

RECEIVED

SEP 25 2019

DEPARTMENT OF
WATER RESOURCES

**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: 95-8142
Date Received:
Receipt No:
Claim Fee:
Received By: _____

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

LONNA SWENSON
9117 S QUAKING ASPEN LN
VALLEYFORD WA 99036

Phone: (509) 926-1484

KEITH SWENSON
9117 S QUAKING ASPEN LN
VALLEYFORD WA 99036

Phone: (509) 926-1484

2. Date of Priority: 12/7/1981

3. Source:

COEUR D ALENE LAKE

Trib. to:

SPOKANE RIVER

4. Point of Diversion:

Township	Range	Section	¼ of ¼ of ¼	Lot	County	Type
48N	04W	20	NW SE	5	KOOTENAI	

5. Description of diverting works:

Submerged 3/4 hp pump with 1 1/4" poly pipe to pump servicing home.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
DOMESTIC	1/01	12/31	0.04		0.6
IRRIGATION	3/15	11/15	0.02		1.8

7. Total Quantity Appropriated is:

0.04 C.F.S. and/or 2.4 A.F.A.

8. Non-irrigation uses:

LESS THAN 1/2 ACRE LAWN IRRIGATION
1 HOME

9. Place of use:

DOMESTIC within KOOTENAI County

Township	Range	Section	¼	of	¼	Lot	Acres
48N	04W	20	NW		SE	5	

IRRIGATION within KOOTENAI County

Township	Range	Section	¼	of	¼	Lot	Acres
48N	04W	20	NW		SE	5	0.5

Total Acres = 0.5

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

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

11. Other Water Rights Used:

NONE

12. Remarks:

Priority Date Explanation:

AC. IRR.=0.5.

13. Basis of Claim: License

14. 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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 27 in total

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): Keith Swenson Date: 9-23-19
Lorna Swenson Date: 9-23-19

LIST OF DOCUMENTS

- #1 – Coeur d'Alene Lake map -- context
- #2 – Ben Pointe map – address
- #3 – Swenson Deed – premises described
Note: “Government Lot 5...”
“Southwesterly corner of Lot 1, Second Addition To Benpoint”
- #4 – Alliance Title map – identifies property within Government Lot 5
- #5 – Government Lots map – T48N 04W Sec 20 – context for Gov. Lot 5
- #6 – Kottke Deed – premises described
Note: “Government Lot 5...”
“Southwesterly corner of Lot 1, Second Addition to BENPOINT”
- #7 – Second Addition to BENPOINT -- in relation to Government Lot 5
- #8 – Second Addition to BENPOINT (close up) – property drawn in to envision it as described in Kottke Deed. “Commencing at the Southwesterly corner of Lot 1, of Second Addition of Benpoint”
- #9 – Record of Survey – (2003) for purchase of .34 acre addition to property
 - 1.) “North Corner of Lot 1, Second Addition to Benpoint”
 - 2.) “Old Lot Line” identifies north boundary of Kottke’s property.
 - 3.) Proves that our property is “immediately west” of (adjacent to) Lot 1, Second Addition to Benpoint”
- #10 – Application for Permit (page 1)– Kottke
- #11 – Application for Permit (page 2) -- Remarks by Kottke – Note: 3 quotes
 - 1) – “immediately west” of Lot 1 of Second Addition of Benpoint.
 - 2) – “North edge of Gov’t Lot 5”
 - 3) – “100 feet frontage”
- #12 – Application for Permit (page 3) – Rough hand drawing of location by Kottke
- #13 – Notarized Letter -- Frank Kottke’s daughter, Margaret Kottke Essenberg – Frank J Kottke owned only “one property”.
- #14 – IDWR Map (with Water Right License) – “30,000 feet high perspective”
Similar to Kottke’s drawing, but adds a note referring to “GL4” – Gov Lot 4.
This is the first time there is any reference to Gov Lot 4, instead of Gov Lot 5.
We believe this note was written by a water rights inspector.

- #15 – IDWR Water Right License #95-8142 – states “Government Lot 4”
- #16 – Government Lots map – general area
In relation to the area circled and labeled “GL4” on the IDWR map (Doc #14), it looks as though there is little, if any, southern water frontage in Gov Lot 4, except possibly the very southwest corner of Gov Lot 4.
- #17 – Ben Pointe Road Directory – general area
Shows all properties close to the southwest corner of Gov Lot 4.
These properties do NOT match Kottke’s property description, specifically “100 feet frontage”. There are only 75-80 foot frontages in that area.
Our property, which is farther southeast, has a 100 foot frontage.
That is in the area of Gov Lot 5.
- #18 – Record of Survey – “surveyed” boundary line of Gov Lot 4 and Gov Lot 5.
Our property is all in Gov Lot 5
“North edge of Gov’t Lot 5” – as written in Kottke remarks in Document #11
- #19 – Alliance Title Map – 1.) our property has 100 feet frontage 2.) our property matches Kottke’s description in the Application for Permit and the legal description 3.) our property is ALL in Government Lot 5, which contradicts the “GL4” label on the IDWR map and consequently on the Water Right License #95-8142.
- #20 – 6966 W Ben Pointe Road Property Ownership History --
1.) The time gap between Sewer/Drainfield Easement and Water Right License can be understood by reading the complete “Remarks” of Document #11.
2.) Plumbing and electrical were hooked up to a small building on the property before the main house was built by Wagner. The small building is still there.
- #21 – Jerry Wagner and Margaret Kottke Essenberg – comments about the small building used by Frank Kottke.
- #22 -- 1977 Easement Document – consistent with “Government Lot 5”
- #23 – Small Building Photos – 2 of outside; 1 with toilet hole and water supply line; 1 with water supply lines from lake to building.
- #24 – Small Building Photos – outside spigot; inside bathroom mirror with sink drain and water supply line; electrical panel in bigger room; close up of panel with certification dated May 31, 1977 and electrical breakers labeled “Water Pump” and “Sewer Pump”.

☰ Try restaurants, coffee



Falls

Huetter

Gardens

Coeur d'Alene

Liberty Lake

71°

ADALE

IDAHO

Mica Twin Beaches

Wolf Lodge

Manito

eman

Rockford

Setters

Rockford Bay

Harrison

Springston

Medimont

Darknell
Google

278

IDAHO

58

95

95

95

97

97

97

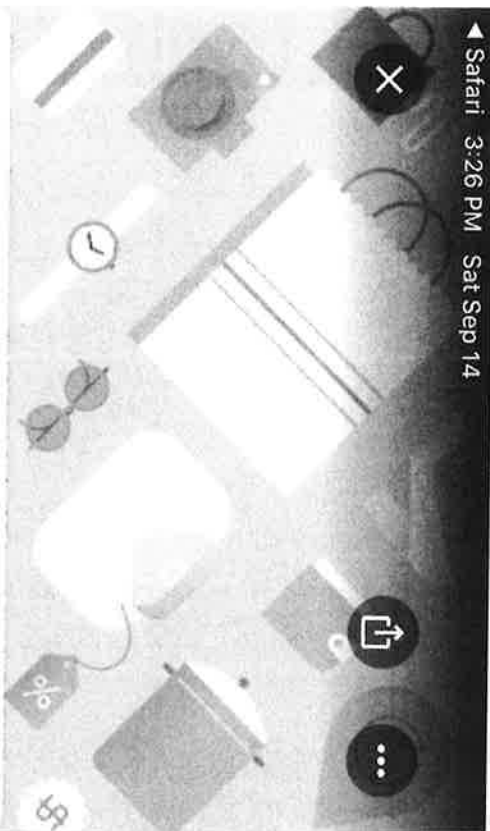
3

SWENSON - 1/24

Wardlaw

Conklin Dark





6966 W Ben Pointe Rd

6966 W Ben Pointe Rd, Worley, ID 83876



DIRECTIONS

SAVE

LABEL

SHARE



Measure distance



F4Q9+9P Rockford Bay, Idaho

(47.4884420, -116.8806950)

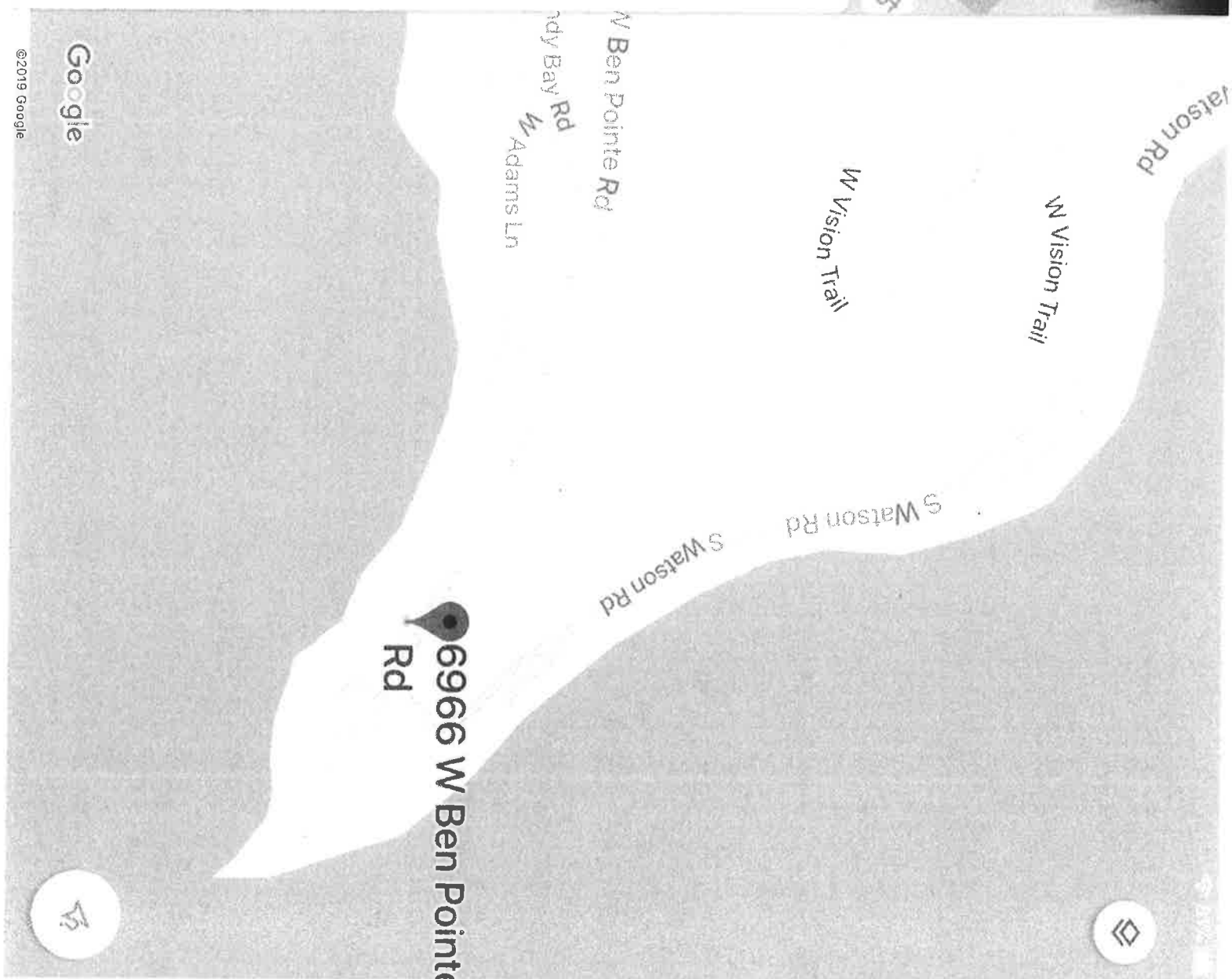


Report a problem



Add a missing place

SWENSON - 2/24



WARRANTY DEED

Alliance Title & Escrow Corp. Order No.:244374

FOR VALUE RECEIVED

Dennis Guldin and Patricia C. Guldin, husband and wife

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Keith Swenson and Lonna Swenson, Husband and Wife

whose current address is: 9117 S. Quaking Aspen Ln, Valleyford, WA. 99036

the grantee(s), the following described premises, in Kootenai County, Idaho, TO WIT:

A parcel of land situated in **Government Lot 5, Section 20, Township 48 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:**

BEGINNING at the Southwesterly corner of Lot 1, Second Addition To Benpoint, filed at Book D of Plats, Page 181, records of Kootenai County; thence

Along the shore of Lake Coeur d'Alene, North 73°23' West, 100 feet; thence

North 36°11' East, 266.3 feet to a 5/8" rebar with yellow cap marked PLS 4182, as shown on Record of Survey filed at Book 19 of Surveys, Page 42, records of Kootenai County; thence

North 72°21'59" East, 65.75 feet; thence ADDITION

North 29°30'00" East, 100.00 feet; thence ADDITION

South 61°07'19" East, 145.45 feet; thence ADDITION

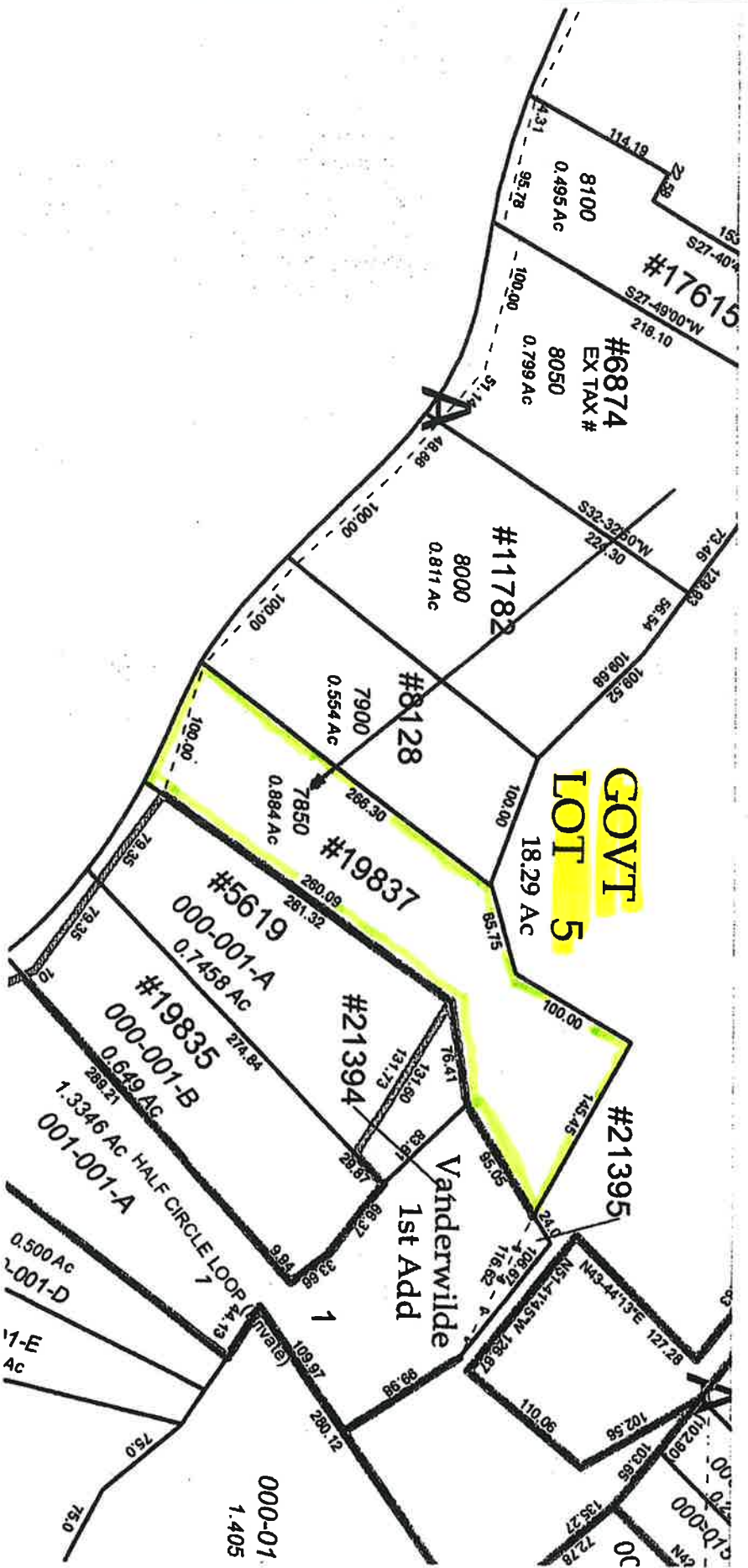
South 56°57'17" West, 95.05 feet; thence ADDITION

South 80°14'39" West, 76.41 feet to the North corner of said Lot 1, said point marked by a 1/2" rebar; thence ADDITION

Along the Northwesterly line of said Lot 1, South 34°04' West, 260.09 feet to the POINT OF BEGINNING

THIS MAP IS FURNISHED AS AN ACCOMODATION STRICTLY FOR THE PURPOSES OF GENERALLY LOCATING THE LAND. IT DOES NOT REPRESENT A SURVEY OF THE LAND OR IMPLY ANY REPRESENTATIONS AS TO THE SIZE, AREA OR ANY OTHER FACTS RELATED TO THE LAND SHOWN THEREOF

SWEETSON - 4/24



T48N04W

L 2
48.98 Acres

L 7
11.11 Acres

L 3
40.13 Acres

20

L 1
16.1 Acres

L 4
31.65 Acres

L 5
18.29 Acres

SWENSON - 5/24

617222

BOOK 259 PAGE 345

WARRANTY DEED

For value received Irving H. Bennion, Trustee of Bennion Benpoint Trust B, the Grantor, does hereby grant, bargain, sell and convey unto Frank J. Kottke and Esther H. Kottke, his wife, herein called the Grantees, the following described premises to-wit:

That portion of Government Lot 5 in Section 20, T. 48N, Range 4 WBM described as follows:

Commencing at the Southwesterly corner of Lot 1, of SECOND ADDITION TO BENPOINT, Kootenai County, State of Idaho, as recorded in Book D of Plats, page 131; thence

Along the Shore of Lake Coeur d'Alene; North 73°23' West, 100 feet; thence

North 36°11' East 266.3 feet; thence

South 72°25' East 88.8 feet; thence

South 33°59' West 261.32 feet to the point of beginning; also

An easement for the purpose of establishing and servicing a drainage field for a sewer system for one house on the above described property.

The drainage field shall be upon a location agreed to by the Trustee of Benpoint Trust B or his assigns on Government Lot 5 adjacent to the above described property and approved by Kootenai County Health Department. The site of the easement shall be established within 5 years of the signing of this deed and shall be located by survey and agreement signed by the parties hereto and filed with the County Recorder or the right to the easement shall cease and be null and void. If the Grantor or his or it assigns shall desire to move the location of the drainage fields, they may do so upon the approval of the County Health Department and upon adequate notice to the Grantees and at no cost to the Grantees; except that if a common sewer and sewage disposal system is established for Benpoint Second Addition or adjoining property, then the Grantees or their successors or assigns agree to connect with the common sewer at their own cost bearing their proportionate share of the cost of the system and to abandon the drainage fields.

Subject to:

1. Reservation in the United States Patent of all coal or oil deposits therein and thereunder.
2. Any claim arising from the difference in the mean high water line of the Coeur d'Alene Lake and the meander line as shown by Government Survey.
3. The terms and conditions of a certain agreement recorded in Book 37 Misc. Records, page 1 executed by the various lot owners of Benpoint and the First Addition to Benpoint providing for construction and maintenance of private roads serving lots of Benpoint and its additions with the understanding that this lot shall participate equally with the original lots as if it were included in the original agreement.

TO HAVE AND TO HOLD THE SAID PREMISES WITH their appurtenances unto the said Grantees, their heirs and assigns forever, and the said Grantor does hereby covenant to and with the said Grantees that he is the owner in fee simple of said premises; that they are free from all incumbrances except for the following mutual covenants and restrictions which shall be common to this tract and the property adjoining along the lake and to Benpoint Benpoint First Addition and also Bennion Benpoint Second Addition:

1. No part of any building constructed on the lot shall be located closer than ten feet from any lot line.

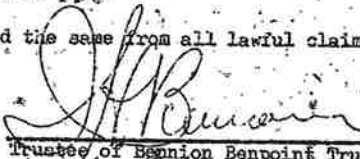
2. No more than one dwelling unit shall be constructed per 100 feet of lot along the shore line within 100 feet of the mean high water line of the lake except upon written permission of the owners of the lots adjacent, nor shall this tract be subdivided. (This last provision does not apply to lots 1 or 5 of Benpoint Second Addition.)

3. No noxious or offensive trade or activity shall be carried on upon the lots which is to be used primarily for residential purpose nor shall anything be done thereon which shall become an annoyance, or nuisance to the other lot owners, nor shall any trade or commercial activity catering to the public be carried on which might conflict with the private use of the roads; any animal, fowl or activity classed as objectionable, noisy or otherwise offensive by the lot owners be allowed. A lot owner must obtain approval of the owners of adjoining properties before acquiring any questionable animal, or activity which he intends to locate on his lot.

4. Disposal of all sewage material from any dwelling or other structure shall be by means of septic tank or other sanitary disposal approved by the Kootenai County Sanitarian.

5. These covenants are to run with the land and shall be binding upon all parties and persons claiming under them until January 1, 1982, at which time the said covenants shall be extended for successive periods of ten years unless a vote of the majority of the owners it is agreed upon to change the covenants in whole or in part.

AND THAT he will warrant and defend the same from all lawful claims whatsoever.

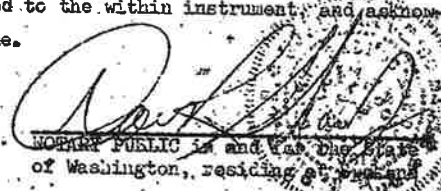

Trustee of Bonnion Benpoint Trust B.

STATE OF WASHINGTON)

ss.

County of Spokane)

On this 27th day of December, 1972, before me a notary public in and for the State of Washington, personally appeared Irving H. Bonnion, known to me as the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.


NOTARY PUBLIC in and for the State of Washington, residing at _____

Executed and recorded at the request of PANHANDLE TITLE CO.
at _____ o'clock PM, this _____ day of JAN 11 1973
By: Nancy Thresh
Notary Public or Recorder
Kootenai County, Idaho
Fee \$ 2.00
Returns to _____

WARRANTY DEED - 2

Walt H. Cough Realty
110 S. Sherman
Coeur d'Alene, Idaho

SECOND ADDITION TO BENPOINT

1. Roy H. Cady, a licensed land surveyor under the laws of the State of Idaho, hereby certifies that in July 1962, I surveyed the land here described under the direction of the owners, to be known as SECOND ADDITION to BEAUMONT COUNTRY, Idaho; that said tracts were placed in the ground as shown on this plat, and that this plat is a true representation of said survey; that the land is located in Grant lots 6 and 5 of Section 20, T.48 N., R.44 W., S.4 E., Rothwell County, Idaho; and includes all of lots 6 and 7 of BEAUMONT and is described as follows: Beginning at the Southeast corner of Lot 15 of FIRST ADDITION to BEAUMONT, thence S 40° 29' E, 135.24 feet to a point on the North line of Lot 7 of BEAUMONT, thence along the North line of Lot 7 of BEAUMONT, S 54° 32' W, 280.12 feet, thence N 58° 55' W, 263.46 feet, thence S 33° 59' E, 261.32 feet to a point on the shore of Lake Coeur d'Alene; thence S 67° 31' E, 158.7 feet, thence S 30° 08' E, 149.9 feet, thence S 53° 04' E, 44.81 feet, thence S 64° 32' E, 155.51 feet, thence S 79° 23' E, 290.48 feet, thence S 98° 52' E, 520.00 feet, thence S 54° 41' E, 204.35 feet, thence N 12° 20' E, 100.00 feet, thence N 46° 17' W, 92.00 feet, thence N 44° 45' W, 96.39 feet to a point on the South line of Lot 15 of FIRST ADDITION to BEAUMONT, thence along the South line of said Lot 15 S 42° 59' W, 198.47 feet, to the point of beginning.

STATE of IDAHO)
COUNTY of BOEISE) ss.
On this 22nd day of August, 1962, before me personally appeared Roy H. Knudsen, known to me to be the person who executed the above SURVEYOR'S CERTIFICATE and acknowledged to me that he signed the same.)

Notary Public in and for the State of Idaho, residing in Coeur d'Alene
My commission expires July 20, 2014

OWNERS' CERTIFICATE

BE IT KNOWN that me, D.S. Bennett and his wife, Edna H. Bennett are the owners of the land described in the above SURVEYORS CERTIFICATE and have caused the same to be subdivided into lots as herein plotted and do designate the same as SECOND ADDITION to BENDHART, (Hennepin County, Idaho, and me reserve such easements as may be necessary, now or along each lot, for public utilities, and we declare the lands herein so granted, and the one of the lot owners, to be the same as the lands described in the above SURVEYORS CERTIFICATE, and we hereby affirm our signatures this 14th day of December, 1962.

STATE of IDAHO
COUNTY of KOOTENAI ss.
On this 22nd day of August, 1962, before me personally appeared A.S. Benham and his wife Edna H. Benham known to me to be the persons who executed the above OWNERS' CERTIFICATE and acknowledged to me that they signed the same.

Notary Public in and for the State of Idaho, residing in Coe 'Alene
My commission expires 1-1-63

COUNTY SURVEYOR'S APPROVAL

I hereby certify this 20th day of August, 1962, that I have examined this prior and approve same for filing.

Ray H. [Signature]
Kearney County Surveyor

COUNTY TREASURER

I hereby certify this 22 day of August 1962, that the required taxes on the herein platted land have been paid.

James E. Labrecque
Kootenai County Treasurer

COUNTY COMMISSIONERS' APPROVAL

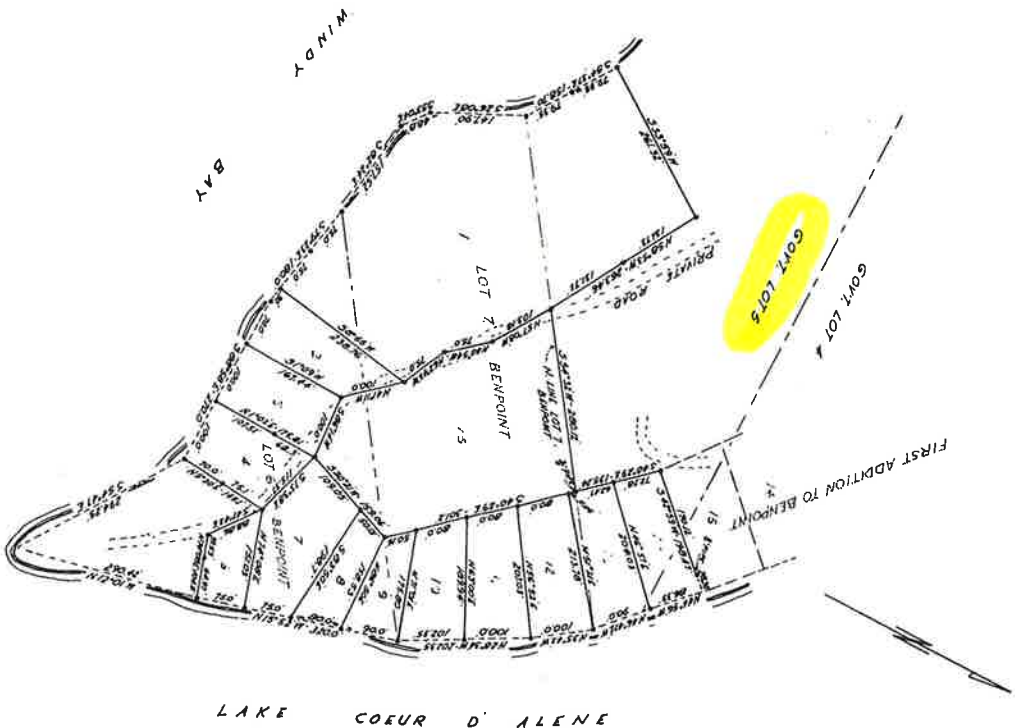
This plan approved and accepted by the Board of County Commissioners of Montezuma County, Idaho, this 22nd day of August, 1962.

Chatterbox
Chorison

COUNTY RECORDER

I hereby certify that this plot was filed for record in the office of the Recorder of Kootenai County, Idaho, at the request of D.S. Reardon. This 22nd day of August 1907.

Kaohsiung County Recorder



- Indicates from Pin Marker Bearings are from G.L.O. Bearing for N. Line Sec 20

409044

PLAT OF SECOND ADDITION TO BENPOINT GOVT LOTS 4 & 5, SEC. 20, T.46N., R.41E., S.1N. KOOTENAI COUNTY, IDAHO		DRAWN BY CHECKED BY
SCALE: 1/4" = 100 FT. DATE: 6-10-61	BY R. H. BRIDGES LICENSED LAND SURVEYOR 801 10TH AVENUE S. (N. IDAHO)	

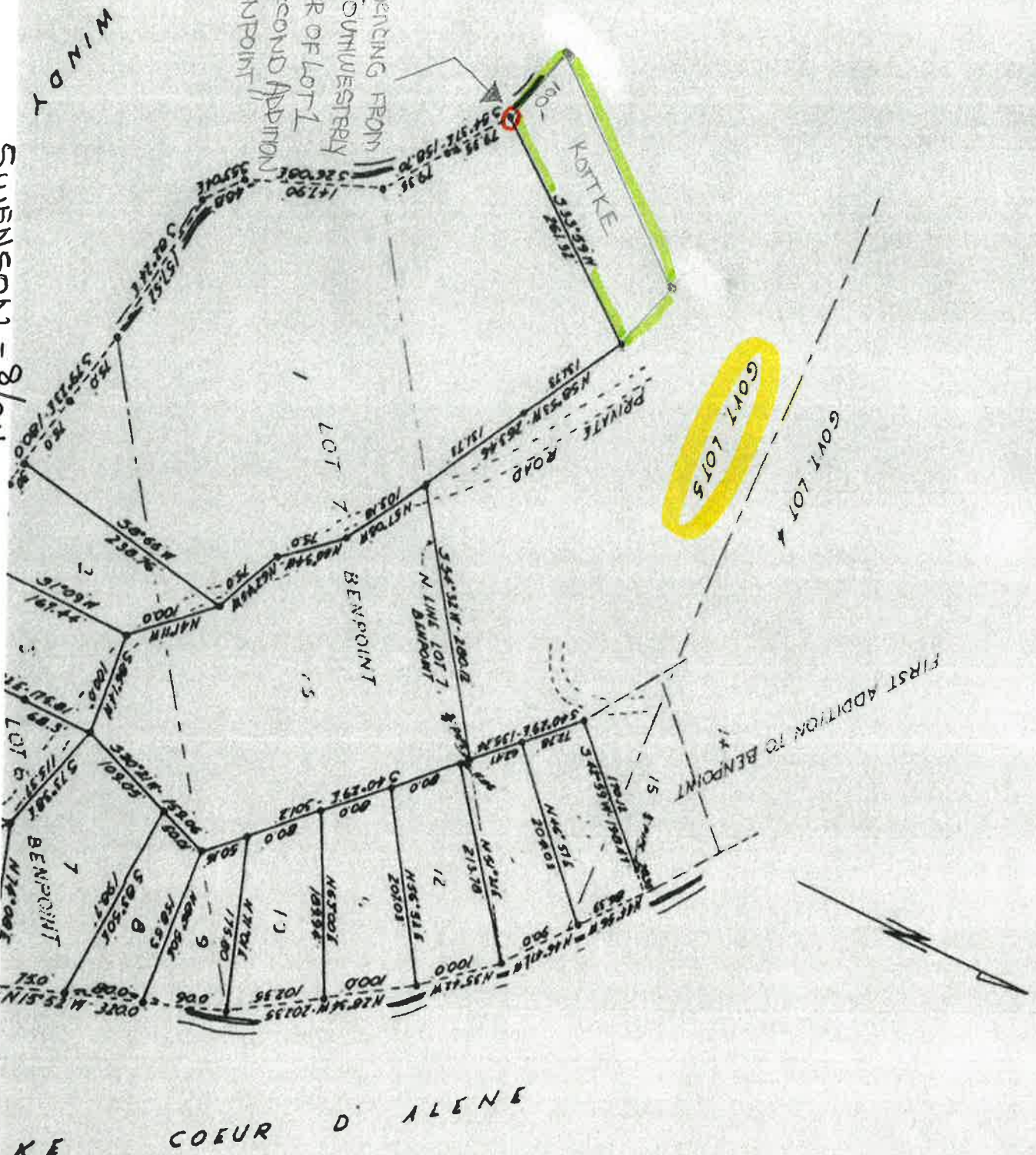
SWEENSON - 7/24

GOVT LOTS

SUNBELT CO. certifies that RAY H. KINDER, a licensed land surveyor, hereby certifies that in July 1962, in the direction of the owners, to be in Garfield County, Idaho; that iron marks that this plat is a true representation of Lots 4 and 5 of Section 30, T4S, R1E, which includes all of Lots 6 and 7 at the Southeastmost corner of S 40° 29' E, 135.24 feet to the North line of the NE 1/4 Sec 30, T4S, R1E, 280.12 feet; thence N 58° 53' W along the shore of Lake Coeur d'Alene 400 feet; thence S 53° 04' E, 40 feet; thence S 53° 04' E, 40 feet; thence S 80° 56' E, 180.0 feet; thence N 15° 55' E, 290.42 feet; thence N 46° 41' E, 100.0 feet to the South line of Lot 4, and the South line of said Lot 1.

Notar
My:

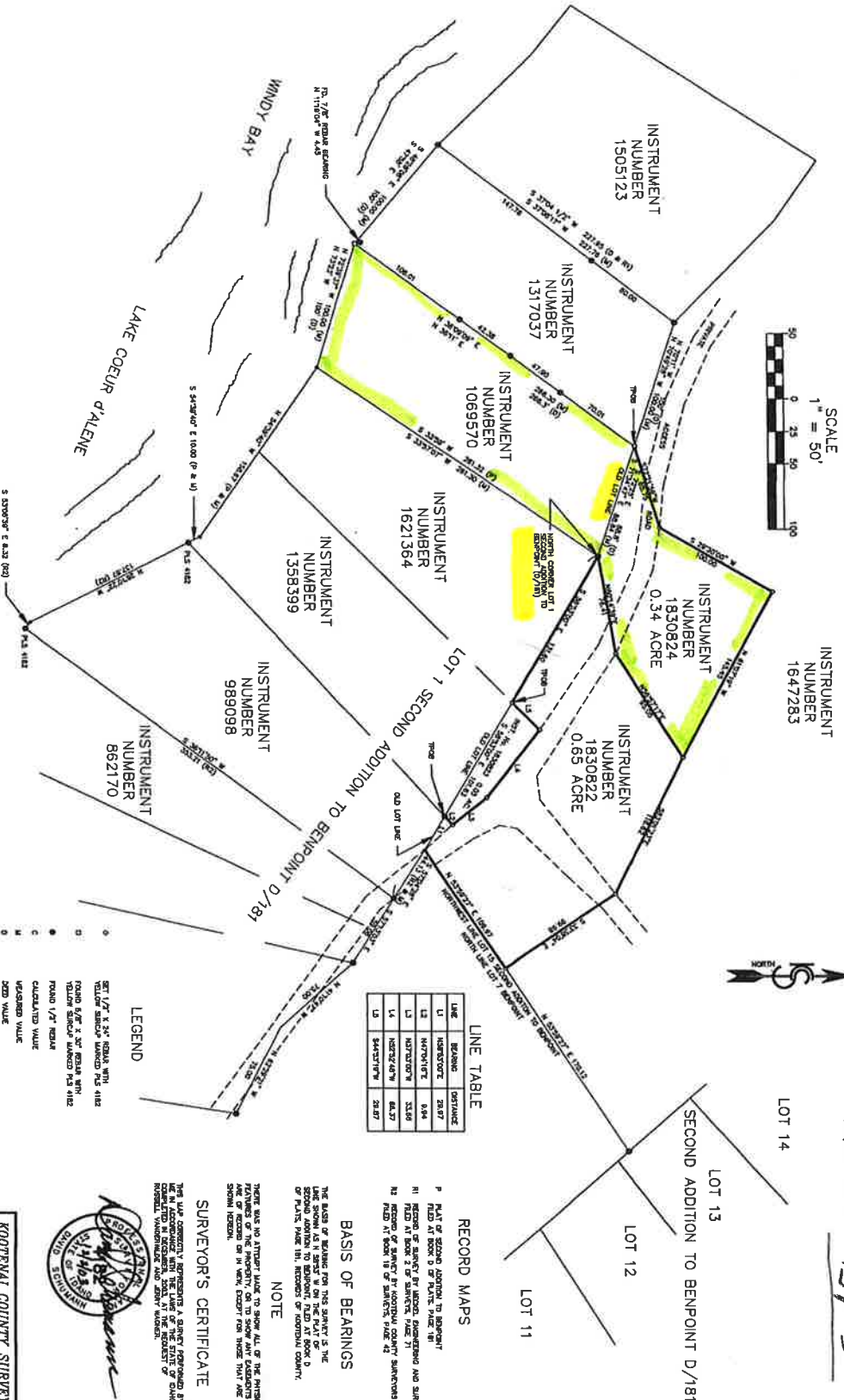
OWNERS' CERT
BE IT KNOWN th
owners of the bon
have caused the
designate the su
Idaho, and we re
hot for public ut
In witness whereof



SWENSON - 8/24

RECORD OF SURVEY

LOT LINE ADJUSTMENT
PORTION OF GOVERNMENT LOT 5
SECTION 20, TOWNSHIP 48 NORTH, RANGE 4 WEST, BOISE MERIDIAN
KOOTENAI COUNTY, IDAHO



LINE TABLE

LINE	BEARING	DISTANCE
L1	N 89° 00' 00" E	25.87
L2	N 89° 00' 00" E	5.84
L3	N 89° 00' 00" E	25.87
L4	N 89° 00' 00" E	25.87

RECORD MAPS

- I. PLAT OF SECOND ADDITION TO BENPOINT D/181
- II. PLAT OF SECOND ADDITION TO BENPOINT D/181
- III. PLAT OF SECOND ADDITION TO BENPOINT D/181
- IV. PLAT OF SECOND ADDITION TO BENPOINT D/181
- V. PLAT OF SECOND ADDITION TO BENPOINT D/181
- VI. PLAT OF SECOND ADDITION TO BENPOINT D/181
- VII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- VIII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- IX. PLAT OF SECOND ADDITION TO BENPOINT D/181
- X. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XI. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XIII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XIV. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XV. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XVI. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XVII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XVIII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XIX. PLAT OF SECOND ADDITION TO BENPOINT D/181
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- XXVII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XXVIII. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XXIX. PLAT OF SECOND ADDITION TO BENPOINT D/181
- XXX. PLAT OF SECOND ADDITION TO BENPOINT D/181

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE
SECOND ADDITION TO BENPOINT D/181 AT BENCH
OR PLAT, FROM THE, RECORDS OF KOOTENAI COUNTY.

NOTE

THESE MAPS ARE ATTACHED TO THE SURVEY AS THE ORIGINAL
PLANS OF THE PROPERTY, AND TO SHOW ANY ERRORS THAT
MAY BE FOUND.

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY PERFORMED BY
ME IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO
AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYORS
AND LAND COMMISSIONERS OF THE STATE OF IDAHO.



KOOTENAI COUNTY SURVEYORS
18275 West Quail Lane
Post Falls, Idaho 83854
(208) 773-5828

AS OF 12/13/03

Book 22 State of IDAHO #184123
PAGE 244 COUNTY RECORDER
DATE OF RECORDING 12/13/03
BOOK 22 PAGE 244
FILE 5.00
CLERK S. D. DILLON, RECORDER

THIS IS THE RECORD OF SURVEY AFTER
MODIFICATIONS FROM THE 9/13/2003 SALE OF
1.34 ACRES TO WAGNER.

SUENSON - 9/24

APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant FRANK J. KOTTKE Phone 509-332-3849
 Post office address NW 1335 HAVEN CIRCLE PULLMAN WA 99163
2. Source of water supply LAKE COEUR D'ALENE which is a tributary of SPOKANE RIVER
3. Location of point of diversion is SEE REMARKS SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20 Township 48
 Range 4 W B.M. MOOTENAI County, additional points of diversion if any: _____

4. Water will be used for the following purposes:
- Amount 18 GAL / PER MIN for DOMESTIC purposes from JAN 1 to DEC 31 (both dates inclusive)
 (cfs or acre-feet per annum)
- Amount 0.04 for IRRIGATION purposes from APR 1 to SEPT 30 (both dates inclusive)
 (cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 18 GAL / MIN = 0.04 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. SUBMERGED PUMP
1 1/4" PIPE TO PRESSURE PUMP SERVICING BUILDING

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
 (Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years (minimum 1 year — maximum 5 years). WORKS IN PLACE
SEE REMARKS

8. Description of proposed uses:

a. If water is not for irrigation: SEE REMARKS
 (1) Give the place of use of water: SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20 Township 48

Range 4 W B.M.

(2) Amount of power to be generated: NONE horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered NONE

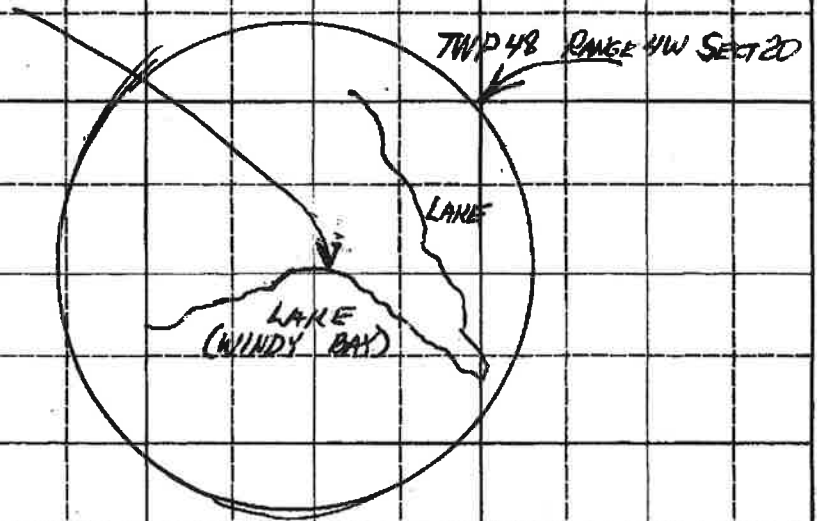
(4) Name of municipality to be served NONE, or number of families to be supplied with domestic water 1

(5) If water is to be used for other purposes describe: ONE FAMILY HOUSEHOLD

SWENSON - 10/24

THE LINE RUNS APPX 250 FEET

NEAR WESTERN BOUNDARY OF MY LOT
ENTIRELY ON THE LOT EXCEPT FOR
THAT BELOW HIGH WATER MARK
BOTH POINT OF DIVERSION AND PLACE OF USE



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

MICROFILM

Frank Kotke

SWENSON - 12/24

942 Lawrence St.
Eugene, OR 97401-2827
September 16, 2019

Keith and Lonna Swenson
9117 S. Quaking Aspen Lane
Valleyford, WA 99036

Dear Mr. and Mrs. Swenson:

You telephoned me on September 13, 2019, to ask whether my deceased father, Frank J. Kottke, of Pullman, WA, ever owned more than one property near Lake Coeur d'Alene. To check my memory, I talked on the phone Saturday, September 14, 2019, with my brother, Ralph A. Kottke (of 1035 Melrose Ave., Apt. C, Glendale, CA 91202-2923, 323-810-6209).

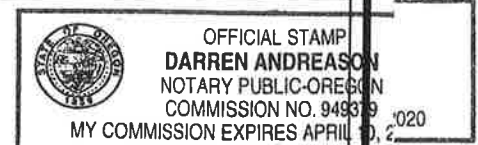
Ralph and I remained in close communication with our father, Frank J. Kottke, throughout his life. Ralph and I are both certain that Frank J. Kottke never owned more than one property near Lake Coeur d'Alene. He owned a lakeside property on Ben Pointe Rd. that he sold at some time after the death of our stepmother, Eleanor C. Kottke, in 1984.

Respectfully,

Margaret K. Essenberg
Margaret Kottke Essenberg
541-343-1733

State of OREGON

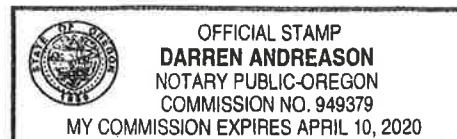
County of Lane



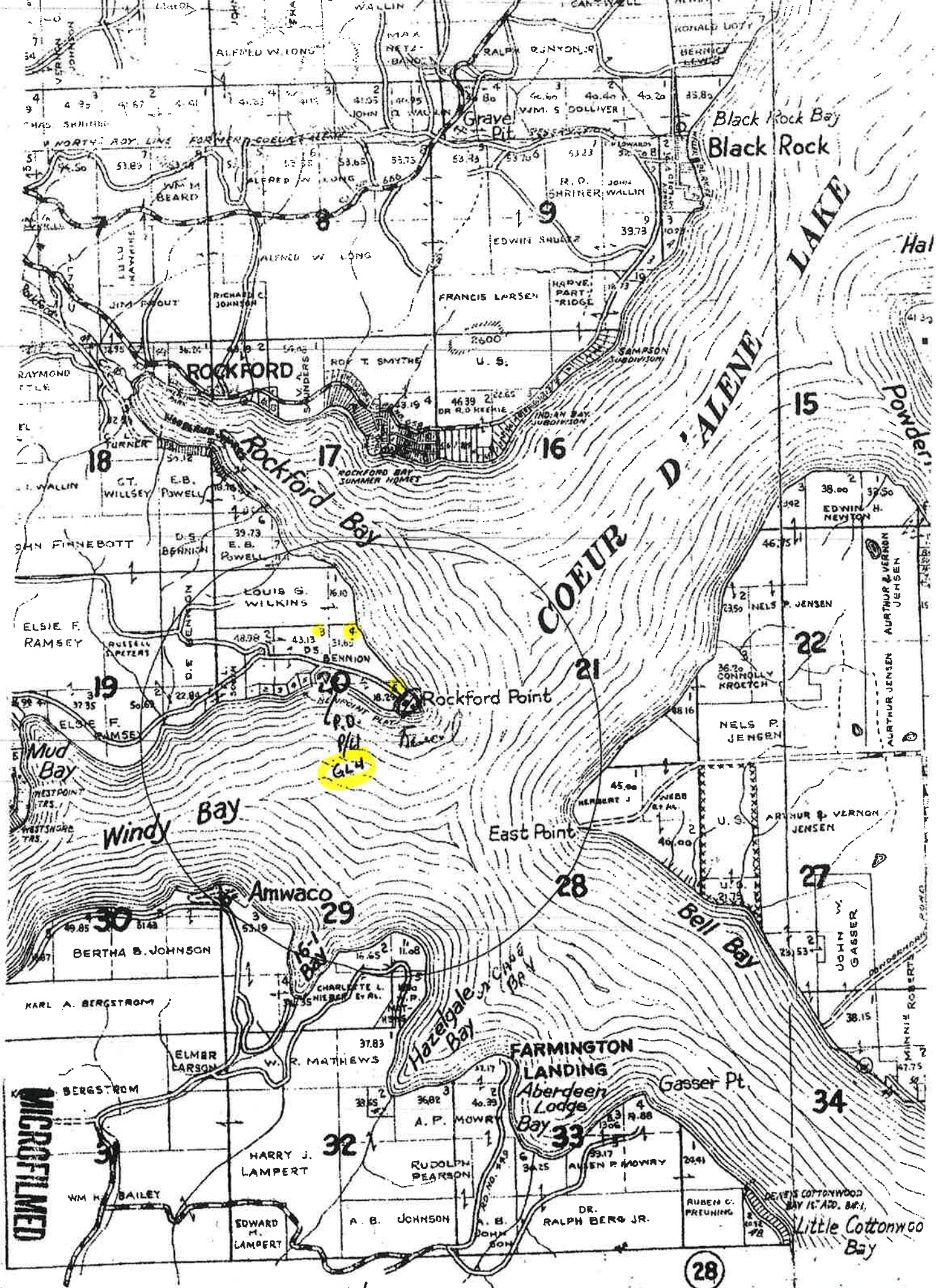
This instrument was acknowledged before me on Sept. 16th, 2019 by Margaret Kottke Essenberg.



Notary Public—State of Oregon



SWENSON - 13/24



SWENSON = 14/24

WATER RIGHT LICENSE

License of Water Right No. 95-8142 Priority December 7, 1981 Amount 0.04 cfs

THIS IS TO CERTIFY, that Frank J. Kottke
of Pullman, Washington, has complied with the terms and conditions of Permit
No. 95-8142 issued pursuant to Application for Permit dated December 7, 1981,
and has submitted proof to the Department of Water Resources on June 10, 1982,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 0.04 cfs of water from Coeur d'Alene Lake,
tributary to Spokane River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>March 15</u> to <u>November 15</u> at	<u>0.02</u> cfs and	<u>1.8</u> acre feet
Domestic (1 unit)	from <u>January 1</u> to <u>December 31</u> at	<u>0.04</u> cfs and	<u>0.6</u> acre feet
	from _____ to _____ at _____ cfs and _____ (both dates inclusive)		

Subject, however, to the condition that no more than 0.04 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
2.4 acre feet per year, said waters to be diverted within the Government Lot 4 (SW $\frac{1}{4}$ NE $\frac{1}{4}$),
Section 20, Twp. 48N, Rge. 4W in the County of Kootenai

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
48N	4W	20																	1

Total number of acres irrigated 1

Acres actually irrigated = 0.5.

MICROFILMED

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 25th day of
April, 19 83.

SWENSON - 15/24

T48N04W

L2
48.98 Acres

L3
11.11 Acres

20

L3
43.13 Acres

L1
10.1 Acres

L4
31.65 Acres

L5
18.29 Acres

SWENSON - 16/24

RECORD OF SURVEY

SEWER LINE AND DRAINFIELD EASEMENT
PORTION OF GOVERNMENT LOT 4 AND GOVERNMENT LOT 5
SECTION 20, TOWNSHIP 48 NORTH, RANGE 4 WEST, BOISE MERIDIAN
KOOTENAI COUNTY, IDAHO



- LEGEND
- SET 1/2" x 24" REBAR WITH YELLOW CAP MARKED PLS 4182
 - 3/4" IRON PEG OR 4S NOTED
 - 3/4" IRON PEG WITH YELLOW CAP MARKED PLS 4182
 - DIMENSION POINT, NOTHING FOUND OR SET
 - MEASURED VALUE

QUARTER CORNER
FOUND 1/2" IRON ROD
OF 1/2" IRON ROD
NO. 1271868

MEASURED CORNER
FOUND 1/2" IRON ROD
OF 1/2" IRON ROD
NO. 1204389

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE MONUMENTARY LINE OF THE SUBJECT PARCEL, SHOWN AS 3770759' ON RECORD OF SURVEY FILED AT BOOK 8 OF SURVEYS, PAGE 25, RECORDS OF KOOTENAI COUNTY, IDAHO.

PURPOSE OF SURVEY

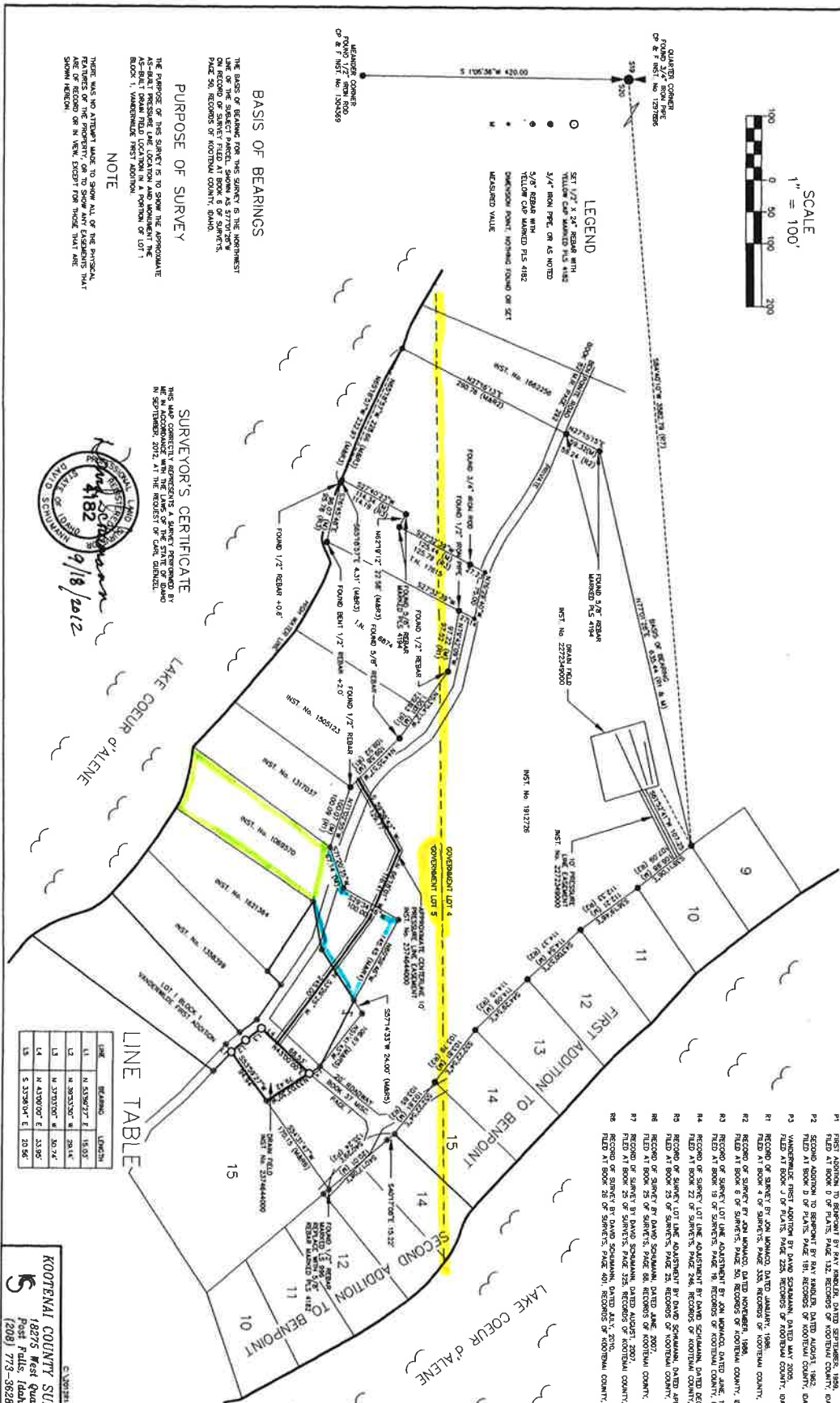
THE PURPOSE OF THIS SURVEY IS TO SHOW THE APPROPRIATE EASEMENT PASSING THE LOCATION AND MONUMENT THE RECORD OF SURVEY FILED IN A PORTION OF LOT 1.

NOTE

THERE WAS NO ATTEMPT MADE TO SHOW ALL OF THE SURVEY FEATURES OF THE PROPERTY, OR TO SHOW ANY EASEMENTS THAT ARE IN RECORD OR IN VIEW, EXCEPT FOR THOSE THAT ARE SHOWN HEREIN.

SURVEYOR'S CERTIFICATE

THIS SURVEY WAS COMPLETED BY ME IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO IN SEPTEMBER, 2012, AT THE REQUEST OF CARL GRUBBS.



LINE TABLE

LINE	BEARING	LENGTH
L1	N 53°50'27" E	15.03'
L2	N 53°50'27" E	28.14'
L3	N 37°03'07" E	30.14'
L4	N 43°00'07" E	33.90'
L5	S 33°30'47" E	20.96'

KOOTENAI COUNTY SURVEYORS
18275 West Quail Lane
Post Falls, Idaho 83854
(208) 773-3628

REFERENCE MAPS

- P1 FIRST ADDITION TO BEARPOINT BY RAY RANDEL, DATED SEPTEMBER, 1994, FILED AT BOOK 0 OF PLATS, PAGE 132, RECORDS OF KOOTENAI COUNTY, IDAHO
- P2 SECOND ADDITION TO BEARPOINT BY RAY RANDEL, DATED AUGUST, 1992, FILED AT BOOK 9 OF PLATS, PAGE 191, RECORDS OF KOOTENAI COUNTY, IDAHO
- P3 FIRST ADDITION TO BEARPOINT BY DAVE SCHUMANN, DATED MAY 2000, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P4 SECOND ADDITION TO BEARPOINT BY DAVE SCHUMANN, DATED MAY 2000, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P5 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P6 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P7 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P8 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P9 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P10 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P11 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P12 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P13 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P14 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P15 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P16 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P17 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P18 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P19 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO
- P20 RECORD OF SURVEY BY DAVE SCHUMANN, DATED JUNE 2007, FILED AT BOOK 25 OF SURVEYS, PAGE 23, RECORDS OF KOOTENAI COUNTY, IDAHO

BOOK 21 OF SURVEYS, PAGE 316
RECORDERS CERTIFICATE
#2370406000

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF CARL GRUBBS
DATE 9/18/2012
BY: *Carl Grubbs*
TITLE: *Surveyor*
FEE: \$500

SWENSON - 18/24

6966 W. Ben Pointe Road Property Ownership History

Initial Ownership of surrounding land – Bennion Benpoint Trust B

- | | |
|-------------------------------|-----------------------|
| 1. Frank J. Kottke | 1972 – 1986 |
| Sewer and Drainfield Easement | June '77 |
| Water Right License 8142 | June '81 |
| 2. Jerry L. Wagner | 1986 – 2006 |
| Built a new house | 1987 |
| Added .34 acres to property | 2003 |
| 3. Dennis E. Guldin | 2006 – 2014 |
| 4. Keith E. Swenson | 2014 - Present |

SWENSON - 20/24

TESTIMONY OF JERRY L. WAGNER

Sept. 11, 2019 -

We talked to Jerry L. Wagner who purchased the CDA lake property from Frank J. Kottke in 1986. He said the land included a small building, smaller than a single car garage, which consisted of a small bathroom and another room that had a kitchen sink. (This building is still there.) He also said that Frank already had a functioning water pump, septic system and drain field.

COMMENT BY MARGARET KOTTKE ESSENBERG

Sept. 12, 2019 -

She said her dad built the small building with a bathroom and small kitchen and that her parents used to bring a tent and spend weekends, etc.

SWENSON - 21/24

Robert W. Avon & Associates

LAND SURVEYORS

BUSINESS PHONE 867-8824

1027 GOVERNMENT WAY

COEUR D'ALENE, IDAHO 83814

INDEXED
BOOK 283 PAGE 334

June 22, 1977

Government Lot 5
20-48-4

735115

SEWER & DRAINFIELD EASEMENT
for Art Fall

Beginning at the Northwesterly corner of Lot 1,
Second Addition to Benpoint, as recorded in
Plat Book D, Page 181, in the Office of the
Recorder, Kootenai County Idaho;

thence along the Northeasterly line of Tax No. 8590,
North $72^{\circ}25'$ West, 86.0 feet to the centerline of
a 10-foot sewerline easement and the true point of
beginning;

thence along said centerline North $31^{\circ}52'30''$ East,
95.5 feet to the point of beginning of a 30-foot x
105-foot drainfield easement described as follows:

North $58^{\circ}07'30''$ West, 52.5 feet;

thence North $31^{\circ}52'30''$ East, 30.0 feet;

thence South $58^{\circ}07'30''$ East, 105.0 feet;

thence South $31^{\circ}52'30''$ West, 30.0 feet;

thence North $58^{\circ}07'30''$ West, 52.5 feet to the point
of beginning.

Filed and recorded at the request of Frank Kottke
At 11 o'clock A.M., 1977, by of 25, 1977, 32
Per Harry Kottke
Clerk of Court
Fees 2.00
Tax 1335 Haven Circle
Pullman, Wa.

SWENSON - 22/24

SWENSON 23/24





IDAHO DEPT. OF LABOR & INDUSTRIAL SERVICES
 Electrical Safety Bureau
 To be placed on job site at point location or on temporary service at time electrical work starts.
 Contractor's Name Logan 5/20/77
 Tag Number 42065 Date 5/31/77
 Signed Mike McDonald
 Self 30,1983 1307
 111 MAIN ROOM 810
 all be made by the holder
 of this permit from the Department
 of Labor and Industrial Services, may issue the distribution of the electrical service
 permit for which I am requesting an inspection tag. Continued use of electrical service in violation
 of May 4, 1985 will result upon completion with the National Electrical Code, subject to the authority
 of the Electrical Safety Bureau.
 I, the Contractor, hereby certify that the electrical installation herein described was
 done in accordance with the National Electrical Code and that I will assume responsibility for compliance
 with the National Electrical Code.
 Date of Completion _____ Date _____
 TOP: BUREAU
 TOM: SERVICE SWITCH
 Office Use 42065 E
 ER-HAMMER
 tybreaker
 ELECTRICAL PROTECTION
 INSTALLED BY:



SWENSON - 24/24

**CONCLUSION - NOTICE OF CLAIM
TO WATER RIGHT #95-8142**

1. The original owner of the property located at 6966 W. Best Ben Pointe Road was Frank J. Kottke. This same property is now owned by Keith and Lonna Swenson.
2. The evaluation associated with Frank J Kottke's Water Right Permit #95-8142 referenced his property to be located in Government Lot 4 rather than in Government Lot 5. All the other documents, including Mr. Kottke's original Application for Permit, indicate his property was actually located in Government Lot 5.
3. The Water Right License #95-8142 is not associated with any other property. Frank J Kottke owned only one property on CDA lake and it was located in Basin 95, Township 48N, Range 04W, Section 20 , Government Lot 5.
4. As a result of the proof presented to the court, Keith and Lonna Swenson ask the court for the following:
 - a. Update the Water Right License #95-8142 with the correct location information, i.e., Government Lot 5
 - b. Approve Keith and Lonna Swenson to "claim " Water Right License #95-8142 which is currently active and unclaimed.