint and answer situated at Post Falls, Idaho, should be treated as a permanent structure, and that the plaintiff was entitled to recover for all damages past, present, and future which had been or would be suffered be-

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cause of the construction, operation and maintenance of said dam and power plant as now constructed and operated in the future as well as in the past to the lands and premises described in the complaint, and the jury having returned a verdict in favor of the plaintiff and against the defendant in the sum of \$1087 and on the 30th day of November, 1903,

NOW, THEREFORE, in accordance therewith and with the stipulations of the parties made in open court.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, That the plaintiff do have and recover of and from the defendant the sum of \$1087 together with his costs taxes herein at the sum of \$189.05.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, That the said sum shall cover all damages past, present and future which have been or may hereafter be done to the said lands by reason of the construction, operation and maintenance of the dams and power plant of the defendant situated in the Spokane River or any other dams of equal height which may be by said company or its successors hereafter constructed in said river, provided that such dams do not hold the water in the St. Joe River higher than such waters are held by the present dams, subject to the right of the plaintiff or his successors in ownership of said land, at their own expense, to erect or maintain any dike or drains, or pumps, on said land, if he or they should at any time desire so to do, or in any other manner provide for keeping the water off of said land, but without liability against the defendant whatsoever.

The land covered by this judgment is described as follows:

The Southwest quarter of the Northwest Quarter, Lots 2 and 3, Section 16, and Lots 6 and 14 and the East Half of the Southwest quarter of the Northwest quarter of the Southeast quarter of Section 17, Township 46, North of Range 2, W. B. M., situated in Kootenai County, State of Idaho.

Dated this 26th day of December, 1913.

(s) Frank S. Dietrich, Judge.

UNITED STATES OF AMERICA,)
STATE OF IDAHO,) ss
COUNTY OF ADA.)

I, A. L. Richardson, Clerk of the Federal Court for the District of Idaho, do hereby certify that the foregoing is a full, true and complete copy of the judgment entered in the case of Clarence L. Boutlier v. The Washington Water Power Company, the original whereof remains on file in my office.

I further certify that by and instrument duly filed in my office the said judgment has been paid and satisfied.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

A. L. Richardson, Clerk of the United States
District Court for the District of Idaho.

(U. S. Dist. Court Seal)

STATE OF IDAHO,)
County of Kootenai.) ss

Filed for record at the request of John P. Gray on the 29 day of Dec., 1913, at 11:15 o'clock A. M., and recorded in Book 1 of Mis. Rec. on page 118.

Fee \$1.25

D. E. Danby, County Recorder.

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