

Michael & Eulla Wallace
3288 Wallace Lane
New Meadows, Idaho 83654
Telephone 208-315-1212

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

INTHE MATTER OF APPLICATION FOR)
TRANSFER NO.81039 & 78-12445)
IN THE NAME OF MICHAEL AND EULLA)
WALLACE ANDPERMIT NOS 78-12439)
IN THE NAME EDWARD KALINOWSKI)
AND 78-124477IN THE NAME OF)
JAMES AND SANDRA HENLEY)
_____)

DOUCMENT FOR HEARING AT THE IDAHO
DEPARTMENT OF WATER RESOURCE SCHEDULE
FOR HEARING ON JUNE 14,2017AT 9:30 A.M.

On July, 12, 2016 Eulla Wallace (my daughter-in-law) and Leonard went to the Water Resource office in Boise so Leonard Wallace could change his water rights on two springs into their names trying to avoid a conflict when I die, Mr. Edward Kalinowski and Jim Henley filed a protest, now some history on the springs, spring # 1 is on Mr. Kalinowski property and spring # 2 is on Jim Henley property.

The property that is in question was homesteaded prior to 1900 by Ellis D. Wallace, (Exhibit 1 Deed) Leonard Wallace great grandfather, Charles Wallace and Leonard Wallace were both born here and have lived here all their lives, Charles Wallace sold the property to another rancher under the impression it would not be sub-divided but unfortunately as quick as they got it paid for they sold to a sub-divider, who worked with Charles & Leonard. Leonard & Charles thought they had all our bases covered, until Mr. Kalinowski bought the lot 28 were spring #1 is located on; Jim Henley bought the lot 27 springs#2 is on. Now some history.

Charles Wallace (My father) developed Springs #1 (Exhibit 2) at considerable expense in the 1950's he irrigated out of this springs(Exhibit 3&4) until 1970 when he had it tested and piped it into his house, which was his only drinking water. In 1981 he received a letter from the Idaho Department of Water Resources stating that we would never have to refile on the springs again (Exhibit 5). So now in 1988 Charles Wallace received another letter from the Department of Water Resource stated that he needs to file again on the springs (Exhibit 6).

May 3, 1988, Leonard & Sheryl refiled on the springs, (Exhibit 7, includes all documents from Idaho department of Water Resource Board Microfilmed Oct 5, 1992 and original application) which is the Water Right 78-10067, which on the original application on line 4 they had listed another point of diversion and line 5 of the application states that they two developed springs with pipeline to place of use.

In 1994 at an Adams County Joint Planning Commission meeting the developer Mr. Hobie Alter of Timber Ridge Subdivision was discussing the preliminary plat proposal for the Timber Ridge Subdivision, on Page 2, paragraph 3 it states that Mr. Wallace's water rights springs and conveyance system will be marked on the plat when the snow leaves and the area can be identified for protection (Exhibit 8). It was also marked on the plot map in Adams County.

In 2001 Leonard Wallace sold Charles Wallace house & property to Michael (my son) & Eulla Wallace (Included in Exhibit 1 Property Ownership) which made this their only source of drinking and irrigation water. Michael & Eulla Wallace have been using this spring #1, since 2001 as our only source of domestic drinking water and for irrigation of property.

On August 28, 2005, Eulla search decided to search the Department's website for the status of our Water Right Claim in the SRBA. The online file for Water Right Claim No. 78-10067 showed an Adjudication Claim report describing only one point of Diversion, T19N, RE2, Sec9, SWNWSW, county Of Adams, Instead of the two points of diversion Leonard Wallace applied for (Exhibit B in Affidavit, Eulla Wallace) is a true and correct copy of the Adjudication Claim Report I printed out.

In December 7, 2006 Mr. Wallace received another letter stating that he needed to file Evidence of priority by December 14, 2006 so he sent a letter stating that the everything was correct (Exhibit C in Affidavit Of Eulla Wallace) seven days isn't very long to justify anything in December under snow. The printout from two springs with the same point of diversion, not to different diversion points. (Exhibit C & D in Affidavit of Eulla Wallace) Then in November of 2007 he received another printout of Water Right and it only showed one spring and one diversion.(Exhibit F in Affidavit of Eulla Wallace) He did not correct this error either, because if not broke why fix it. Mr. Leonard Wallace water was still working, and so was Mike & Eulla water at this time.

During the time of use Mike & Eulla Wallace started sending sample of the water to Analytical Laboratories, Inc. for testing (Exhibit 9) continue to send sample until placement of the concrete ring & lid (Exhibit 10) was place on top of our spring box. There were some samples sent in from my house that you can review which state that they were taken from place listed (Bathroom) on the document, I also send a sample in from Leonard Wallace home at this time and it came back presence, for the record we do have a well on the property at this time.

Fact in 2010 Leonard Wallace did drill a well on his property (one acre) because of the pressure of water he was getting low and he was uncertain where the placement of Mr. & Mrs. Henley drain field was located on his property (Exhibit 11).

Fact that everything was fine until 2016, as a matter of fact June 30, 2016 when a neighbor Paul Schaetzel and Laurie Birch owner of Blk 1, Lot 1, of Timber Ridge Subdivision, decided that they were filing on a ditch that flows through the existing property of Kalinowski, Henley, Tash, and our property before returning to three mile creek on the property own by Schaetzel/Birch Trust. (Exhibit 12 Memorandum of Water Transfer 80338 printed from the Idaho Department of Water resources web site.) which we help to explain the Point of Diversion too and how the water worked that ran through our property also. We didn't object to them filing on the ditch because they lived below us and told us that they weren't going to change anything regarding the ditch just wanted some water to irrigate the pasture for horses. At this time was the first time in 16 years of living on the property anyone to my knowledge has ever checked the site regarding the ditch or springs, Eulla Wallace & Leonard Wallace also met with Danie Merriman (IDWR) and Angela M Grimm, Supervisor (IDWR) asking question about our springs, because we had notice that Mr. Kalinowski had applied for our spring located on his property. See (Exhibit 13) at this time Leonard protested on Mr. Kalinowski because he is owner of the water rights (Exhibit 14).

So on July 12, 2016, Leonard Wallace & Eulla Wallace went to the Idaho Department of Water and applied to Transfer Leonard Wallace Water Rights, 78-10067 to Michael & Eulla Wallace and to correct the location of the point of diversions we also at this time filed a change of address for Leonard Wallace regarding his water information, Eulla at this time filed for Water Right Application 78-12445 from the Sewell Creek and Three Mile the ditch that runs through our property. ; see (Exhibit 15)

After the meeting at the Idaho Department of Water Resource, we waited for the legal notice to be put in the paper. This is when everything seemed to go south for us. We received the first protest from James & Sandra Henley which was shocking because, Edward Kalinowski was the person who had applied for our spring rights at this time. We received Edward Kalinowski protest notice a few days later (Exhibit 16).

So on July 13, 2016 I contacted, Scott Campbell, at Moffatt, Thomas Attorney at Law, which provided Affidavits for Leonard Wallace & Eulla Wallace at this time, in February, unable to afford a lawyer. (Exhibit 17)

On March 27, 2017 I wrote a letter to the Developer (Hobart Alter) Timber Ridge Subdivision asking him to help us (Exhibit 18). Mr. Alter called be back on May 3, 2107 and explain to me that he did record the Water Line Easements for us and would get back to me on the where to get the paper work from, Also on March 27, 2017, Eulla Wallace wrote a letter to Shelly Davis Barker Rosholt & Simpson regarding Mr. Henley & Mr. Kalinowski settlement offer explain why we rejected the offer(Exhibit 19).

April 12, 2017 Mike & Eulla received an email regarding applications for Kalinowski/Henley, stating I (Eulla)did not file Rule 565 of the department rule proceeding allows a present presiding officer to decide pre-hearing motion with or without oral argument, at this time I did not realize it was for consolidating the ditch application. So I also reply in an email stating that I still want oral argument regarding our springs. The same night Mike & Eulla lost all water pressure in our house, then the next day our water was dirty and running mud at 4 a.m. in the morning. I had just a drip of dirty water

coming out of my house faucet. Eulla had to work, that is how Eulla know what time this happen, Eulla was trying to make coffee and of course wasn't able to, who knows how much dirt went into my appliances. Michael & Eulla have lived in this house since 2001 and never had this happen to the point of just undrinkable. So without warning somebody knowing that it was the spring box for my house disrupted the water flow. Michael & Eulla had the only key for lock placed it so if you don't believe me I will supply it for you. If they are willing to steal your only domestic drinking water and house water what will they pour into it to make it unpotable.

So on Thursday, April 13th 2017 Michael & Eulla Wallace hooked up to Leonard Wallace Sr. well on his one acre. Mr. Kalinowski wants to take our water so in all the lies and the documentation they've sent I can honestly say. Mr. Henley said in the Affidavit of James Henley in Motion for Summary Judgment Page 2, Mike & Eulla have been hooked up to Mr. Wallace's well for some time I can actually prove that we were not, I have the pictures to show when we did it (Exhibit 20). Since this time it has been very difficult to do much of anything, every night we are trying to fix pipes in Michael & Eulla house plumbing to stay together. (Exhibit 21). On April 14, 2017 this time Eulla called Idaho Department of Water Resource and Hearing officer and asked what the heck, how can they mess with our water lines before the hearing? The Idaho Department of water resource to this day has never called us back.

On May 9, 2017, Mr. Hobart Alder called me, asking me if I could go to Timberline Title, 104 Council, Idaho, 83612 and pick up papers he was sending to me for the hearing, Eulla said of course I can. Mr. Alder sent me, the record Plat maps & Lot Title Commitment for the James & Sandra Henley and Edward Kalinowski (Exhibit 22). According to the Title Commitment from what I understand are James & Sandra Henley and Edward Kalinowski an excepted, the record plat maps with our water line easement on them when they purchased their property. Since Eulla was in council, she also pick-up the certified detail deeds to the Plat Map(certified map) showing for record and certified original documents for the hearing (Exhibit 23).

So now Michael & Eulla Wallace have tried to explain to the best of our ability that we our owners of the springs located on Mr. Edward Kalinowski property and Mr. James & Sandra Henley property , The Wallace Family has used these two springs for over 50 years.

Sincerely,



Michael & Eulla Wallace

ALL-PURPOSE ACKNOWLEDGMENT

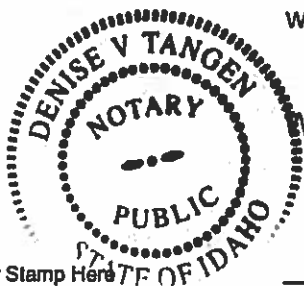
State of Idaho

County of Valley

On May 12, 2017 before me, Denise V Tancan
DATE NAME OF NOTARY PUBLIC

personally appeared Phylla Wallace + Michael C Wallace
NAME(S) OF SIGNER(S)

☒ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal or Stamp Here

WITNESS my hand and official seal.

Denise V Tancan
SIGNATURE OF NOTARY

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it may prove valuable to persons relying on this Acknowledgment and could prevent fraudulent reattachment of this certificate to another document.

DESCRIPTION OF ATTACHED DOCUMENT

**THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT**

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

COPY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12 day of May, 2017 of, served the foregoing IN THE MATTER OF TRANSFER NO. 81039 & APPLICATION OF PERMIT IN THE NAME OF MICHAEL & EULLA WALLACE AND PERMIT APPLICATION NO. 78-12439 IN THE NAME OF EDWARD KALINOWSKI AND IN THE 78-12447 IN THE NAME OF JAMES & SANDRA HENLEY up all parties of record in this proceeding of the same with the United States Postal Service, certified mail with return receipt, postage prepaid and properly addressed to the following:

Filed with:

Idaho Department of Water Resource
Western Region
2735 Airport Way
Boise, Idaho 83705-5082
Facsimile (208)-334-2348

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile
☒ Overnight Mail
☐ Email

Service on:

Shelly Davis
Barker Rosholt & Simpson
1010 Wallace Jefferson, Suite 102
P.O.Box 2139
Boise, Idaho 83701
Facsimile (208)334-6034
Attorneys for Protestants

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile
☒ Overnight Mail
☐ Email

James Cefalo
Hearing Officer
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile
☒ Overnight Mail
☐ Email

Michael A. Wallace
Eulla Wallace
Michael & Eulla Wallace

ALL-PURPOSE ACKNOWLEDGMENT

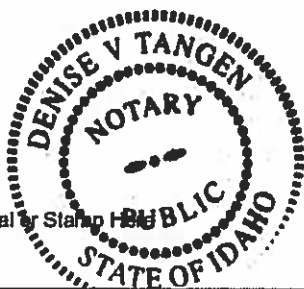
State of Idaho

County of Valley

On May 12, 2017 before me, Denise Tangen
DATE NAME/OF NOTARY PUBLIC

personally appeared Phylla Wallace & Michael C Wallace
NAME(S) OF SIGNER(S)

☒ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal or Stamp Here

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it may prove valuable to persons relying on this Acknowledgment and could prevent fraudulent reattachment of this certificate to another document.

DESCRIPTION OF ATTACHED DOCUMENT

**THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT**

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE