

BONNER COUNTY
ABSTRACT
CO.
SANDPOINT, IDAHO

SHEET NO. 4

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MAY 29 2019

IDWR/NORTH

H. L. Sherwood,

Contract

Grantor,

Dated December 16, 1927

-to-

Document No. 89567

Filed Apr. 18, 1936 at 10:55 AM

Dover Lumber Co., a corporation,
Grantee.

Book 10 of Miscellaneous, Page 520 ✓

Acknowledged December 16, 1927, by H. L. Sherwood, and B. H. Hornby, President, before E. W. Wheelan, Notary Public for Idaho, residing at Sandpoint, Idaho. (Notarial Seal)

C O N T R A C T

THIS AGREEMENT, made and entered into this December 16, 1927, between H. L. SHERWOOD, party of the first part, and DOVER LUMBER CO., a corporation, party of the second part, WITNESSETH:

That whereas the party of the first part has instituted an action against the party of the second part in the District Court of the Eighth Judicial District of the State of Idaho, in and for the County of Bonner, for the purpose of condemning a right of way over and across the NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of Section 30, Township 57 North, Range 2 West, B. M.:

NOW, THEREFORE, this agreement is made for the purpose of settling all matters in controversy between the parties in the above entitled action, and upon this agreement being signed by the parties it is hereby stipulated that the above entitled action may be dismissed, each party to pay his own costs.

The Dover Lumber Co. hereby grants to party of the first part the right to enter upon the NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of Section 30, T. 57 N., R. 2 W. B.M., and there construct a ditch along the line described in the complaint of the plaintiff in the above entitled action, it being understood and agreed that such grant is to be made without charge to party of the first part.

The party of the first part agrees to enter upon the above described land and construct a good and sufficient dam, or other suitable diversion works, for the purpose of diverting the water from Linstrom creek in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 30, Township 57 North, Range 2 West, B. M., at or near the point described in plaintiff's complaint as the starting point of said right of way, and from said point construct a ditch at least one foot deep and two feet wide at a point 6 inches from the bottom of said ditch; said ditch to extend from the point above mentioned along the line of said right of way as above described to a point

EXHIBIT

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tabbies

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near the center of said SW¹/₄ of Section 30, Township 57 North, Range 2 West, B. M., and at the point last mentioned a suitable dividing weir is to be installed, being so constructed that party of the first part shall receive 137/320 of the water conveyed through said ditch to this point, the remaining 183/320 of said water to be permitted to flow into a ditch, pipe, or flume to be constructed by party of the second part at the above mentioned point, and in connection with the installation of said dividing weir there shall be constructed two spillways so that at any time either party is not using the water to which he is entitled a spill way capable of carrying the same quantity of water as such party is entitled to receive shall be opened and the water permitted to flow from said ditch back into the creek.

The party of the second part agrees, at its own expense, to construct and maintain the necessary ditch, pipe, or flume to take care of the water discharged at the above mentioned dividing weir to which second party is entitled.

It is understood and agreed that each party is to open and close the spillway that is to be controlled by such party and neither party shall so operate said dividing weir as to discharge his water on to the other party without the consent of the other party.

It is understood and agreed that the work provided for in connection with the construction of the dam and weir is to be done under the supervision and direction of Caryl W. Wilson.

The party of the second part promises and agrees to pay to party of the first part the sum of \$100 as its contribution to the cost of the construction of said ditch, diversion works, and dividing weir, and party of the first part agrees to complete the work covered by this contract on or before January 1, 1929, and such payment is to be made by party of the second part to party of the first part upon completion of said work.

After the construction of such diversion works and dividing weir the cost of the maintenance of said diversion works and dividing weir and the cost of maintenance of the ditch between said two points is to be borne between the parties to this agreement in the following proportions:

The party of the first part, 137/320

The party of the second part, 183/320

payment and settlement to be made on or before the first day of July in each year for all work done during the preceding year.

It is further understood and agreed that the right of way

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above granted to party of the first part from the point below the point where the dividing weir is to be installed is to be maintained by party of the first part at his own expense, and he shall have the right to enter upon said land at any and all times for the purpose of maintaining the ditch to be constructed thereon.

It is further understood and agreed that during the irrigating season of 1928 the water covered by the water rights between the parties to this agreement shall be divided between the parties in the same proportions as provided for in this agreement, and for that purpose the parties shall install a suitable dividing weir to make the proper division of the water between the parties/

It is understood and agreed that this contract shall be binding upon the heirs, executors, administrators, and assigns of party of the first part and the successors and assigns of the party of the second part.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

H. L. Sherwood
Party of the first part

(Corporate Seal)

DOVER LUMBER CO.,
A corporation,
By B. H. Bornby, President
Party of the second part.

QUIT CLAIM DEED

The grantor, WALLACE L. BALLOU husband of Catherine Ballou,
for and in consideration of One Dollar and other Valuable Considerations in
hand paid, does remise, release and quit claim unto CATHERINE BALLOU,
wife of Wallace L. Ballou, the following described real estate situated in
Benewah County, Idaho, to-wit :-

One-half interest in and to the NE¹/₄
and the SE¹/₄ of Section 24
North Range 3 West Boise Meridian,
asement reserved by Warranty Deed
17 of Deeds, page 184, records
Idaho

The grantor in executing this Quit Claim Deed to
with an undivided one half interest in and to the above described
property henceforth to be considered as community property, the
said for during the marriage of grantor and grantee.
Sandpoint, Idaho, this 17 day of August, 1965.

Wallace L. Ballou

On this 17th day of August, 1965, the undersigned, a Notary Public in and for said county
and state, personally appeared WALLACE L. BALLOU, husband of Catherine
Ballou, to be shown to be the person whose name is subscribed to the within
instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 17 day
of August, 1965.

L. C. T. J. W.
Notary Public in and for the State of Idaho
Residing at Sandpoint, Idaho
My commission expires: 5-10-68

102260 ✓

WARRANTY DEED — Short Form

Know All Men by These Presents:

That ERNEST A. SWANSON a widower
 of Sandpoint, , County of Bonner , State of Idaho ,
 in consideration of One Dollar and other valuable considerations-- DOLLARS,
 do hereby grant, bargain, sell and convey unto WALLACE L. BALLOU a single man,
 of Dover , County of Bonner , State of Idaho ,
 the following property, in Bonner County, State of Idaho, to-wit:

The Northeast one fourth (NE $\frac{1}{4}$) and the North one half of the North West one fourth (NW $\frac{1}{4}$ of NW $\frac{1}{4}$), and South East one fourth of North West one fourth (SE $\frac{1}{4}$ of NW $\frac{1}{4}$), All in Section (21) Township (57) North Range (3) West of Boise Meridian, Subject to Easement reserved by Warranty Deed re-corded in Book (47) of Deeds at page (100) Records of the County Recorder of Bonner County, Idaho.



TOGETHER WITH ALL AND SINGULAR, The tenements, hereditaments and appurtenances hereunto belonging or in anywise appertaining.

AND the above named grantor hereby covenants, that the above described premises are free from all encumbrances, and that he will and his heirs, executors and administrators shall warrant and defend the above premises against all lawful claims and demands, except:

SIGNED, this 1 day of May, 1955.

Ernest A. Swanson

STATE OF IDAHO.

County of Bonner

ss.

On this 1 day of May, in the year 1955, before me
 Nonna Sommerfeld, A NOTARY PUBLIC, in and for said state

personally appeared Ernest A. Swanson
 known to me to be the person whose name is subscribed to the foregoing
 instrument and acknowledged to me that he executed the same.

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



Nonna Sommerfeld

NOTARY PUBLIC IN AND FOR THE
 STATE OF IDAHO, RESIDING AT SANDPOINT
 IDAHO, MY COMMISSION EXPIRES 2/13/58

STATE OF IDAHO.

County of Bonner

ss.

Filed for record at the request of *Wallace Ballo*
 on the 17 day of May, 1955, at 2:40 o'clock P.M.,
 in Book 117 of Deeds, on page

DORIS L. KENNEY Recorder.

By *[Signature]* Deputy.

Recording fee, \$1.00

141007 ✓

COMMUNITY PROPERTY AGREEMENT
BETWEEN HUSBAND AND WIFE

THIS AGREEMENT Made and entered into this 10 day of June, 1972,
by and between Wallace Leander Ballou husband and
Catherine Elizabeth Ballou wife, relative to community property and disposition thereof
upon the death of either of the parties hereto as provided by Section 32-921, Idaho Code.

WITNESSETH:

1. The parties were married (October 16, 1955) and ever
since have been and now are husband and wife.

2. We certify that the following described real and personal property was acquired by us from
our joint efforts while married and while living together as husband and wife in a community property
State, and that no part of said property owned by either of us prior to this marriage, or which
either of us have acquired since by gift, devise or as an heir at law of any person and that the
same is the community property of the parties hereto.

3. The legal description of said real property covered by this agreement is as follows:
Tract 1000 (containing 40 acres) and North one half of North West one fourth (containing 10 acres)
and South one half of North West one fourth (containing 10 acres) all in Section 10,
T4N, R10E, S1E, Boise County, Idaho, subject to the right of first refusal to the State of Idaho,
as provided by the Idaho Land Use Act, Chapter 1, Section 1-101, Idaho Code.

4. The personal property affected by this agreement is described as follows:

all personal property, including but not limited to, automobiles, furniture, and miscellaneous

June 12, 1972 4:30 PM

Wallace Leander Ballou
767 0011 77
June 20

5. In the event of the death of either of the parties hereto the property described herein shall vest
in the surviving party subject to the liabilities imposed by Section 32-921, Idaho Code.

IN WITNESS WHEREOF, The parties have hereunto set their hands the day and year first
above written.

Wallace Leander Ballou
Husband

Catherine Elizabeth Ballou
Wife

STATE OF IDAHO

County of BONNEROn this 12th day of June, 1972, before me the undersigned, a

Notary Public in and for said State, personally appeared Wallace Leander Ballou
husband and Catherine Elizabeth Ballou wife, known to me to be the persons whose names
are subscribed to the within instrument and acknowledged to me that they executed the same.

Paul R. Haddock
Notary Public for Idaho,
Residing at Las Vegas, Idaho

Two parcels of land lying in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 29, Township 57 North, Range 2 West, Boise Meridian, described as follows;

Parcel No. 1, Beginning at the point on the Section line between Sections 29 and 32, Township 57 North, Range 2 West, Boise Meridian, which point is 842 feet west of the Quarter Corner between said sections; thence North approximately 244 feet to the South line of the State Highway right of way; thence Northeasterly along said right of way approximately 127 feet; thence South approximately 319 feet to the Section line between Sections 29 and 32; thence West along said Section line 108 feet to the point of beginning, containing .66 acres, more or less.

Parcel No. 2, Beginning at a point on the Section line between Sections 29 and 32, Township 57 North, Range 2 West, Boise Meridian, which point is 920 feet West of the Quarter Corner between said sections; thence North approximately 145 feet to the South line of the State Highway right of way; thence Northeasterly along said right of way approximately 140 feet; thence South approximately 319 feet to the Section line between Sections 29 and 32; thence West along said Section line 108 feet to the point of beginning, containing .58 acres, more or less.

One parcel of land situated in Blaine, County of Bonner, State of Idaho, and bounded and particularly described as follows, to-wit:

That part of vacated Ricevelt Avenue of the Townsite of Kelly in Section 32, Township 57 North, Range 2 West; beginning 40 feet North of the Northwest Corner of Block 1, Lot 1st, thence North 40 feet, thence West 90 feet, thence South 10 feet, thence East 10 feet to place of beginning.

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MAY 29 2019

IDWR / NORTH

RAYMOND T. GREENE, JR., P.A.
Law Offices
320 N. Second Avenue
Sandpoint, Idaho 83864
Telephone No. (208) 263-5121

June 25, 1991

Roger M. Hanlon
Attorney at Law
301 1/2 N. First Avenue
P. O. Box 1061
Sandpoint, ID 83864

Re: Sherwood - Ballou access road

Dear Roger:

There appear to be two uses claimed for the access road running over part of Mr. Ballou's tract in Section 24, Township 57 North, Range 3 West, and concerning which he recently has been uncivil in changing locks upon a gate denying my clients access.

The first concerns a tract which is part of the West Half of Section 13, Township 57 North, Range 3 West, which my client W. N. Sherwood purchased in 1952. The road in question bisects that part of the West Half which they retained upon sale of the balance in 1990. My client still owns the South Half of South Half of Southwest Quarter of Southwest Quarter. My client has used this road since 1952 in connection with that tract for the purpose of farming, logging, wood cutting and recreational pursuits.

For the use and benefit of this tract my client insists upon the full use of this road for himself, his guests and heirs and assigns.

The second concerns the use by water right owners to service and maintain their diversion point of water from Carr Creek to Hornby Creek. That diversion point is in Section 14 somewhat South and East from the center of the Section. That water right with an 1899 priority is presently owned by W. N. and Ruth Sherwood, D. L. Sherwood, R. W. and Margarite Sherwood, Robert and Alma Becker, Paul and Gail Curless and Ray and Annabell Riffle.



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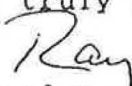
The road in question is the only open road to the water diversion area. My client Mr. Sherwood is in his 80s and of his own personal knowledge knows that the road was in use by the water right owners as a matter of right - not permission - from 1919 to the present date.

It is not desired that this road be open to the general public and as a matter of fact Mr. Sherwood many years ago put a gate and lock in at the place where the present gate is to keep the general public out. Up to now a key was furnished to the water right owners to use that road at will.

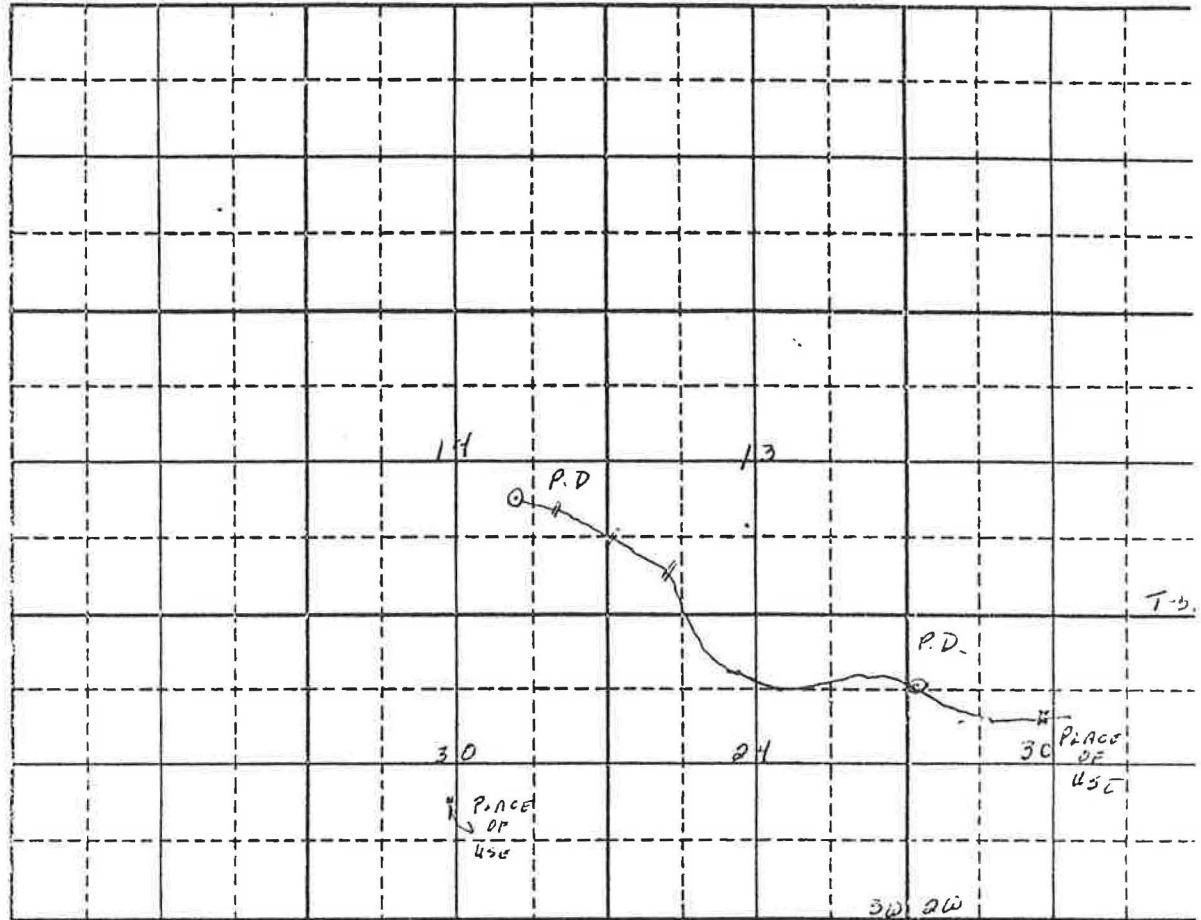
The water right holders want in writing acknowledgement of their unrestricted use of that access road to maintain and adjust the water diversion from Carr Creek to Hornby Creek for themselves or their designees. They are to maintain the road in usable condition for that purpose for transportation and for construction equipment used to service the water diversion.

If they are denied that right at certain times of the year great material damage can occur quickly to the diversion, the water course and their crop lands.

Very truly yours,


Raymond T. Greene, Jr.

(8) Remarks SUCCESSOR IN INTEREST OF WATER RIGHTS FILED IN
BY PETER LINDBSTROM & ANDREW KEDE BY POSTED NOTICE
IN 1899



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Boone) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 26 day of June

Annabelle Riffle
(Claimant)

Robert D. Harper
Notary Public
Residing at Colt

My commission expires expiration

For Department Use Only

Received by KK Date 6/30/78 Exception filed by: #10162 Forwarded to _____ Date _____
Prelim. check by KK Date 6/27/78 claimant by: _____
\$10.00 fee received by KK Date 6/30/78
Approved for publication by _____
Published in _____
Dates 6/27-78 OK

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Section 42-225a, Idaho Code

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that RAYMOND L. AND/OR ANNABELLE RIFFLE
(name of claimant)

of Pl. 2 B.Y. 281, SANDPOINT, ID 83864, claims a right to the diversion and beneficial use of
(mailing address)

the public water of the State of Idaho

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) HORNY CREEK (COLD SPRINGS CA)
& CARR CREEK, tributary to, PEND OREILLE RIVER
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount <u>0.02</u>	Use <u>DOMESTIC</u>	Period of Use: From <u>Apr 1</u> To <u>Sep 30</u>
Amount _____	Use _____	Period of Use: From _____ To _____
Amount _____	Use _____	Period of Use: From _____ To _____
(cfs, gpm or a/h)	(dom., irri., stock, etc.)	(both dates inclusive)

- (3) Total quantity of water claimed: 0.02 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.
- (4) Priority claimed: (the date water was first applied to beneficial use) JUNE 7, 1899

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
 NW ¼ SE ¼, Sec. 14 Twp. 57N Rge. 36W B.M. County of BONNER
 Additional points of diversion: NW ¼ SW ¼ Sec 30, T-57N, R-36W

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. DIVERSION OF CARR CREEK DIVERTS WATER TO HORNBY CREEK.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total No. of acres _____

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible:

DOMESTIC - LAWN & GARDEN FOR 1 HOUSEHOLD

- (7) If you are claiming water as a member of an organization, list name of organization: