

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

✓ RECEIVED
JUL 05 2016
WATER RESOURCES
WESTERN REGION

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Edward Kalinowski
2. Name of protestant Leonard Wallace
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 3290 Wallace Lane, New Meadows, Idaho 83654
5. Service telephone no. 208-347-2446 Email Address: 4_mykids@frontiernet.net
6. Basis of protest (including statement of facts and law upon which the protest is based)

See Attached pages

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Please remove him from our water soucre

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 30 day of JUNE, 20 16.

Leonard Wallace Leonard Wallace
Protestant

Protestant's Representative



NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. 78-12439 in the name of Edward Kalinowski" "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by ad Date 7/5/16 Time 9:45
\$25.00 fee Receipted by ad # W044382 Date 7/5/16

SCANNED
JUL 19 2016

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 78-10067

NAME AND ADDRESS: LEONARD M WALLACE
SHERYL K WALLACE
PO BOX 126
NEW MEADOWS, ID 83654

SOURCE: SPRINGS TRIBUTARY: THREEMILE CREEK

QUANTITY: 0.16 CFS

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

PRIORITY DATE: 09/01/1970

POINT OF DIVERSION: T19N R02E S09 LOT 3 (SENWSW) Within Adams County
LOT 3 (SENWSW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.08 CFS
	Domestic	01-01 TO 12-31	0.08 CFS

Domestic use is for 2 homes.

PLACE OF USE: Irrigation Within Adams County
T19N R02E S08 NESE 4.0
4.0 Acres Total

Domestic Within Adams County
T19N R02E S08 NESE

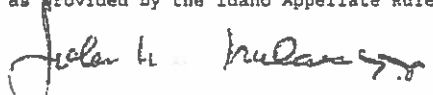
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for domestic
use is not a determination of historical beneficial use.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report

6/29/2016

WATER RIGHT NO. 78-12439

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	EDWARD KALINOWSKI PO BOX 127 NEW MEADOWS, ID 83654 (208)347-4440

Priority Date: 05/02/2016
Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	THREEMILE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.12 CFS	
STOCKWATER	01/01	12/31	0.02 CFS	
Total Diversion			0.12 CFS	

Location of Point(s) of Diversion:

SPRING|NWNWSW Lt 3|Sec. 09|Township 19N|Range 02E|ADAMS County

Place(s)-of use:

Place of Use Legal Description: IRRIGATION ADAMS County

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JUL 19 2016

6/29/2016

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
19N	02E	9	3	NWSW	4									

Place of Use Legal Description: STOCKWATER ADAMS County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
19N	02E	9	3	NWSW										

Total Acres: 4

Dates:

Date Application Received: 05/02/2016

Date Application Denied:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date: 7/25/2016

Number of Protests: 0

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

How?

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Application Type: New Appropriation

Applicant Remarks: An unnamed spring existed on the property when I purchased it with no other rights. I am seeking rights to use the spring for the irrigation and stock water. The existing spring has a concrete ring inches in diameter and cap (see photo)

Other Water Rights:

Time to Complete Works: 5

Transfer Affected Description:

Transfer Affected Contracts:

Old Transfer Number:

Transfer Reason:

Transfer Return Flows:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

SCANNED

JUL 19 2016

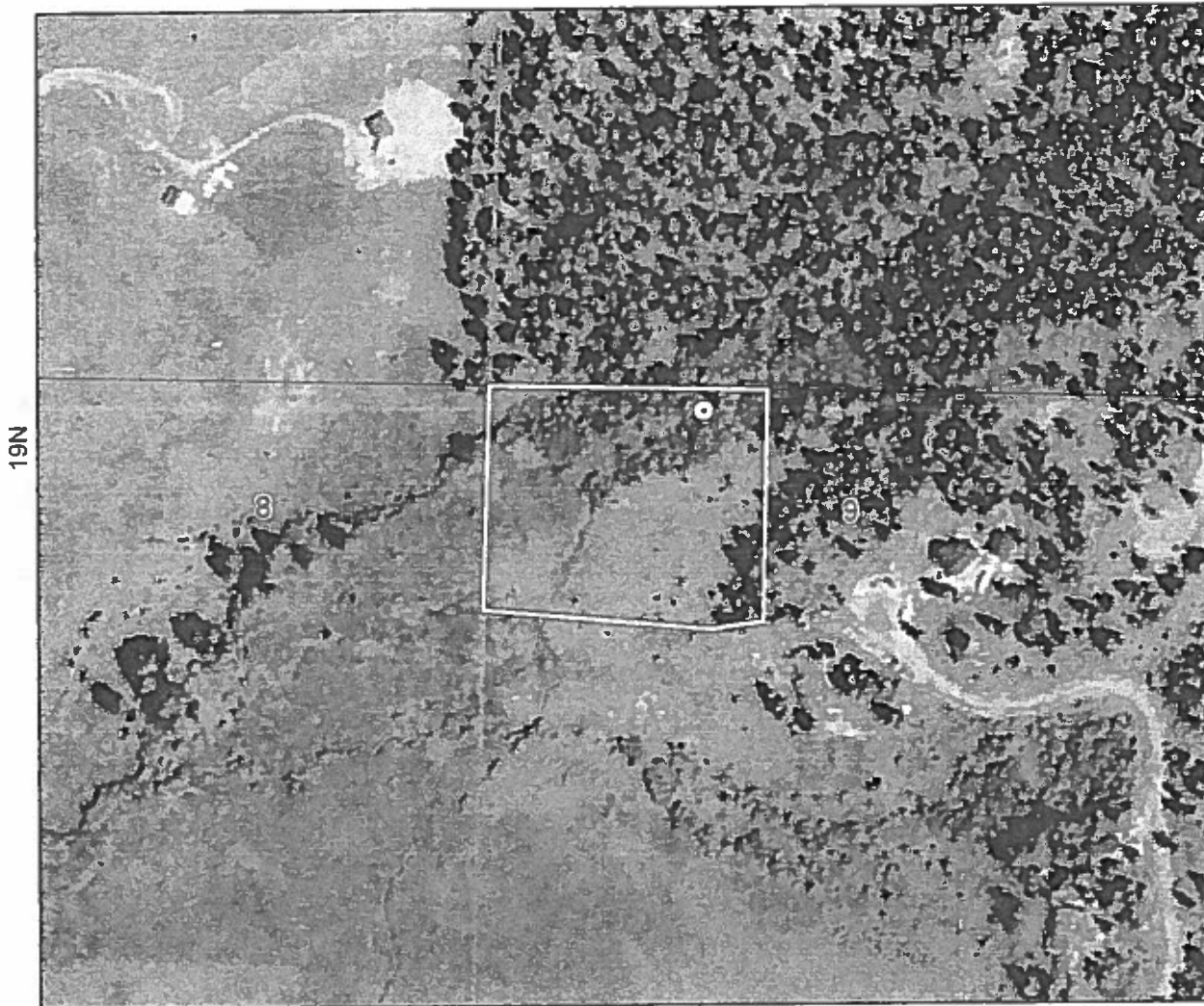
6/20/2016

State of Idaho
Department of Water Resources
Application For Permit
78-12439

STOCKWATER

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

02E



- Point of Diversion
- Place Of Use Boundary

- Townships
- PLS Sections
- Quarter Quarters

0 0.035 0.07 0.14 Miles

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JUL 19 2016



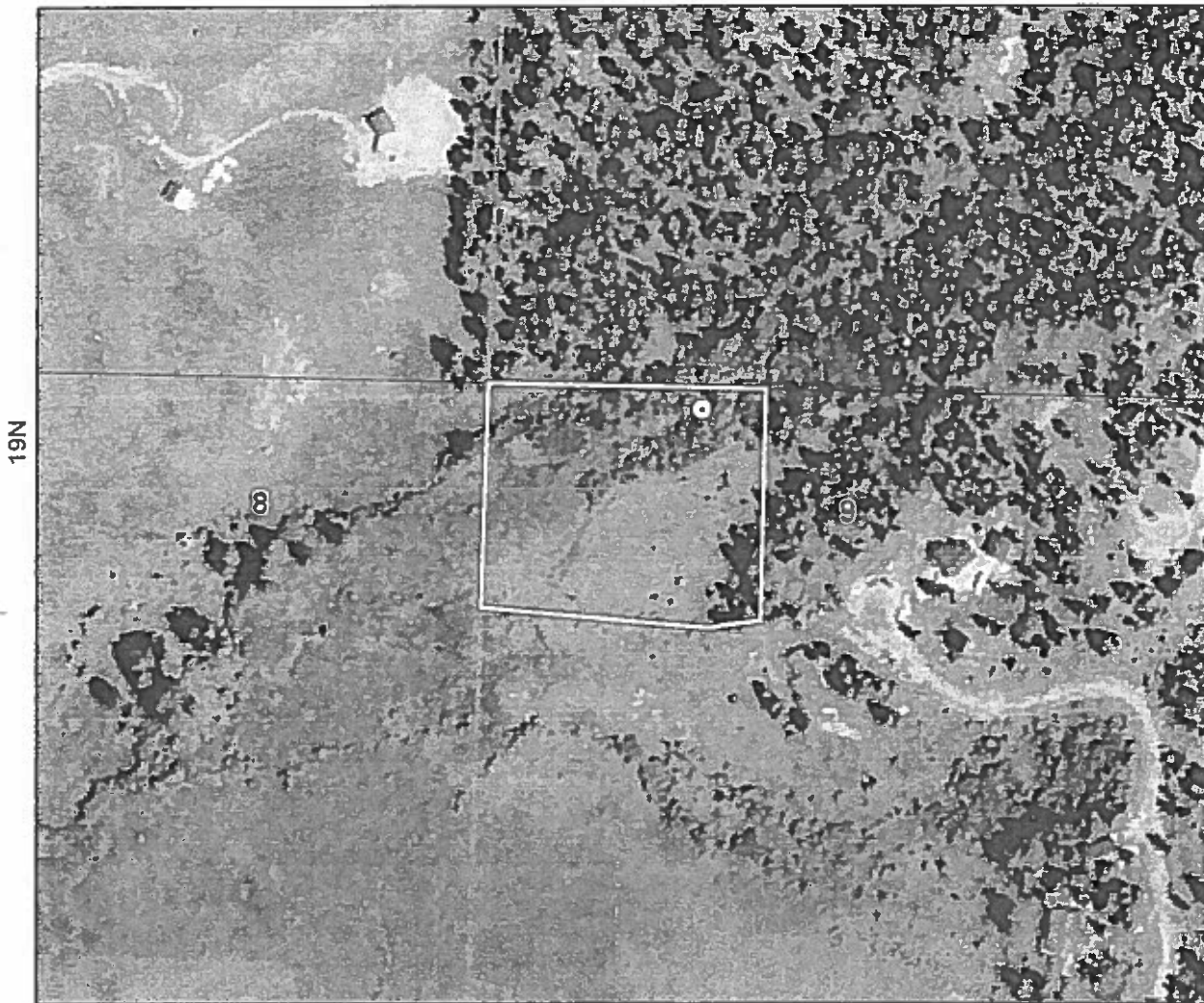
State of Idaho
Department of Water Resources

Application For Permit 78-12439

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

02E



- Point of Diversion
- Place Of Use Boundary

- Townships
- PLS Sections
- Quarter Quarters

0 0.035 0.07 0.14 Miles

SCANNED
JUL 19 2016



RE: WATER RIGHT NO. 78-12439

We are submitting this protest in consideration of the water right application submitted Ed Kalinowski on 5/02/2016.

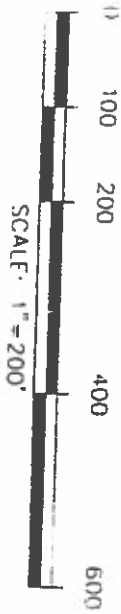
In reference to the Plat Plan of the Timber Ridge Subdivision located in Adams County, there is a 10 foot wide water line easement in existence which is shown at our property (Quick- Claim Deed Instrument #87624), extending through Lots 22, 27, and terminating at a spring located on the northeast side of Lot 28. This spring has been in existence for more than 70 years. It has provided domestic as well as irrigation water for our property and residence prior to the incorporation of the Timber Ridge Subdivision in 1995. Prior to 1980, a 2" line was installed to direct water from this source to our residence. Since then, we have installed a concrete barrier and a locking cap to protect our water source.

Any other requests for use of this spring would interfere with vested prior water rights and would be detrimental to the essence of our survival. If the appropriation were to be given to another party, there would be no means to irrigate our property, to support pasturing of our cattle, and would restrict domestic water use for our daily subsistence.

We urge you protect our water rights to this spring and to withdraw the water rights application submitted by Ed Kalinowski.

Mike & Sissy Wallace

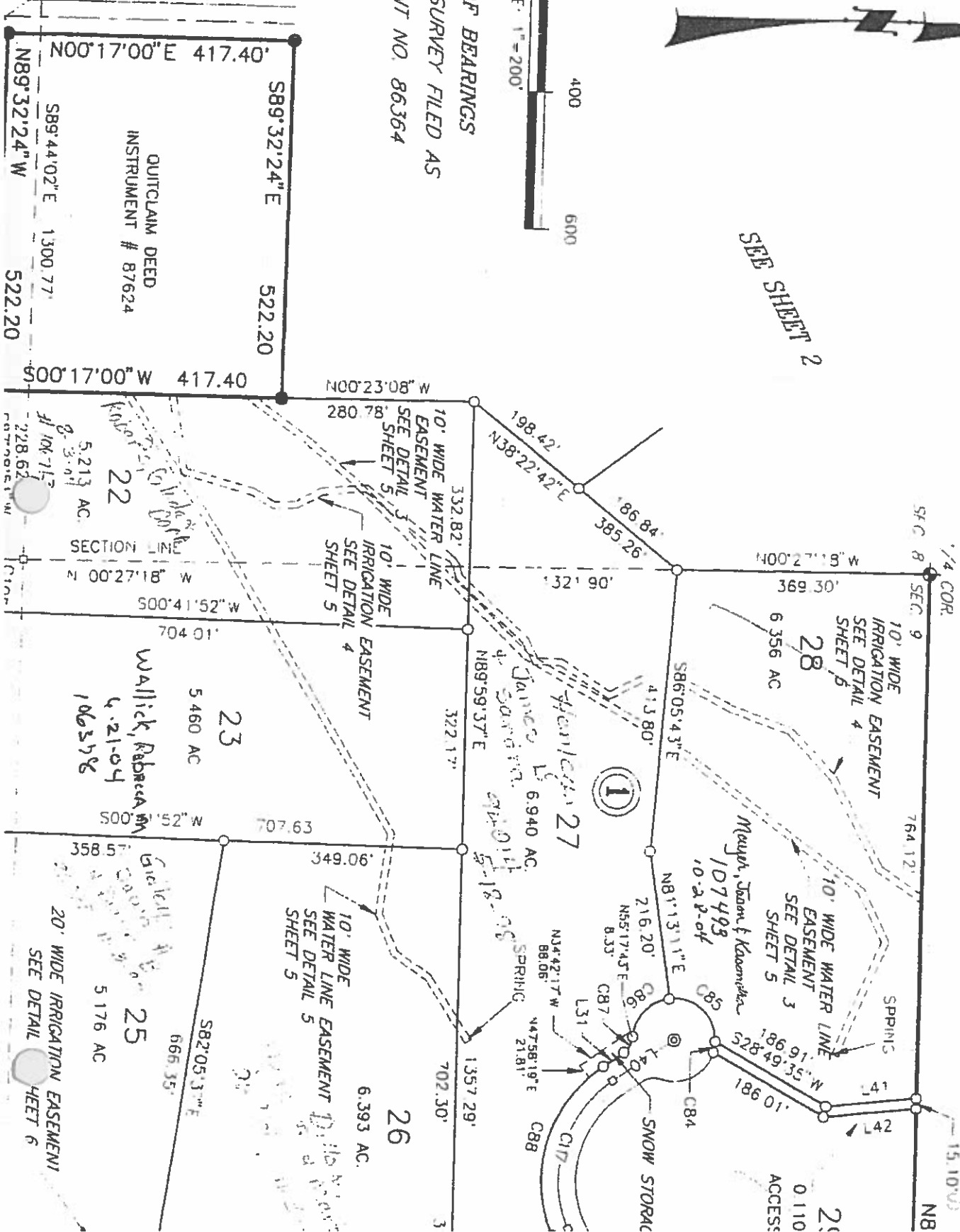
SCANNED

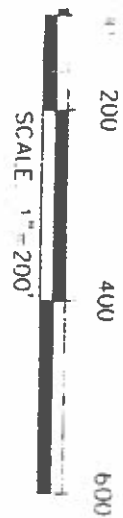


**BASIS OF BEARINGS
RECORD OF SURVEY FILED AS
INSTRUMENT NO. 86364**

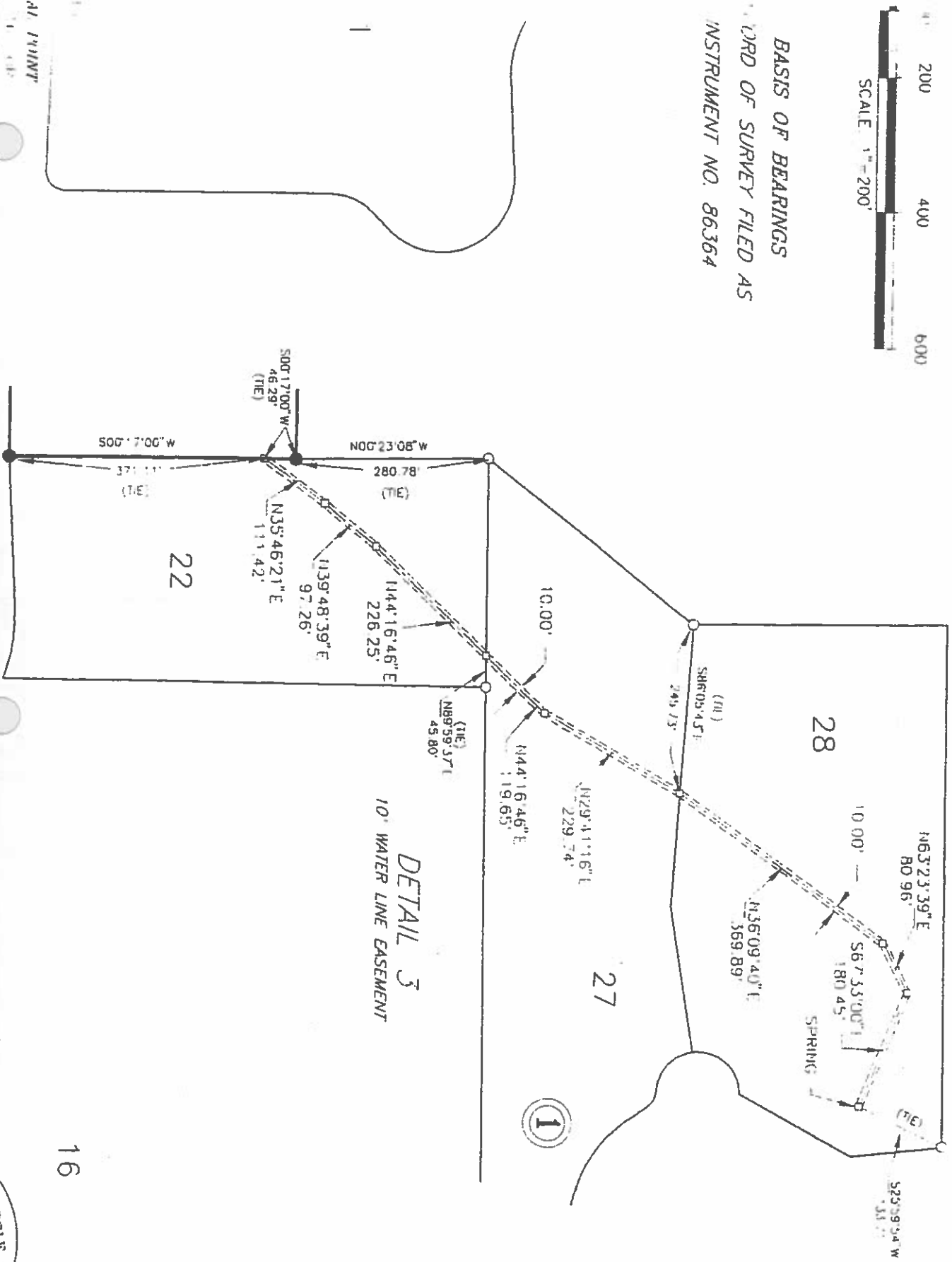
QUITCLAIM DEED
INSTRUMENT # 87624

588°00'37"E
25.00'

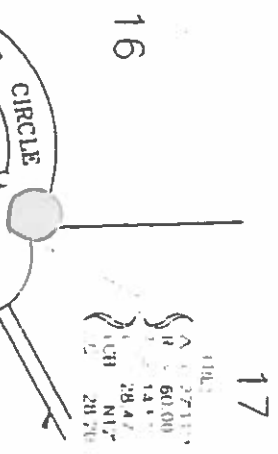




BASIS OF BEARINGS
 WORD OF SURVEY FILED AS
 INSTRUMENT NO. 86364



DETAIL 3
 10' WATER LINE EASEMENT



SCANNED
 JUL 19 2016

RECEIVED

AUG 08 2016

DEPARTMENT OF
WATER RESOURCES

MOFFATT
THOMAS

Attorneys at Law

Scott L. Campbell

(208) 385-5323

slc@moffatt.com

MAILING ADDRESS:

PO Box 829

Boise ID 83701-0829

www.moffatt.com

PHYSICAL ADDRESS

101 S Capitol Blvd 10th Fl

Boise ID 83702-7710

208 345 2000 MAIN

800 422 2889 TOLL-FREE

208 385 5384 FAX

August 8, 2016

via Hand Delivery

Director Gary Spackman
Idaho Department of Water Resources
322 East Front Center
Boise, Idaho 83702

Re: Application for Permit No. 78-12439 in the name of Edward Kalinowski
MTBR&F File No. 26671.0000

Dear Director Spackman:

Enclosed please find a Notice of Protest in regard to the above-referenced application for permit, including the required \$25.00 fee.

Sincerely,



Scott L. Campbell

SLC/kam

Enclosures

cc: Edward Kalinowski (via E-mail kalinows@hawaii.edu and U.S. Mail)

SCANNED

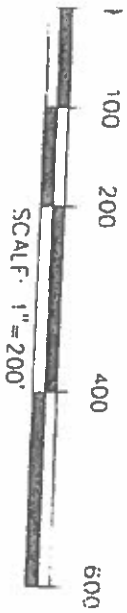
AUG 15 2016

BOISE ▪ POCATELLO ▪ IDAHO FALLS

Client 4217578 1

PART OF SECTIONS 8 AND 9, T.19N ADAMS COUNTY, IDAHO

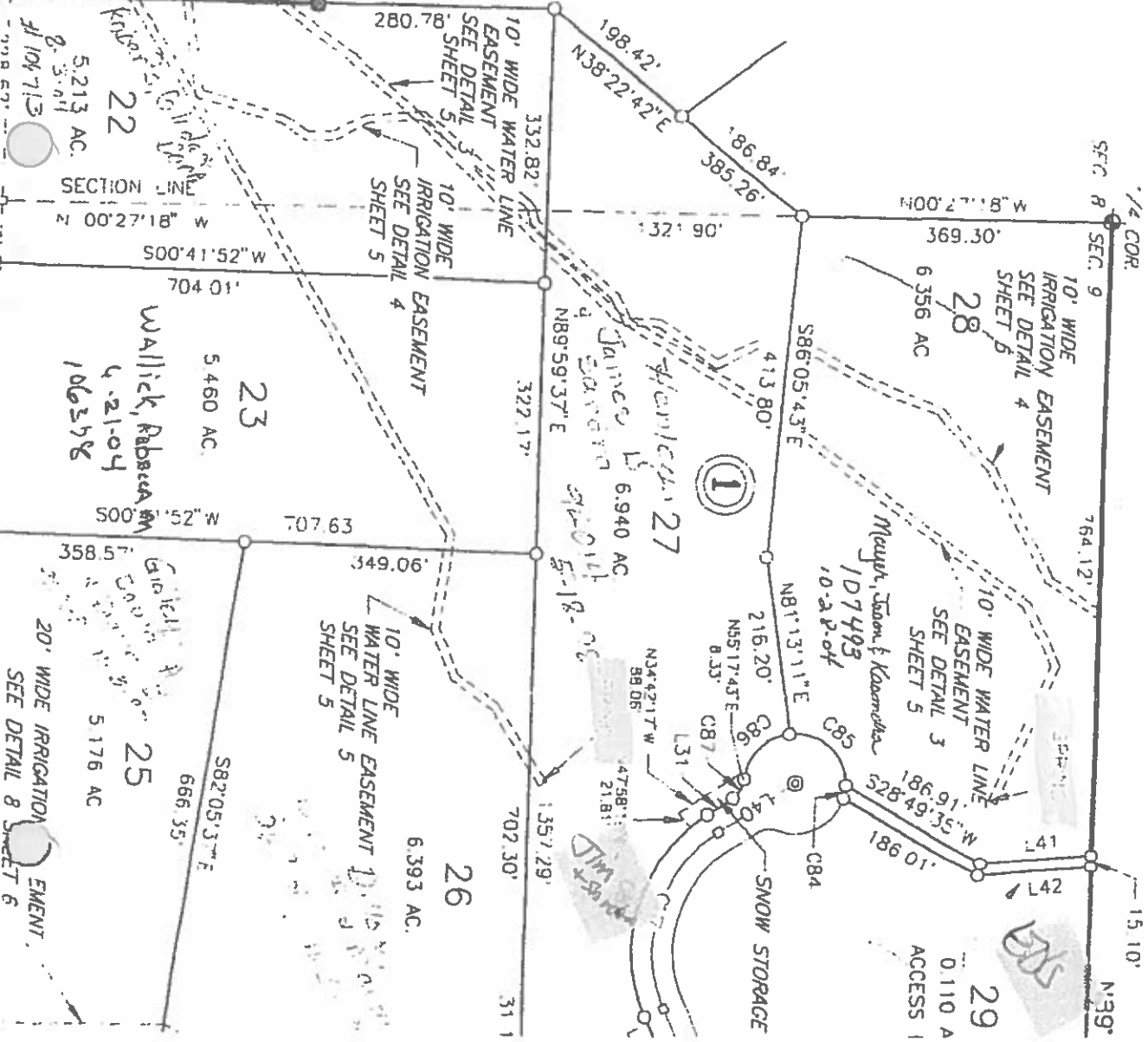
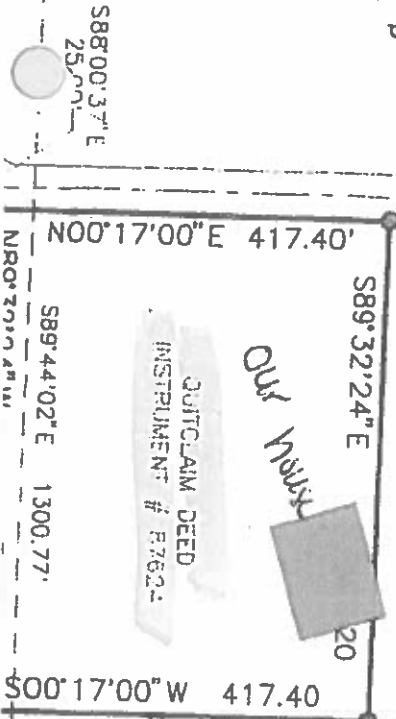
SCANNED
AUG 15 2016



BASIS OF BEARINGS
RECORD OF SURVEY FILED AS
INSTRUMENT NO. 86364

SEE SHEET 2

SHEET 2



INSTRUMENT NO

99257

PAGE

6

OF

6

DEED OF TRUST
(Continued)

700612036

Page 6

and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

Trustee. The word "Trustee" means TIMBERLINE TITLE AND ESCROW, whose address is PO BOX 6, COUNCIL, ID 83612 and any substitute or successor trustees.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

x Michael C. Wallace
MICHAEL C WALLACE, individually

x Eulla C. Wallace
EULLA C WALLACE, individually

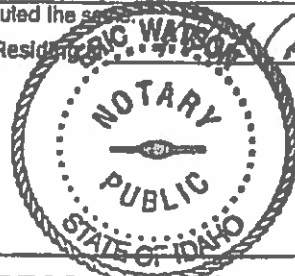
INDIVIDUAL ACKNOWLEDGMENT

STATE OF TOCOUNTY OF Valley

)
) SS
)

On this 2nd day of Jan, in the year 20 01, before me Eric Watson, a notary public in and for the State of Idaho, personally appeared MICHAEL C WALLACE and EULLA C WALLACE, known or identified to me (or proved to me on the oath of Eric Watson), to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Notary Public for Idaho

My commission expires 2/27/04Residing Eric Watson

REQUEST FOR FULL RECONVEYANCE

(To be used only when obligations have been paid in full)

To: Trustee Seved, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to cancel the Note secured by this Deed of Trust (which is delivered to you together with this Deed of Trust), and to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Date: March 11, 2004Beneficiary: STERLING SAVINGS BANKBy: Justin SumnerIts: Team Recurat

SCANNED

AUG 15 2016

31039

INSTRUMENT NO. **99257**
PAGE 1 OF 1

ATION REQUESTED BY:
Savings Bank

Second St
McCall, ID 83638

THEN RECORDED MAIL TO:
Sterling Savings Bank
Consumer Loan Servicing
PO Box 2224
Spokane, WA 99201

Instrument # 99257

COUNCIL, ADAMS, IDAHO

2001-01-09

01:58:10 No. of Pages: 5

Recorded for : TIMBERLINE TITLE & ESCROW

MICHAEL FISK

Fee: 18.00

Ex-Officio Recorder Deputy

Index to: DEED OF TRUST

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

DEED OF TRUST

THIS DEED OF TRUST is dated January 2, 2001, among MICHAEL C WALLACE and EULLA C WALLACE, HUSBAND AND WIFE ("Grantor"); Sterling Savings Bank, whose address is McCall, 900 Second St, McCall, ID 83638 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and TIMBERLINE TITLE AND ESCROW, whose address is PO BOX 6, COUNCIL, ID 83612 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor does hereby irrevocably grant, bargain, sell and convey in trust, with power of sale, to Trustee for the benefit of Lender as Beneficiary, all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in ADAMS County, State of Idaho:

TRACT 1: TOWNSHIP 19 NORTH, RANGE 2 EAST, BOISE MERIDIAN, ADAMS COUNTY, IDAHO. SECTION 8: A PARCEL OF LAND SITUATED IN THE NE1/4SE1/4 AND THE SE1/4SE1/4 MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT AN ALUMINUM CAP MARKING THE SECTION CORNER COMMON TO SECTIONS 8, 9, 16 AND 17, TOWNSHIP 19 NORTH, RANGE 2 EAST, BOISE MERIDIAN, ADAMS COUNTY, IDAHO; THENCE NORTH 00° 27' 23" WEST 1272.31 FEET ALONG A LINE COMMON TO SAID SECTIONS 8 AND 9; THENCE NORTH 89° 32' 24" WEST 247.33 FEET TO AN EXISTING FENCE LINE THE REAL POINT OF BEGINNING; THENCE CONTINUING NORTH 89° 32' 24" WEST 522.20 FEET ALONG SAID EXISTING FENCE LINE; THENCE NORTH 00° 17' 00" EAST 417.40 FEET ALONG SAID EXISTING FENCE LINE; THENCE SOUTH 89° 32' 24" EAST 522.20 FEET ALONG SAID EXISTING FENCE LINE; THENCE SOUTH 00° 17' 00" WEST 417.40 FEET ALONG SAID EXISTING FENCE LINE TO THE REAL POINT OF BEGINNING. EXCEPTING THEREFROM THE FOLLOWING: COMMENCING AT THE CORNER COMMON TO SECTION 8, 9, 16 AND 17 SAID TOWNSHIP AND RANGE; THENCE NORTH ALONG THE EAST LINE OF SECTION 8, A DISTANCE OF 1,320.00 FEET TO A POINT; THENCE WEST 369 FEET TO THE REAL POINT AND PLACE OF BEGINNING; THENCE WEST 208 FEET TO A POINT; THENCE NORTH 208 FEET TO A POINT; THENCE EAST 208 FEET TO A POINT; THENCE SOUTH 208 FEET TO THE REAL POINT OF BEGINNING. ALSO EXCEPTING THEREFROM THE COUNTY ROAD RIGHT OF WAY AS NOW ESTABLISHED.

The Real Property or its address is commonly known as 3288 WALLACE LN, NEW MEADOWS, ID 83654. The Real Property tax identification number is RP19N02E084800A.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the related documents.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property. THE REAL PROPERTY EITHER IS NOT MORE THAN FORTY (40) ACRES IN AREA OR IS LOCATED WITHIN AN INCORPORATED CITY OR VILLAGE.

SCANNED

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
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Case No. 39576)
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) Water Right 78-10067

NAME AND ADDRESS: LEONARD M WALLACE
SHERYL K WALLACE
PO BOX 126
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4.0 Acres Total
Domestic Within Adams County
T19N R02E S08 NESE

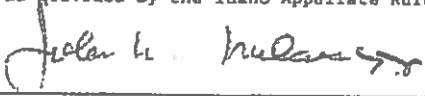
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John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RE: WATER RIGHT NO. 78-12439

We are submitting this protest in consideration of the water right application submitted Ed Kalinowski on 5/02/2016.

In reference to the Plat Plan of the Timber Ridge Subdivision located in Adams County, there is a 10 foot wide water line easement in existence which is shown at our property (Quick- Claim Deed Instrument #87624), extending through Lots 22, 27, and terminating at a spring located on the northeast side of Lot 28. This spring has been in existence for more than 70 years. It has provided domestic as well as irrigation water for our property and residence prior to the incorporation of the Timber Ridge Subdivision in 1995. Prior to 1980, a 2" line was installed to direct water from this source to our residence. Since then, we have installed a concrete barrier and a locking cap to protect our water source.

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Mike & Sissy Wallace

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FOR DEPARTMENT USE ONLY

Received by KO Date 8/8/2016 Time _____
\$25.00 fee Receipted by KO # C102354 Date 8/8/2016

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07/2008

RECEIVED

AUG 09 2016

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

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DEPARTMENT OF
WATER RESOURCES

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1. Matter being protested Application for Permit No. 78-12439 in the name of Edward Kalinowski
2. Name of protestant Michael and Eulla ("Sissy") Wallace
3. Protestant's Representative for service (If different than protestant)
Scott Campbell, Moffatt Thomas Barrett Rock & Fields, Chtd.
4. Service mailing address 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, ID 83701
5. Service telephone no. (208) 345-2000 Email Address: slc@moffatt.com
6. Basis of protest (including statement of facts and law upon which the protest is based)
See attached pages.

(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Denying the Application for Permit No. 78-12439.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 8th day of August, 20 16.

Protestant

Scott Campbell
Protestant's Representative

Scott Campbell

SCANNED

AUG 15 2016

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED RECEIVED

AUG 26 2016

WATER RESOURCES
WESTERN REGION

AUG 25 2016

DEPARTMENT OF
WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application for Permit No. 78-12447 in the name of James and Sandra Henley

2. Name of protestant Michael and Eulla ("Sissy") Wallace

3. Protestant's Representative for service (If different than protestant)

Scott Campbell, Moffatt Thomas Barrett Rock & Fields, Chtd.

4. Service mailing address 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, ID 83701

5. Service telephone no. (208) 345-2000 Email Address: slc@moffatt.com

6. Basis of protest (including statement of facts and law upon which the protest is based)

See attached pages.

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Denying the Application for Permit No. 78-12447.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 23th day of August, 2016.

Protestant

x Scott Campbell Scott Campbell

Protestant's Representative

SCANNED

SEP 09 2016

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Time _____

\$25.00 fee Receipted by AO # C102418 Date 8-25-16

SCANNED

SEP 09 2016

RE: WATER RIGHT NO. 78-12447

We are submitting this protest in consideration of the water right application submitted by James and Sandra Henley on 08/09/2016.

In reference to the Plat Plan of the Timber Ridge Subdivision located in Adams County, there is a 10 foot wide water line easement in existence which is shown at our property (Quick-Claim Deed Instrument #87624), extending through Lots 22, 27, and terminating at a spring located on the northeast side of Lot 28. This spring has been in existence for more than 70 years. It has provided domestic as well as irrigation water for our property and residence prior to the incorporation of the Timber Ridge Subdivision in 1995. Prior to 1980, a 2" line was installed to direct water from this source to our residence. Since then, we have installed a concrete barrier and a locking cap to protect our water source.

Any other requests for use of this spring would interfere with vested prior water rights and would be detrimental to the essence of our survival. If the appropriation were to be given to another party, there would be no means to irrigate our property, to support pasturing of our cattle, and would restrict domestic water use for our daily subsistence.

We urge you protect our water rights to this spring and to withdraw the water rights application submitted by James and Sandra Henley.

Mike & Sissy Wallace

SCANNED
SEP 09 2016

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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 78-10067

NAME AND ADDRESS: LEONARD M WALLACE
SHERYL K WALLACE
PO BOX 126
NEW MEADOWS, ID 83654

SOURCE: SPRINGS TRIBUTARY; THREEMILE CREEK

QUANTITY: 0.16 CFS

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

PRIORITY DATE: 09/01/1970

POINT OF DIVERSION: T19N R02E S09 LOT 3 (SENWSW) Within Adams County
LOT 3 (SENWSW)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.08 CFS
	Domestic	01-01 TO 12-31	0.08 CFS

Domestic use is for 2 homes.

PLACE OF USE:	Location	Area	Direction
Irrigation	T19N R02E S08	4.0 Acres Total	NESE 4.0
Domestic	T19N R02E S08		NESE

Within Adams County

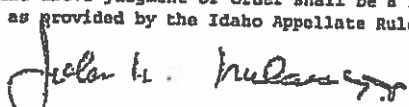
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for domestic
use is not a determination of historical beneficial use.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

INSTRUMENT NO. **99257**PAGE 1 OF 1

INFORMATION REQUESTED BY:

Sterling Savings Bank

Second St

McCall, ID 83638

WHEN RECORDED MAIL TO:

Sterling Savings Bank
Consumer Loan Servicing
PO Box 2224
Spokane, WA 99201

Instrument # 99257

COUNCIL, ADAMS, IDAHO

2001-01-09 01:58:10 No. of Pages: 6

Recorded for : TIMBERLINE TITLE & ESCROW

MICHAEL FISK Fee 18.00

Ex-Officio Recorder Deputy *Deputy P. Imbal*

Index to: DEED OF TRUST

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

DEED OF TRUST

THIS DEED OF TRUST is dated January 2, 2001, among MICHAEL C WALLACE and EULLA C WALLACE, HUSBAND AND WIFE ("Grantor"); Sterling Savings Bank, whose address is McCall, 900 Second St, McCall, ID 83638 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and TIMBERLINE TITLE AND ESCROW, whose address is PO BOX 6, COUNCIL, ID 83612 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor does hereby irrevocably grant, bargain, sell and convey in trust, with power of sale, to Trustee for the benefit of Lender as Beneficiary, all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in ADAMS County, State of Idaho:

TRACT 1: TOWNSHIP 19 NORTH, RANGE 2 EAST, BOISE MERIDIAN, ADAMS COUNTY, IDAHO. SECTION 8: A PARCEL OF LAND SITUATED IN THE NE1/4SE1/4 AND THE SE1/4SE1/4 MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT AN ALUMINUM CAP MARKING THE SECTION CORNER COMMON TO SECTIONS 8, 9, 16 AND 17, TOWNSHIP 19 NORTH, RANGE 2 EAST, BOISE MERIDIAN, ADAMS COUNTY, IDAHO; THENCE NORTH 00° 27' 23" WEST 1272.31 FEET ALONG A LINE COMMON TO SAID SECTIONS 8 AND 9; THENCE NORTH 89° 32' 24" WEST 247.33 FEET TO AN EXISTING FENCE LINE THE EXISTING FENCE LINE; THENCE CONTINUING NORTH 89° 32' 24" WEST 522.20 FEET ALONG SAID EXISTING FENCE LINE; THENCE NORTH 00° 17' 00" EAST 417.40 FEET ALONG SAID EXISTING FENCE LINE; THENCE SOUTH 89° 32' 24" EAST 522.20 FEET ALONG SAID EXISTING FENCE LINE; THENCE SOUTH 00° 17' 00" WEST 417.40 FEET ALONG SAID EXISTING FENCE LINE TO THE REAL POINT OF BEGINNING. EXCEPTING THEREFROM THE FOLLOWING: COMMENCING AT THE CORNER COMMON TO SECTION 8, 9, 16 AND 17 SAID TOWNSHIP AND RANGE; THENCE NORTH ALONG THE EAST LINE OF SECTION 8, A DISTANCE OF 1,320.00 FEET TO A POINT; THENCE WEST 369 FEET TO THE REAL POINT AND PLACE OF BEGINNING; THENCE WEST 208 FEET TO A POINT; THENCE NORTH 208 FEET TO A POINT; THENCE EAST 208 FEET TO A POINT; THENCE SOUTH 208 FEET TO THE REAL POINT OF BEGINNING. ALSO EXCEPTING THEREFROM THE COUNTY ROAD RIGHT OF WAY AS NOW ESTABLISHED.

The Real Property or its address is commonly known as 3288 WALLACE LN, NEW MEADOWS, ID 83654. The Real Property tax identification number is RP19N02E084800A.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the related documents.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Upon the occurrence of an Event of Default, Grantor may: (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property. THE REAL PROPERTY, EITHER IS NOT MORE THAN FORTY (40) ACRES IN AREA OR IS LOCATED WITHIN AN INCORPORATED CITY OR VILLAGE.

SCANNED

SEP 14 2016

INSTAL (IT NO. 99257

PAGE 6 OF 6

DEED OF TRUST
(Continued)

700612036

Page 6

all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

Trustee. The word "Trustee" means TIMBERLINE TITLE AND ESCROW, whose address is PO BOX 6, COUNCIL, ID 83612 and any substitute or successor trustees.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

x Michael C. Wallace
MICHAEL C WALLACE, individually

x Eulla C. Wallace
EULLA C WALLACE, individually

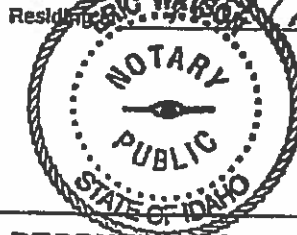
INDIVIDUAL ACKNOWLEDGMENT

STATE OF IdCOUNTY OF Valley

)
) SS
)

On this 2nd day of Jan, in the year 20 01, before me Eric Watson
a notary public in and for the State of Idaho, personally appeared MICHAEL C WALLACE and EULLA C WALLACE, known or identified to me (or proved to me on the oath of _____), to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Notary Public for Idaho

My commission expires 2/27/04

REQUEST FOR FULL RECONVEYANCE

(To be used only when obligations have been paid in full)

To: Trustee Service, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to cancel the Note secured by this Deed of Trust (which is delivered to you together with this Deed of Trust), and to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Date: March 11, 2004Beneficiary: STERLING SAVINGS BANKBy: Justin SummerlinIts: Team Specialist

BLANK PRO Lambda, Reg. U.S. Pat. & T.M. Off., Ver. 3.13.10.03 (c) Copyright 1997, 2001. All Rights Reserved. - ID C007015100170 70-1332 PR-201

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SCANNED

SEP 09 2016

SCANNED
SEP 09 2016



Scott L. Campbell

(208) 385-5323
slc@moффatt.com

RECEIVED

AUG 25 2016

DEPARTMENT OF
WATER RESOURCES
RECEIVED

AUG 26 2016

WATER RESOURCES
WESTERN REGION

MOFFATT
THOMAS

Attorneys at Law

MAILING ADDRESS:
PO Box 829
Boise ID 83701-0829

www.moffatt.com

PHYSICAL ADDRESS:
101 S Capitol Blvd 10th Fl
Boise ID 83702-7710

208.345.2000 MAIN
800.422.2889 TOLL-FREE
208.385.5384 FAX

August 23, 2016
via U.S. Mail

Director Gary Spackman
Idaho Department of Water Resources
322 East Front Center
Boise, Idaho 83702

Re: Application for Permit No. 78-12447 in the name of James and Sandra Henley
MTBR&F File No. 26671.0000

Dear Director Spackman:

Enclosed please find a Notice of Protest in regard to the above-referenced application for permit, including the required \$25.00 fee.

Sincerely,



Scott L. Campbell

SLC/kam

Enclosures

cc: Shelley Davis
Mike and Sissy Wallace

SCANNED

SEP 09 2016

Client 4228368.1

BOISE ▪ POCATELLO ▪ IDAHO FALLS