

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

ID Number: 95-13483

Date Received: 7-28-2017

Receipt No: T091896

Amount: _____ By: _____

Amended

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

For domestic and/or stockwater purposes where
daily use is less than 13,000 gallons per day

RECEIVED

JUL 28 2017

Please type or print clearly

IDWR/NORTHERN

1. Name of claimant(s) Thomas F &/or Barbara A Mildner Phone 503 780-6403
Mailing address 30487 S Hwy 97, Harrison ID ZIP 83833
Street or Box City State
2. Date of priority (only one (1) per claim) 6/15/2002
Month/Day/Year (yyyy)
3. Source of water supply (check one) Ground Water (x) or Other () (a) _____
which is tributary to (b) _____
4. Location of point of diversion is: Township 49N, Range 3W, Section 30
NW 1/4 of SW 1/4, or Govt. Lot _____, B.M., County of _____
Parcel (PIN) no. 49N03W305890
Additional points of diversion, if any: _____
If available, GPS coordinates Lat 47.558990 degrees; Long -116.784707 degrees
5. Description of diverting works (wells, pumps, spring boxes, pipelines, etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.
Well & Pump which pumps to 3000 gallon storage tank that pressurizes the house. See attached additional description of water system
6. Water is claimed for the following: (Limited to domestic and/or stockwater uses. See page 1 of the instructions.)
For Domestic purposes from 1-1 ^{Month/Day} to 12-31 ^{Month/Day} amount 0.04 cfs (x) AFY ()
For _____ purposes from _____ to _____ amount _____
7. Total quantity claimed 0.04 cfs (x) or AFY ()
8. Non-irrigation uses; describe fully (e.g. Domestic: give number of households served if single ownership; Stockwater: type and number of livestock, etc.): 1 Home for interior use only

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9. Location of place of use is: Township 49N, Range 3W, Section 30, NW 1/4 of SW 1/4, or Govt. Lot _____, B.M., Parcel (PIN) no. (if different than shown in Item 4) 49N03W305930

For (check one) ☒ Domestic ☐ Stock ☐ Domestic and Stock ☐

Additional places of use, if any: _____

10. In which county(ies) are lands listed above as place of use located? Kootenai

11. Do you own the property listed above as place of use? Yes ☒ No ☐

If your answer is no, describe in remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

_____ or None ☒

13. Remarks:

14. Basis of claim (check one) Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐ Decree ☐

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable, provide IDWR water right number 95-13483

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 notices 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.

Number of attachments: 4

For individuals:

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

Signature of claimant(s)

[Signature]
Robert C. Miller

Date: 07-22-17

Date: 7-22-17

For organizations:

I do solemnly swear or affirm under penalty of 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 _____

16. Notice of appearance:

Notice is hereby given that I, _____, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address _____

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Thomas &/or Barbara Mildner amended Claim 95-13483

Kootenai County Parcel 49N03W305930

T49N R3W Sec 30 SW1/4 NW1/4



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Water Use History for well 95-72-N-38

Well 95-72-N-38 was drilled by Darrel Brown in 1972 for in house use on a parcel (49N03W305890) to replace a water system that pumped water from Lake Coeur d'Alene. In January of 1974 Mr. Brown memorialized the drilling of that well by filing a Statutory Claim to a Water Right No. 95-4217 with a predecessor of the Idaho Department of Water Resources. At the time of filing Adjudication Claim 95-13483 we were unaware the statutory claim or the actual construction date of this well. In 2002 a second home located on parcel 49N03W305930 hooked up to this well. A shared well agreement (copy attached) will be executed upon the sale of one of the properties.

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WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Administration within 30 days after the completion or abandonment of the well.

[illegible]

USE ADDITIONAL SHEETS IF NECESSARY

FORWARD THE WHITE, BLUE, AND PINK COPIES TO THE DEPARTMENT

JUL 28 2017

July 24, 2017

To Whom It May Concern,

Attached is a WELL AND WATER AGREEMENT that has been drafted and will be executed at the time that the home and property located at 30487 S Hyw 97 Harrison 83833 is sold. We will remain the owners to the adjacent lots as described in the exhibits.

Tom Mildner
503-780-6403

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WELL AND WATER AGREEMENT

This Agreement made this ____ day of _____, 2017, by and between Thomas F. Mildner and Barbara J. Mildner, husband and wife ("Mildner"), whose address is 30487 S. Highway 97, Harrison, ID 83833, _____, ("____") whose address is _____ ("User").

RECITALS:

A. WHEREAS, Mildner is the legal owner of that certain well located on real property described on Exhibit "A," which is attached hereto and by this reference made a part hereof;

B. WHEREAS, User obtains water from the well and is the legal owner of that certain real property upon which the water is put to beneficial use which property is described on Exhibit "B" which is attached hereto and by this reference made a part hereof and hereafter referred to as "Property"; and

C. WHEREAS, Mildner has determined to continue to supply water to User under the conditions set forth herein;

NOW, THEREFORE, the parties for and in consideration of the mutual covenants and promises contained herein, agree as follows:

1. Permission to Use Water. Mildner does hereby give permission to User to use water from their well and to store such water as is reasonably necessary for domestic purposes only, exclusive of irrigation, for only one residence.

2. Sale of the Property. This agreement shall run with the land, and be binding upon Mildner's and User's heirs, successors, and assigns.

3. Easement. All parties acknowledge that a water well and water line serving User currently exists. Mildner hereby permits an easement through Mildners property five (5) feet in width on either side of the in-place water line. Mildner reserves the right to move the location of the water line at their sole cost at any time, provided that User is provided seven (7) days notice of the relocation.

4. Maintenance of Water Line. The water line easement shall be for the purpose of maintaining the water line serving User. It shall be the responsibility of User to maintain the water line at their sole expense. Before taking any action to maintain the water line, User must acquire written permission for such activity from Mildner.

5. Cost of Utilities. User hereby agrees to pay Mildner a Fifty Dollar (\$50.00) annual

fee as User's share of the cost of power to operate the well. This fee shall be payable on the 10th day of January of each year. This amount may be increased by five (5) percent every five (5) years at the option of Mildner. Failure to make this payment when due shall cause this agreement to terminate and Mildner shall have no further obligation to serve User with water. Provided however, the obligation to reimburse Mildner shall survive the termination of the agreement.

6. Costs of Maintenance and Repair of Water Well. User shall pay one-half (1/2) the cost of expenses for the maintenance and repair of the well. It shall be Mildner's responsibility to effectuate the maintenance and repairs as needed. Mildner shall have the sole discretion to determine what repairs and maintenance are necessary. In the event the well shall cease to produce water due to lack of available water supply at the drilled depth, Mildner shall have no obligation to extend the depth of existing well or drill a new well for the benefit of User. Provided however, should Mildner extend the depth of the existing well in an attempt to maintain the water supply at its existing level of production, User may choose to participate in one-half the costs, and this agreement shall continue to control the relationship of the parties. If User fails to pay their share of maintenance and repair costs as set forth herein within thirty (30) days of Mildner presenting such costs, then Mildner may discontinue service to User, and this agreement shall terminate. Provided however, the obligation to reimburse Mildner shall survive the termination of the agreement.

7. Binding Effect. This Agreement shall be binding on the heirs, personal representatives, assigns and successors of the parties and each party shall be responsible for informing any and all heirs, personal representatives, assignees, or successors as the case may be of their specific responsibilities hereunder.

8. Attorney's Fees. In the case of any commencement of legal action hereunder, the prevailing party shall be awarded attorney's fees and costs, whether in district or appellate court.

9. Construction. In the event that a court of law is requested to interpret this Agreement, then the court shall interpret based upon the fair, simple meaning of the words and not strictly construing the content against either party as a drafting party. Further, the law of the State of Idaho shall apply to this Agreement and the proper venue shall be in Kootenai County, State of Idaho.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and duly executed this Agreement the day and year set forth below.

Thomas F. Mildner

Barbara J. Mildner

[Signatures continued on next page]

WELL AND WATER AGREEMENT - 2

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[Signatures continued from previous page]

STATE OF IDAHO)
) ss.
County of Kootenai)

On this ____ day of _____, 2017, before me, the undersigned, a Notary in and for the State of Idaho, personally appeared Thomas F. Mildner and Barbara J. Mildner, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary for the State of Idaho
Residing at _____
Commission Expires: _____

STATE OF IDAHO)
) ss.
County of Kootenai)

On this ____ day of _____, 2017, before me, the undersigned, a Notary in and for the State of Idaho, personally appeared _____ and _____, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary for the State of Idaho
Residing at _____
Commission Expires: _____

EXHIBIT A
"Mildner Parcel"

A parcel of land being a subdivision of Parcel #3828, situated in Government Lot 3, Section 30, Township 49 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, more commonly known as the South 60 of the North 260' feet of Tax #3828 (Kootenai County Tax Parcel No 49N03W-30-5900); and the South 50' of the North 200 Feet of Tax #3828 (Kootenai County Tax Parcel No. 49N03W-30-5890), and more particularly described as follows:

The South 110 feet of the North 260 feet of the following described tract:

All that portion of Government Lot 3, Section 30, Township 49 North, Range 3 W.B.M., lying Westerly of Highway No. 97 and more fully described as follows:

Beginning at the Northeast corner of said Lot 3; thence

South along the East line of said Lot 3 a distance of 213.4 feet, more or less, to the Northerly line of Highway No. 97; thence

Running in a Southwesterly direction along the Northwesterly line of said highway to a point 660 feet due South of the extended North line of said Lot 3, which point lies South $69^{\circ}50'$, 1879.3 feet from the center of said Section 30, and which point is the True Point of Beginning for this tract from said point of beginning, running; thence

West a distance of 263.4 feet, more or less, to the highwater line of Lake Coeur d'Alene; thence

Southerly along the highwater line of Lake Coeur d'Alene to the meander corner between Lots 3 and 4 of said Section 30; thence

East along the South line of said Lot 3 to the West line of Highway No. 95; thence

Northeasterly along the Westerly line of said Highway No. 97 to the True Point of Beginning.

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EXHIBIT B

A parcel of land being a subdivision of Parcel #5910, as shown on a Record of Survey recorded as Instrument No. 1214580 on April 16, 1991, in Book 10, Page 9, Records of Kootenai County, situated in Government Lot 3, Section 30, Township 49 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, and more particularly described as follows:

Beginning at the CS 1/16 corner of said Section 30; thence

North 87°47'19" West, along the South line of said Government Lot 3, 1,917.35 feet to a point on the Westerly right of way of State Highway No. 97; thence

North 03°28'23" West, along said Westerly right of way, 206.58 feet; thence

Continuing along said Westerly right of way along a circular curve to the right, said curve having a radius of 313.00 feet and a central angle of 15°42'05", for an arc length of 85.78 feet to the Southeast corner of Parcel No. 3, said Southeast corner also being the True Point of Beginning for this description; thence

South 86°16'40" West, 104.05 feet; thence

North 83°30'00" West, 138.00 feet more or less to a point on the Easterly shore of Lake Coeur d'Alene; thence

North 24°29'42" East, along said Easterly shore, 100.00 feet; thence

Leaving said Easterly shore South 89°54'05" East, 235.72 feet, more or less to a point on the Westerly right of way line of State Highway No. 97; thence

South 23°00'37" West, along said Westerly right of way to a point of circular curvature, 47.18 feet; thence

Southwesterly continuing along said Westerly right of way along a circular curve to the left, said curve having a radius of 313.00 feet and a central angle of 10°46'43" for an arc length of 58.88 feet to the True Point of Beginning.