

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

RECEIVED
JUN 30 2017
Department of Water Resources
Eastern Region

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 MATTER DOCUMENT FOR THE IDAHO
IN THE NAME EDWARD KALINOWSKI)	DEPARTMENT OF WATER RESOURCE SCHEDULE
AND 78-124477IN THE NAME OF)	FOR POST HEARING BREIFS
JAMES AND SANDRA HENLEY)	
_____)	

As I provided in my exhibits 2, 3 and 4, Charles Wallace's water rights showing the priority date of January 1, 1955. showing it was a gravity pipeline and receipts for water right numbers 78-4077 and 78-4076, both filed with the of Idaho Department of Water Resources in 1977, claiming Charles Wallace's Springs after he sold the majority of his 350 acre ranch to Phil and Kenny Walters. In exhibit 5, dated December 3 1981, you'll notice that Mr. Wallace received a letter from an Idaho Department of Water Resources stating he would not have to refile on the Springs as they are permanent records and don't need to be filed on again. Yet again, another letter from the Idaho Department of Water Resources, dated February 26, 1988, stating that he does need to file again. So this time Leonard and Sheryl Wallace proceeded to file for the springs.

On the original application it shows two different points of diversions on line 4 of their application, and also on line 5 it shows two developed Springs with a pipeline to the place of use, with the priority date of Sept 1, 1970, this is when the springs were piped into the existing houses. Also, it states on line 9 of the Notice of Claim that there are two domestics with lawn irrigation. It also states on the receipt that these water rights are adjudicated water rights with the receipt #48632, made out to Charles Wallace dated May 3, 1988. I didn't fill out this paper work, and all I know is that we have been using these springs since before 1970. Leonard & Sheryl Wallace raised their family here and they have a home on the property; also, Leonard has been here his whole life and at this time is 77 years old. These water rights have been piped from 50 years of continuous use of the springs to this property since they were filed on. Even the microfilmed document, also filed with the Idaho Department of Water Resources dated June 2, 1988, stated that there were two developed springs with a pipeline to the place of use, dated October 5, 1992 which is before Timber Ridge subdivision even existed.

Hobart P. Alter, also known as Hobie Jr., testified at the June 14, 2017, IDWR hearing, that he was the Developer of Timber Ridge Subdivision, which was evident by his signature on the recorded plat filed in Adams County on August 22, 1995, Instrument #88538, that he was indeed the developer. I have also included in the Public Hearing Notice on the Timber Ridge Subdivision preliminary plat held in Adams County Joint Planning Commission that was held in New Meadows March 21, 1994 that shows there was a deep concern for the Wallace water rights, also before Timber Ridge Subdivision was even developed. Hobie testified at the IDWR June 14 hearing that he paid to

survey the Wallace Springs and Water Lines and had them marked on the Plat. Hobie also stated that he believes the easements were to benefit the Wallace property. In reference to the plat plan of the Timber Ridge subdivision located in Adams County, there are two 10 foot wide water line easements in existence which are shown on our property Quick Claim Deed instrument #87624, that extends through Lots 22 ,23,26,27,&28. These springs have been in existence for more than 50 years. These springs have provided domestic water as well as irrigation water for our property and residence prior to the incorporation of Timber Ridge subdivision in 1995. Prior to the 1980s, a 2-inch line was installed to direct water from the source to our residence. Any other requests for use of these springs would interfere with vested prior and priority water rights and would be detrimental to the essence of our survival. If the appropriations were to be given to other parties there would be no means to irrigate our property, to support our pasturing for our cattle, and would restrict domestic water use for our daily sustenance.

You will notice on page 7 of 7 plat map quote "THAT IT IS THE INTENTION OF THE UNDERSIGNED TO, AND HE DOES HEREBY INCLUDE SAID LANDS IN THE PLAT: THAT THE EASEMENTS INDICATED ON SAID PLAT ARE NOT DEDICATED TO THE PUBLIC, BUT THE RIGHT TO USE SAID EASEMENTS IS HEREBY PERPETUALLY RESERVED FOR PUBLIC UTILITIES AND FOR SUCH OTHER USES AS ARE DEDICATED HEREON AND THAT NO STRUCTURES OTHER THAN FOR SUCH UTILITY PURPOSE ARE TO BE ERECTED WITHIN THE LINES OF SAID EASEMENTS .

THE OWNER HEREBY CERTIFIES THAT THE INDIVIDUAL LOTS SHOWN ON THE PLAT WILL NOT BE SERVED BY ANY SANITARY SEWER SYSTEM BUT WILL BE SERVED BY INDIVIDUAL SEPTIC TANKS AND THAT THE INDIVIDUAL LOTS SHOWN WILL NOT BE SERVED BY ANY WATER SYSTEM BUT WILL BE SERVED BY INDIVIDUAL WELLS. "

So as you will notice our easements start on private property and ends on private property where there is no public access to our water line easements except from private property or the ditch easement that was put on the Plat Map for our use only. These waterlines are piped under the ground and have been for many years.

I find this amazing that on June 30, 2016, by trying to help my neighbors Paul Schaetzel & Laurie Birch get water from Seawall Creek for their horses, the Wallace's are the ones who may lose our water that we have been using for over 50 years. Until June 30, 2016, I had never seen a person from the IDWR on this property or in this area. I was under the understanding that no one was going to lose their water rights but yet in turn, the Idaho Department of Water resource has clearly told other people that our springs were not protected and to file on the water. This was also stated at the Hearing on June 14, 2017, by Mr. Kalinowski & Mr. James Henley. On the same day that we were trying to transfer Leonard Wallace's water rights to us, Michael and Eulla Wallace, is the same day that James and Sandra Henley claimed an application to permit. So between the Henley's and Kalinowski we would not have water at all. Mr. Henley purchased his property in 1998, he knew the water line easements and the ditch easement was on the plat map when he purchased his property. Mr. Henley has waited 18 years to claim this spring; also Mr. Kalinowski purchased his property in 2008 and he also knew the water line easement and the ditch easement were on his property when he purchased it and he waited nine years to try to claim this spring. All because someone from the Idaho Department of Water Resources told him the springs were unprotected.

Mr. James Henley & Mr. Edward Kalinowski state that the Wallace ditch has affected the "Wetlands" on their property. This ditch has been existence since 1900, so whatever "wetlands" might have been affected were affected way before either Mr. Kalinowski or Mr. Henley purchased their properties. Additionally, if you recall Mr. James Cefalo provided the water right proof reports for the hearing, prior to the Schaetzel Birch Trust having this ditch, Walters had it before them, to whom Charles Wallace sold the property to. Charles Wallace had it before them; his Father Ellis D. Wallace started the ditch. So the ditch was running and providing water to our place of use for years before either Mr. Kalinowski or Mr. Henley purchased their property at Timber Ridge Subdivision. Mr. Henley & Mr. Kalinowski stated that the Wallace ditch has dried up the Wetlands on their property. We disagree with Mr. Henley & Mr. Kalinowski the Wetland Delineation Map was surveyed by John Bokor for the development of Timber Ridge Subdivision around 1994. The Wallace ditch that runs through Mr. Henley's & Mr. Kalinowski property has been running water to the Wallace property for over 100 years.

The Wallace ditch was developed many years prior to the Wetlands mapped in 1994. Any affect to the Wetlands by the Wallace ditch would be included in the Wetlands Delineation Map.

I have provided the legal certified map that is recorded with Adams County Department showing our water line easements from both springs to place of use. We use these springs for irrigation and domestic use year around. The springs were the only source of water we have had to our property for many years. We also have applied for the ditch easement application 12445; it seems that the ditch is what has upset the Kalinowski and Henley's because we have cleaned the ditch a few times. So we have not had too many problems with the water line easement, as for the pipe line, we would have to check the line and ask for permission to clean it once a year. We will withdraw our application for the rights to Seawall Creek for the ditch. That way we will not be disturbing their property by cleaning the ditch. We ask that you please protect our springs water rights, which have been in our family for four generations. We would ask that the Idaho Department of Water Resources please approve our application of transfer to protect our water rights.

Best regards,

Michael & Eulla Wallace

Cefalo, James

From: Mike & Sissy Wallace <4_mykids@frontiernet.net>
Sent: Friday, June 30, 2017 10:03 AM
To: Cefalo, James
Cc: Miller, Nick; Shelley Davis
Subject: Post Hearing Briefs
Attachments: post closing 6-25-2017-1.docx

Dear Hearing Officer Cefalo,

I have attached the Wallace Post Hearing briefs, Thank you for your time on this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of June, 2017 of, served the foregoing IN MATTER OF TRANSFER NO. 81039 & APPLICATION OF PERMIT NO. 78-12445 IN THE NAME OF 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 I caused a true and correct copy of the foregoing THE POST HEARING BRIEFS to be filed with or served upon the following parties by the indicated methods:

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:

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Attorneys for Protestants

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Eulla Wallace