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DEPARTMENT OF
WATER RESOURCES

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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 Nos. 91-7173

**AFFIDAVIT OF SARAH A.
MCCORMACK IN SUPPORT OF
CLAIMANTS STEVE AND DEANNE
HAWKS' MEMORANDUM IN
OPPOSITION OF OBJECTOR'S
MOTION FOR SUMMARY
JUDGMENT**

Steve and Deanne Hawks,

Claimants,

vs.

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

Objector.

STATE OF IDAHO)
) ss.
County of Ada)

SARAH A. McCORMACK, having been 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 ("Claimants"). I make this affidavit upon my own personal knowledge and I am competent to testify regarding the matters contained herein.

2. Attached hereto as **Exhibit A** is a true and correct copy of Water Right License No. 91-7173, owned by Steve Hawks, obtained from the online records of the Idaho Department of Water Resources (the "Department").

3. Attached hereto as **Exhibit B** is a true and correct copy of the Notice of Claim to a Water Right Acquired Under State Law for water right claim no 91-7173, filled out by Claimants and confirmed by a Print Claim Stub, obtained from the online records of the Department.

4. Attached hereto as **Exhibit C** is a true and correct copy of the Department's Director's Report for water right claim no. 91-7173, obtained from the online records of the Department.

5. Attached hereto as **Exhibit D** is a true and correct copy of a bathymetric map of the Coeur d'Alene Lake, obtained from the records of the U.S. Department of the Interior.

6. Attached hereto as **Exhibit E** is a true and correct copy of *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery*, filed by Claimants on March 3, 2016.

7. Attached hereto as **Exhibit F** is a true and correct copy of *Claimants Steve and Deanne Hawks' Second Amended and Supplemental Responses to Objector's First Requests for Discovery*, filed by Claimants on May 16, 2016.

8. Attached hereto as **Exhibit G** is a true and correct copy of pages 118-120 of the transcript of the deposition of Steve Hawks performed by Kinzo Mihara, attorney for Objector Coeur d'Alene Tribe, on May 2, 2016. In this excerpt, Norman Semanko, attorney for Claimants, is questioning Steve Hawks.

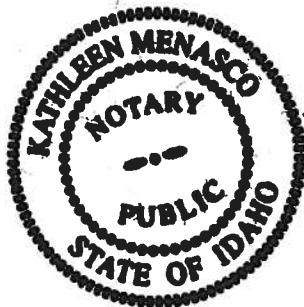
Further your affiant sayeth naught.

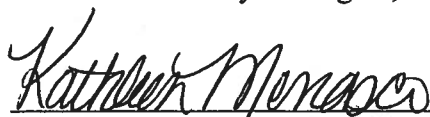
DATED this 9th day of August, 2016.



Sarah A. McCormack

SUBSCRIBED AND SWORN to before me this 9th day of August, 2016.




NOTARY PUBLIC FOR IDAHO
Residing at Moravian, Idaho
My Commission Expires Oct 9, 2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August, 2016, I caused a true and correct copy of the foregoing **AFFIDAVIT OF SARAH A. MCCORMACK IN SUPPORT OF CLAIMANTS STEVE AND DEANNE HAWKS' MEMORANDUM IN OPPOSITION OF OBJECTOR'S MOTION FOR SUMMARY JUDGMENT** 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



Sarah A. McCormack

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 91-07173

Priority: June 16, 2008

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 1.2 AF

It is hereby certified that STEVE HAWKS
89231 HWY 3N
ST. MARIES ID 83861 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated June 16, 2008; and has
submitted Proof of Beneficial Use on August 21, 2008. An examination indicates that the works have a
diversion capacity of 0.04 cfs of water from:

SOURCE

ST JOE RIVER

Tributary: COEUR D ALENE LAKE

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER L7 (NE $\frac{1}{4}$ SE $\frac{1}{4}$) Sec. 7, Twp 46N, Rge 02W, B.M. BENEWAH County

PLACE OF USE: DOMESTIC

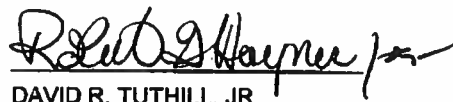
Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
46N 02W 7													X				L7

CONDITIONS OF APPROVAL

1. Domestic use is for 1 home.
2. This right does not grant any right-of-way or easement across the land of another.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 25th day of November, 2008.


DAVID R. TUTHILL, JR.
Director

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

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO
THE USE OF WATER FROM THE COEUR D'ALENE-
SPOKANE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 49576

Ident. Number: 91-7173

Date Received: 1/25/2011

Receipt No: N026500

Received By:

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED
UNDER STATE LAW

1. Name of Claimant(s)

STEVE HAWKS
89231 HWY 3N
ST. MARIES ID 83861

Phone:(208) 245-2403

2. Date of Priority: 1/3/1975

3. Source: ST JOE RIVER

Tributary to: COEUR D ALENE LAKE

4. Point of Diversion:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4 of 1/4</u>	<u>Lot</u>	<u>County</u>	<u>Type</u>
46N	02W	7	NE SE	7	BENEWAH	
46N	02W	7	NE SE		BENEWAH	

5. Description of diverting works:

6: Water is used for the following purposes:

<u>Purpose</u>	<u>From To</u>	<u>C.F.S.</u>	<u>(or) A.F.A</u>
DOMESTIC	1 /1 12/31	0.04	1.2

7. Total Quantity Appropriated is: 0.04 C.F.S. and/or 1.2 A.F.A

8. Non-irrigation uses:

Number of Homes: 1

9. Place of use:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4</u>	<u>Lot</u>	<u>Use</u>	<u>Acres</u>
46N	02W	7	NE SE	7	DOMESTIC	

Section Acres

Total Acres

10. Place of use in counties: BENEWAH

11. Do you own the property listed above as place of use? Yes

12. Other Water Rights Used:

13. Remarks:

91-7173

2/1/2011

EXHIBIT B

Priority date description: The property was first developed in 1975. Domestic use water was pumped from the St. Joe River at that time. I purchased the property in 1990 and continued this domestic use of the water. We weren't aware that we should have a Water Rights License at that time. We filed and received our license in 2008.

Description of use: Water Use Description

DOMESTIC

14. Basis of Claim: License

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Coeur d'Alene-Spokane River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

For Individuals: I/We do solemnly swear or affirm under penalty or perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty or perjury that I am

_____ of _____,
Title Organization

That I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date: _____

Title and Organization _____

Please print name

Print Claim Stub *NO 26500*

Thank you for submitting your claim to IDWR.
If paying in person, please print this page and bring it with you.
If paying by mail, make sure to enclose a copy of this page with your payment.

If you experience printing problems or do not have a printer, copy this information and include it with your payment.
Please type or write clearly. Please include the claim number shown below on any supporting documents you submit to IDWR.

Print This Page

Claim Number: 91-07173
Claim Fee: \$25.00
Claimant(s): STEVE HAWKS
89231 HWY 3N
ST. MARIES , ID
83861
Claimed Purpose(s) of Use: DOMESTIC

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JAN 25 2011
IDWR/NORTHERN

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Office address and phone number:
Idaho Department of Water Resources
7600 Mineral Dr. Suite 100
Coeur d'Alene, ID 83815
(208) 762-2800

02/24/2015

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 91-7173

NAME AND ADDRESS: STEVE HAWKS
89231 HWY 3 N
ST MARIES ID 83861

SOURCE: ST JOE RIVER

TRIBUTARY: COEUR D ALENE LAKE

QUANTITY: 0.040 CFS
1.20 AFY

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/16/2008

POINT OF

DIVERSION: T46N R02W S7 NESE Lot 7 Within BENEWAH County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

DOMESTIC

PERIOD OF USE

01/01 12/31

QUANTITY

0.040 CFS

1.20 AFY

Domestic use is for 1 home.

PLACE OF USE: DOMESTIC in BENEWAH County

T46N R02W S07 Lot 7 NESE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Property is also known as SYLVIA'S HAVEN BLOCK 2 LOT 13

Parcel No. RP005300200130A



Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
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Facsimile (208) 385-5384
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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

EXHIBIT E

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 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>.

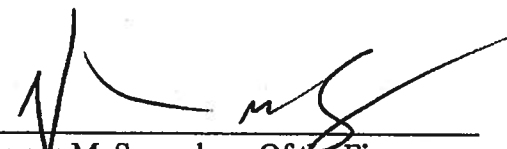
REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

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.

28
DATED this 25th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

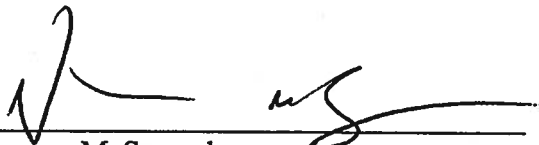
By 

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

STATE OF IDAHO)
) ss.
County of Ada)

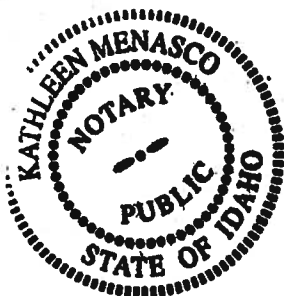
NORMAN M. SEMANKO, being first duly sworn, deposes and says:

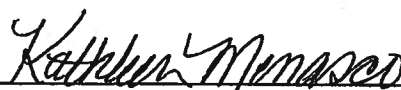
He is the attorney for the Claimants Steve Hawks and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows 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 ²⁸~~25~~th day of March, 2016.





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

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

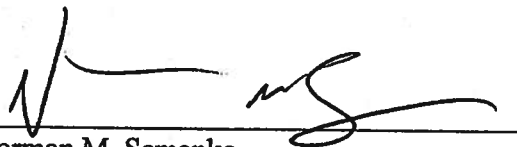
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

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

EXHIBIT A

474252-SW

RECEIVED
2013 Aug 16 AM 09:45
BENEFAN COUNTY
DEANNA BRAMBLETT, CLERK
288519
FIRST AMERICAN TITLE - SAIN
FEES \$49.00

Return To:

Numerica Credit Union
P.O. Box 4000
Spokane Valley, WA 99037
ATTN: Peggy

[Space Above This Line For Recording Data]

DEED OF TRUST

(OPEN END CREDIT - FUTURE ADVANCES SECURED)

THIS DEED OF TRUST ("Security Instrument") is made this August 12, 2013.
The grantor is David Bledsoe and Ruth Bledsoe.

The trustee is Fred L. Williamson Idaho attorney

The Beneficiary is Numerica Credit Union:

which is organized and existing under the laws of the State of Idaho

and whose address is P.O. Box 4000, Spokane Valley, WA 99037 ("Lender"). Borrower has entered into a

("Agreement") with Lender as of the 12th day of August, 2013, under the terms of which Borrower may, from time to time, obtain advances up to a maximum of any time, an amount equal to the Maximum Credit Limit (as defined herein) of One hundred thousand dollars and zero cents (\$100,000.00) Maximum Credit Limit.

This Agreement provides for monthly payments, with the full debt, if not paid in full, due and payable on August 25, 2015.

The Security Instrument secures (a) the payment of the debt under the Agreement, with interest and all renewals, extensions and modifications of the Agreement; (b) the payment of all other sums, with interest, advanced under paragraph 5 to protect the security of the modification of the Security Instrument; and (c) the performance of Borrower's obligations and agreement under this Security Instrument and the Agreement. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in: Benewah, County, Idaho.

LOT 27A, COTTONWOOD POINT 1ST ADDITION, ACCORDING TO PLAT RECORDED
IN BENEWAH COUNTY, IDAHO.

PARCH # 151246NRW

Which has the address of 1640 COTTONWOOD DR

ST. MARIES

(Since)

(City)

Idaho

83361

[Zip Code]

(Property Address)

EXHIBIT B

- (1) Every fraud, undue influence, duress, intimidation, incapacity, or impersonation;
- (2) Failure of any person or entity to have authorized a transfer or assignment;
- (3) The transfer being not properly created, executed, witnessed, sealed, acknowledged, or filed;
- (4) Failure to provide, where necessary, the correct a document by electronic means when required by law;
- (5) A document executed under a forged signature, or otherwise without proper authority.

SCHEDULE A

First American Title Insurance Company

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

**File No.: 229947-SM
Loan No.: 60113781
Address Reference: 1640 Cottonwood Drive St. Maries, ID
83861**

Policy No.: 229947-SM

**Amount of Insurance: [REDACTED]
Date of Policy: October 17, 2007 at 3:56 p.m.**

Premium: [REDACTED]

1. Name of Insured:

Sterling Savings Bank, its successors and assigns, as their interests may appear, as defined in the paragraph 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 [REDACTED]
Recorded: October 17, 2007 as Instrument No.: 248591
Grantor: David Bledsoe and Ruth Bledsoe, husband and wife
Trustee: BRAD WILLIAMS & TRUST 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

FILE NO. 229947-SM

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, shortages 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]	RF001000200274A

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. 239785.
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. 243227.

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.

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 subordinate to the lien of the Insured Mortgage:

NONE.

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. 91-7173

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

Client:4157516.1

EXHIBIT F

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, pursuant to the direction received from the Special Master at the Hearings on Objector's Motion to Compel and Motion to Determine Sufficiency of Objections and Deem Certain Matters Admitted on May 11, 2016, and provide second amended and supplemental responses to Objector's First Requests for Discovery, which replace Claimants' previous Responses to Request for Admission Nos. 10 and 11 and supplement Claimants' previous Answer to Interrogatory No. 7 and previous Response to Request for Production No. 13 as follows:

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: The term "permission" is defined as "the act of permitting" or "a license or liberty to do something; authorization." BLACK'S LAW DICTIONARY 1176 (8th ed. 2004). Pursuant to this definition, Claimants admit that they did not have permission 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: The term "permission" is defined as "the act of permitting" or "a license or liberty to do something; authorization." BLACK'S LAW DICTIONARY 1176 (8th ed. 2004). Pursuant to this definition, Claimants admit that they have never received permission 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 ever needed.

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.

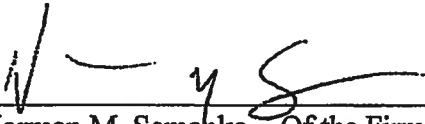
ANSWER NO. 7: Consistent with the licensing file, the 3/4 HP pump for the diversion works is located on Claimants property and is connected to a discharge line that extends about 100 feet out over and into the water of the St. Joe River. The lowest part of the diversion works within the St. Joe River is several feet in depth. However, the diversion works are not located underwater at all times of the year. The diversion works are only located underwater from about May to October for summer domestic use. The diversion rate is 0.04 cfs and the volume is 1.2 acre feet.

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: See supplemental documents produced herein. Documents produced, bates number Hawks 2880 – 2908, are from Claimants' files, as mentioned during the deposition on May 2, 2016.

DATED this 17th 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 17th day of May, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' SECOND AMENDED AND 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
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Coeur d'Alene, ID 83816-0969
Facsimile (208) 667-4695
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kmihara@indian-law.org
dhedden@indian-law.org

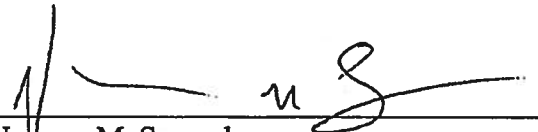
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☐ Overnight Mail
☐ Facsimile
☒ E-Mail

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
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Norman M. Semanko



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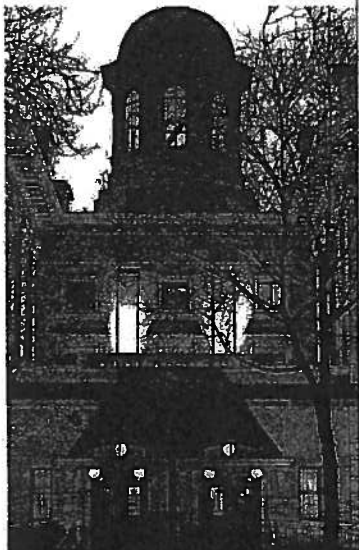
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**DISTRICT COURT, FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In re CSRBA

Case No. 49576



STEVE AND DEANNE
HAWKS,

Claimants, SUBCASE NOS. 91-7102; 91-7173

vs.
COEUR D'ALENE TRIBE,
a federally recognized
Indian Tribe,

Objector.

DEPOSITION OF

STEVE HAWKS

**TAKEN ON
MONDAY, MAY 2, 2016
1:17 P.M.**

**MORRIS AND WOLFF, P.A.
722 MAIN AVENUE
SAINT MARIES, IDAHO 83861**

EXHIBIT G

APPEARANCES**APPEARING ON BEHALF OF THE CLAIMANTS****AND RESPONDENT NIWRA MEMBERS:**

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APPEARANCES (CONTINUED)

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ALSO PRESENT:

DEANNE HAWKS

1 Q. Do you recall Mr. Mihara asking you about
2 that?

3 A. Yes.

4 Q. That's the one that says: "The issuance
5 of this permit in no way grants any right-of-way or
6 easement across the land of another," correct?

7 A. Yes, that's right.

8 Q. At the time that you received that
9 document from the department or submitted that
10 application for permit to the department, did the
11 department tell you that you needed to get a permit
12 from the tribe?

13 A. No.

14 Q. Did the tribe tell you to get a permit for
15 the water right diversion?

16 A. No.

17 Q. Did they ever do that at any point later
18 in time?

19 A. No.

20 Q. For either of the water right
21 applications?

22 A. No.

23 Q. Did the state ever tell you to do that?

24 A. No.

25 Q. And the tribe didn't?

1 A. I just did what the state told me.

2 Q. Okay. Did the tribe ever tell you to get
3 a permit for the water use, the water right
4 diversion --

5 A. No.

6 Q. -- from the tribe?

7 A. No.

8 Q. I want to clarify. You said there's no
9 Indian land involved. I just want to clarify.
10 Looking at this application for permit, let's look
11 where it says "Description of place of use" on the
12 second page --

13 A. Uh-huh.

14 Q. -- No. 9. That land that you've listed --
15 do you see that?

16 A. Yes.

17 Q. Is any of that land owned by the tribe?

18 A. No.

19 Q. Okay. How about the land at the point of
20 diversion for that water right?

21 A. No.

22 Q. Is it owned by the tribe?

23 A. No.

24 Q. Okay. Anywhere in between the point of
25 diversion and the place of use, does the tribe own

1 any of the land there?

2 A. No.

3 Q. Is that what you meant by there's no

4 Indian land involved in this application?

5 A. Uh-huh.

6 Q. Is that a "Yes"?

7 A. Yes. I'm sorry.

8 Q. Do you have any kind of permit from the
9 tribe to travel in your boat on the St. Joe?

10 A. No.

11 Q. To park your boat?

12 A. No.

13 Q. To fish?

14 A. Nope.

15 Q. For your water use?

16 A. No.

17 Q. For your water diversion?

18 A. No.

19 Q. Have you ever been asked by the tribe to
20 get a permit for any of those activities?

21 A. No.

22 Q. In the lagoon, is the pool the same level
23 when water's let out of the Post Falls dam?

24 A. Yes. As the river?

25 Q. No, as it is in the summer.