

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 CLARK FORK-PEND OREILLE RIVER
BASIN WATER SYSTEM

CIVIL CASE NUMBER: 69576

Claim ID: 916-110Date Received: 6-15-2022Receipt No: N040067Claim Fee: 25.00 By: th

RECEIVED

JUN 15 2022

IDWR/NORTH

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

Please type or print clearly

- Name of claimant(s) Thompson Trust c/o Tia Warrer - Secretary/Treasurer Phone (208) 610-6433
Mailing address 131 Pine Cliff Drive Hope Idaho Zip 83836
Street or Box City State
Email address (optional) _____
- Date of priority: (Only one per claim) 5/24/1920 (Explain priority date selected in Remarks)
Month/Day/Year (YYYY)
- Source of water supply (Check one) Ground Water () or Other (✓) (a) Spring Fed Creek (Leets Creek)
which is tributary to (b) Lake Pend Oreille
- Location of point of diversion is: Township 57, Range 1E, Section 28,
NE 1/4 of NE 1/4, or Govt. Lot 1 BM, County of Bonner;
Parcel no. BC: RP 57N01E280001 A
Additional points of diversion, if any: None
If available, GPS coordinates: N 48 15' 49" W 116 19' 56.5"
- 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.
Claim #3: Spring Feed Creek:
See Attached General Remarks to Water Claims for the Thompson Trust dated 6/13/22
- Water is claimed for the following: (limited to domestic and/or stockwater uses - see page 1 of the instructions)
For Irrigation/10 acres of orchards/gardens purposes from May 1 to Sept 30 amount 0.20 cfs (✓) or AFY ()
For _____ purposes from _____ to _____ amount _____
- Total quantity claimed 0.20 cfs (✓) or AFY ()
- Non-irrigation uses. Describe fully. (Domestic: give number of homes; Stockwater: list number and kind)

9. Location of place of use is: Township Same as #4, Range _____, Section _____,

_____ 1/4 of _____ 1/4, Govt. Lot _____ BM, Parcel no. _____
If different than shown in Item 4

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? Bonner

11. Do you own the property listed above as place of use? Yes (✓) No ()
If the 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 (include an explanation of the priority date selected):

See Attached General Remarks to Water Claims for Thompson Trust Dated 6/13/22

14. Basis of claim (check one) Beneficial Use () Posted Notice () License () Permit () Decree (✓)
Court District Court Decree Date 5/26/1950 Plaintiff v. Defendant Waddell vs LarsGaards,Stewarts
If applicable provide IDWR Water Right Number No. 96-16

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 Clark Fork-Pend Oreille River Basin Water System 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: 1

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) _____ Date: _____
_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the foregoing document in the space below as the

Board of Trustees President _____ of Thompson Trust,
Agent's title (Please print) Name of organization (Please print)

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

Signature of Authorized Agent  Date 6/13/22

Printed Name of Authorized Agent Byron Craig Thompson

16. **Notice of Appearance:**

Notice is hereby given that I, (please print) _____, will be acting as attorney at law of behalf on 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 _____

Name of claimant(s) _____ Claim ID _____

13. Water Claim Remarks: The Thompson Trust property consists of two contiguous Bonner County Tax Parcels, comprising a total of approximately 31 acres within the legal description of Township 57, Range 1E, Section 28, Govt. Lot 1. Predecessors in interest originally filed on all 46 useable acres (not covered by Lake Pend Oreille) of Lot 1 under the U.S. Homestead Act on July 17, 1909. The Homestead was fully satisfied, and a Patent was granted on July 26, 1910.

The larger Trust parcel (BC: 57N01E280001 A) was purchased by the Trust Grantors in 1959 and encompasses approximately 29.5 acres. The smaller adjacent parcel (BC: RP 57N01E281800 A) covers 1.5 acres and was purchased by the Trust Grantors in 1965. There are two homes situated on the larger parcel and one home on the smaller piece. There are two wells, a spring-fed creek, a second creek diversion, and a separate spring all within Trust boundaries, that constitute five separate diversion sources for the Trust Property.

1 & 2 – Two Wells: There are two wells on the Trust property, with one well (IDWR ID:331054) serving both homes on the larger parcel, and a second well (IDWR ID:439935) serving the home on the smaller parcel. Both wells are permitted and recorded with IDWR.

3. Spring fed Creek: There is a seasonal, spring-fed creek, sometimes known historically as “Leets Creek”, that flows across the property to Lake Pend Oreille during run-off periods. There is a recorded water right with IDWR for the creek and its source springs, with a priority date of 5/24/1920; (IDWR reference “Water Right No. 96-16”).

The first recorded document pertaining to the Trust Property predates the original homestead grant and is actually a “*Location of Water Right*” under Title 9 of Idaho Revised Statutes, dated 10/28/1900 claiming the “*right to use of one hundred (100) inches measured under a four inch pressure to be diverted from ...Leets Creek...*” for irrigation and domestic purposes. As a result of litigation many years later regarding use of the spring and creek, the Bonner County District Court, on May 26, 1950, Case #6536, decreed the 1900 claim to never have been acted upon and therefore abandoned. Also in that case, the Court acknowledged approximately thirty years of historic use by the Plaintiffs Waddells and their predecessors, from the spring-creek water for domestic use and irrigation of gardens and a small orchard. A number of the original 100 year old trees remain and continue to be productive and served by the spring-creek system. The 1950 Court quieted title in the Waddells for the spring and creek water and the thirty-years of acknowledged prior use found and decreed by the Court was adjudicated as the priority date of May 26, 1950 for IDWR Water Right No. 96-16.

The spring seeps arise completely upon Trust property and feed a creek normally flowing from late December through mid-August, or occasionally well into September depending on the prior winter’s snowpack. Today, Trust property bounds both sides of the springs and creek with no other adjacent property interests. In approximately the mid-to-late 90s, a large timber sale on USFS property above the Trust lands changed the spring-creek flow. Prior to this period, domestic use for both houses on the large Trust parcel, and irrigation needs for attendant gardens and orchards were served year-round by the spring-creek diversion. Since the logging occurred, the creek tends to go dry in late summer/early fall, resulting in the need in 1998 to drill a well on the large parcel (IDWR permit 759347; Well ID: 331054).

The spring-creek “diverting works” were originally installed in approximately 1920 by the Bonner family and consisted of an iron collection barrel fed by the springs, with water delivered by gravity to the original homesite, orchard and gardens through roughly 800 feet of two-inch iron pipe. Between 1982 and 1983, the system was improved, with work completed by fall of 1983, replacing the iron barrel with two 1000-gallon concrete storage tanks, and replacing the 800 feet of iron pipe with heavy, two-inch plastic pipe. A heavy-duty concrete distribution box was installed mid-way for the second homesite use, and another concrete distribution box with a pressure regulator was also installed at the lower end of the pipe. Today, both large-parcel houses receive their domestic use water and some irrigation from the shared well through a portion of the improved diversion works, separated at the mid-way distribution point. For most of the growing season, garden and orchard irrigation water is separately delivered by gravity flow through the portion of the works consistently served by the spring-creek. For emergency use, both houses can still be served by the spring-creek for household use and have been so served during times of well pump issues.

4. Separate Spring: Approximately 500 feet below the spring-creek's primary diversion point for the large Trust parcel, and roughly 300 feet to the SE of the creek, there is another seep/spring. In July of 1961, the Grantors hired a contractor to excavate the spring site and install concrete liners (see the attached Affidavit of Byron Craig Thompson). The spring flows at roughly 5 gpm, with any overflow disappearing into the nearby ground. The spring was improved in 1961 for emergency fire protection storage and minor irrigation. Since then, the spring feeds two stacked, 36" diameter concrete well liners with a nearby 300 storage gallon tank. Water is diverted directly from the spring by sump pump for irrigation and emergency use, with the tank supplying additional capacity. For irrigation use, the spring is periodically pumped and piped a few feet to the storage tank which then delivers water via a one-inch plastic pipe to standard three-quarter inch garden hoses by gravity, while the spring refills naturally. Historically, residents of the Trust have occasionally had to fight grass fires started below the house by RR "hotboxes". Improved railroad technology seems to have reduced those occurrences in recent years, however the possible need of water for fire suppression remains a primary concern especially during the summer forest fire seasons, in addition to irrigation.

5. Separate Creek Diversion: The Trust house on the smaller parcel receives its household domestic use and irrigation water from a well drilled 12/22/2014 (IDWR permit 874023, Well ID: 439935). There is a second seasonal water source for the smaller parcel with a priority date of March 29, 1909, based upon an appropriation that has irrigated gardens and fruit trees on the smaller parcel since that date as noted in numerous historic documents. This water right is claimed based upon diversion and use as first recorded in a Warranty Deed from the original homesteader and owner, George Persons, to J.W. Horton, dated 3/29/1909 conveying a small, described portion of Lot 1, Township 57N, Range 1E, Section 28, together with: *"Also a water right for an inch pipe from said stream."* [Leets Creek—copy of deed attached]. Subsequent deeds contain essentially identical language describing the excepted portion of Lot 1 as retaining the same one inch water right. [George P. Persons Homestead Patent Granted 7/26/1910; No. 15245; US Patent Book 1, Page 403]

On May 13, 1965 the Thompson Trust Grantors bought back a part of the Lot 1 exception together with the previously deeded water right. This piece borders the creek (Leets Creek) and then became the small Trust contiguous parcel referred to previously. The Warranty Deed to the Trust Grantors states the parcel legal description which includes the following provision: *"Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, including any and all water rights running therewith and also to include a water right on Leed's Creek for an inch pipe with an easement for the same as it now exists. Leed's Creek is the "small stream" mentioned in the foregoing description."* [Leets Creek is misspelled "Leed's Creek" in the deed; copy attached]

The point of diversion for the small parcel is from the same spring-creek serving the large Trust parcel noted above but diverted approximately 200 to 300 feet below the diversion point for the larger parcel. The original "diversion works" consisted of an iron barrel with a one-inch iron pipe serving exclusively irrigation purposes for a garden and orchard on the small parcel side of Leets creek by gravity flow. The original barrel is still observable in the creek. The diversion system has been modified over subsequent years at indeterminate times by several owners using different short-lived capture and piping systems and today is served by a 300 gallon plastic storage tank situated below the large parcel diversion point. The tank is fed from the creek by gravity, with water then piped downhill by gravity flow to a distribution point for seasonal irrigation via standard three-quarter inch garden hoses. The use of the water has consistently remained irrigation of fruit trees and gardens.

LIST OF ATTACHMENTS

Affidavit of Byron Craig Thompson

Copy March 20, 1909 Warranty Deed

Copy May 13, 1965 Warranty Deed

Map showing approximate location of claimed diversion points

.....end

AFFIDAVIT REGARDING WATER RIGHT CLAIM

Dated this 11 day of June, 2022.

My name is Byron Craig Thompson, and I hereby acknowledge and affirm that I am the President of the Thompson Trust Board of Trustees, that I make this statement in my official capacity on behalf of the Thompson Trust, and that I am a personal eyewitness to the following described event:

In 1959 my parents purchased the property now comprising the larger of two Thompson Trust parcels (Bonner County: RP 57N01E28001 A). Near the SE corner of the parcel was an old spring seeping naturally from the ground. Anecdotal evidence suggests that the spring had historically been used to water horses. July 1 of 1961, my father hired general contractor, Payton Shell to excavate the spring site and install concrete well liners to collect water for fire storage and irrigation. I clearly recall working to assist with completing the project at that time and I make this statement to confirm the date of first improved diversion and beneficial use of the aforementioned spring.

Under penalty of perjury, I hereby declare and affirm that the above stated facts are, to the best of my knowledge, true and correct.


(Signature)
Byron Craig Thompson
(printed)

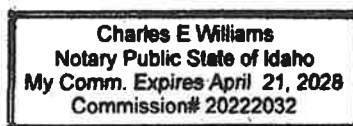
State of: Idaho
County of: Bonner

ON THIS 11 day of June, 2022 before me, personally appeared, Byron Craig Thompson and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this statement and acknowledged to me that he executed the same freely and for the purpose stated therein.

IN WITNESS WHEREOF, I hereby set my signature and notarial seal.


Signature of Notary Public

Charles E Williams
Printed Name of Notary Public
Commission Expires: April 21st 2028



George P. Persons and M. H.
Persons, his wife, Grantors,

Warranty Deed

Dated March 29, 1909

Witness: John Dooley

Document No. 11275

Filed Dec. 20, 1909 at 10:40 A.M.

Book 18 of Deeds, Page 25

J. W. Horton,

Grantee.

Consideration: \$61.00

Acknowledged March 29, 1909, before John Dooley, Notary Public,
Bonner County, Idaho. (Notarial Seal)

Conveys: In Bonner County, Idaho: A fraction of Lot 1 of Section 28 in Township 57 North of Range 1 East of Boise Meridian described as beginning at the intersection of the County Road and the East line of said Section 28, following said line South to the intersection of said line and the 200 foot limit of the Northern Pacific right of way, and thence along said right of way limit Westerly to the stream of water crossing the property of G. P. and M. H. Persons, following up said stream 4 feet from East Bank to the County Bridge, thence along County Road Easterly to point of beginning.

Also a water right for an inch pipe from said stream.

Granting Clause: Grant, bargain, sell, convey and confirm.

Covenants: Quiet and peaceable possession, against all persons lawfully claiming or to claim, warrant and defend.

141685

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That SCOTT J. ARMOUR and EDNA L. ARMOUR, husband and wife, of Hope, County of Bonner, State of Idaho, in consideration of \$3000.00, do hereby grant, bargain, sell and convey unto MILTON A. THOMPSON, JR. and ARLENE THOMPSON, husband and wife, of Hope, County of Bonner, State of Idaho, the following property in Bonner County, State of Idaho, to-wit:

A tract in Government Lot 1 in Section 28, Township 57 North of Range 1, East of the Boise Meridian described as follows: Beginning at a 1 inch pipe in the center line of the old county road, accepted by the Grantor to be a point on the section line between Sections 27 and 28, Township 57 North, Range 1, East of the Boise Meridian, said 1 inch pipe being North 2339.48 feet and West 2755.86 feet from a 2 inch pipe found and accepted as the Southeast corner of Government Lot 2 of Section 27; thence along said county road center line North 35° 13' West 51.85 feet; thence North 57° 45' West 59.64 feet; thence North 41° 03' West 10.11 feet to the true point of beginning of this tract and this description; thence continuing along said road centerline the following 4 courses, North 41° 03' West 39.72 feet; thence North 29° 36' West 92.71 feet; thence North 18° 13' West 95.87 feet; thence North 28° 37' West 64.62 feet to a point Southeasterly 4.00 feet from the Southeasterly bank of a small stream; thence parallel to and 4.00 feet distant from said stream bank generally following the next three courses; South 54° 22' West 76.45 feet; thence South 26° 54' West 71.15 feet; thence South 26° 20' West to the Northeasterly right of way of the Northern Pacific Railway; thence Southeasterly along said railway right of way to a point South 57° 21' West from the true point of beginning; thence North 57° 21' East to the true point of beginning.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, including any and all water rights running therewith and also to include a water right on Leed's Creek for an inch pipe with an easement for the same as it now exists. Leed's Creek is the "small stream" mentioned in the foregoing description.

RECEIVED
JULY 1, 1912, AT 3:50 P.
COUNTY RECORDER
BY Betty O'Connell, Deputy
REQUEST OF
Milton A. Thompson
Jr.
BOOK NO. 137 of Leed's page
see p. 2. 10

AND the above named grantors hereby covenant that the above described premises are free from all encumbrances and that they will and their heirs, executors and administrators shall warrant and defend the above premises against all lawful claims and demands, except:

SUBJECT to existing easements and rights of way existing or of record and taxes for the year 1965.

SIGNED this 13th day of May, 1965.

Scott J. Armour
Edna L. Armour

STATE OF IDAHO,)
 : ss.
County of Bonner,)

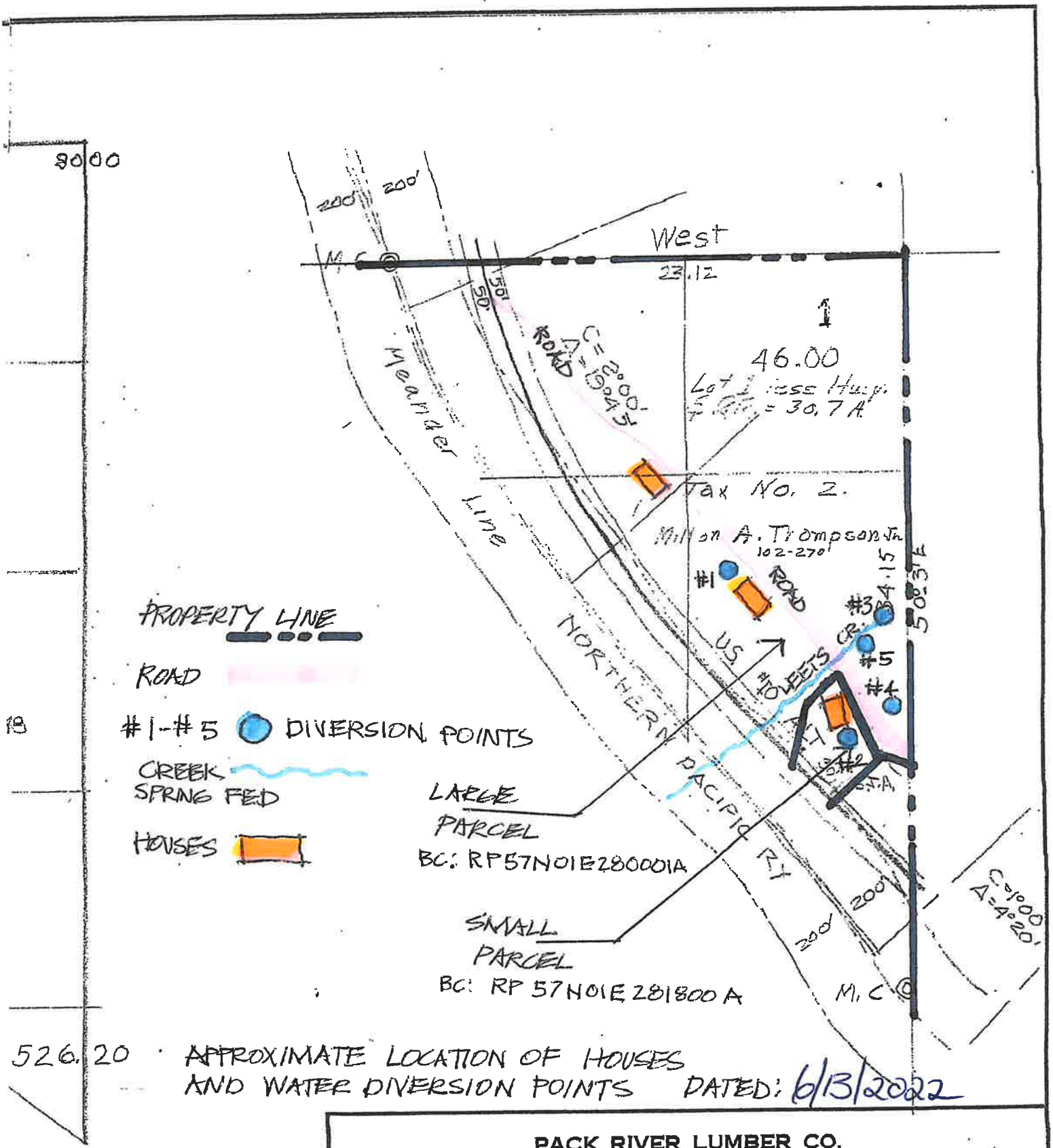
On this 13th day of May, 1965, before me, the undersigned, a Notary Public in and for said State, personally appeared SCOTT J. ARMOUR and EDNA L. ARMOUR, known to me to be the persons whose names are subscribed to the above and foregoing instrument and acknowledged to me that they executed the same.

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



Scott J. Armour
Notary Public in and for the State of Idaho,
Residing at Sandpoint therein.

Champion
Box 286
Hope



PACK RIVER LUMBER CO.
SANDPOINT, IDAHO

SCALE:	APPROVED BY	DRAWN BY
DATE:		REVISED

RECEIVED

JUN 15 2022

IDWR/NORTH

June 13, 2022

From:

Thompson Trust
c/o Tia Warrer, Sec/Treas
131 Pine Cliff Drive
Hope, Idaho 83836

To: Northern Region

Idaho Department of Water Resources
7600 Mineral Dr., Suite 100
Coeur d'Alene, Idaho 83815-7763

Enclosed please find five (5) water claims with General Remarks and Attachments in response to IDWR's recently issued Notice. The General Remarks and Attachments are included with each Claim form due to the interconnected history of the property. Also enclosed is a check for \$125.00 (5 times \$25.00).

Thank you.