

1
2 Michael & Eulla Wallace
3 3288 Wallace Lane
4 New Meadows, Idaho 83654
5 208-315-1212

RECEIVED
MAY 22 2017
WATER RESOURCES
WESTERN REGION

6 BEFORE THE DEPARTMENT OF WATER
7 RESOURCE OF THE STATE OF IDAHO

8
9 James & Sandra Henley) Response to Interrogatories
10 Edward Kalinowski) Request for Production
11)
12 Plaintiff,)
13 vs.)
14 Michael & Eulla Wallace,)
15 Defendant)

16 State of Idaho)
17 County of Ada)
18

19 We are the defendant in the above-entitled action.

20 INTERROGATORY NO 1: PLEASE IDENTIFY EACH PERSON WHOM YOU INTEND TO CALL AS A WITNESS AT
21 THE HEARING IN THE MATTER. Michael Wallace, Eulla Wallace, and there maybe more at this time still
22 requiring statements.
23

24
25 INTERROGATORY NO 2: PLEASE IDENTIFY EACH PERSON WHOM YOU INTEND TO CALL AS AN EXPERT
26 WITNESS AT THIS HEARING IN THIS MATTER, AND PROVIDE ALL RELEVANT INFORMATION PURSUANT TO
27
28

Response to Interrogatories

Request for Production - 1

1 THE IDAHO RULE OF CIVIL PROCEDURE, AND THE IDAHO RULES OF EVIDENCE, INCLUDING BUT NOT
2 LIMITED TO:

3 Hobart Alter

4 Developer Timber Ridge Subdivision

5 32921 Calle Perfect Suite B

6 San Juan Capistrano, California 92675

7
8
9 INTERROGATORY NO 3: IDENTIFY ALL REPORTS, ANALYSIS OR OTHER DATA, THAT SUPPORTS YOUR
10 CONTENTION THAT THE SPRINGS THAT ARE THE SUBJECT OF THE TRANSFER APPLICATION NO: 78-81039
11 HAVE HISTORICALLY BEEN USED TO PROVIDE WATER TO THE PROPERTY CLAIMED AS THE PLACE OF USE
12 IN THE APPLICATION.
13

14 Including the water rights located in Leonard Wallace application 78-10067, The Plat Plan of the Timber
15 Ridge Subdivision located in Adams County, there is a 10 foot wide water line easement in
16 existence which is shown at our property 3288 & 3290 Wallace Lane, New Meadows, ID 83654,
17 (Quick- Claim Deed Instrument #87624), extending through Lots 22, 27, and terminating at a
18 spring located on the northeast side of Lot 28, Detail 3, sheet 5 of 7 spring1. Also Detail 5, shows
19 the second spring2. It has provided domestic as well as irrigation water for our property and
20 residence prior to the incorporation of the Timber Ridge Subdivision in 1995. Prior to 1980, a 2"
21 line was installed to direct water from this source to our residence. The Adams County Joint
22 Planning Commission, minutes of Public Hearing & Commission Meeting that was held on March
23 21, 1994.
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Response to Interrogatories

Request for Production - 2

1 INTERROGATORY NO 4: PLEASE DESCRIBE THE PURPOSE OF YOUR APPLICATIONS AND IDENTIFY YOUR
2 REASONING FOR THE INFORMATION AND ASSERTIONS CONTAINED THEREIN, INCLUDING BUT NOT
3 LIMITED TO THE ELEMENTS OF THE WATER RIGHT FOR PLACE OF USE, QUANTITY AND PERIOD OF USE.

4 The purpose of our application is continuing use of the water rights that have been in our family since the
5 1950's that the Idaho Department of Water Resources inappropriately transferred to the Schaetzel/Birch
6 Trust in 2016 in which we would like to protest as we were with the understanding that they could not
7 take our water rights – 78-12440, 78-12441, 78-12442, and 78-12443.
8

9
10 INTERROGATORY NO 5: PLEASE EXPLAIN AND IDENTIFY ANY AND ALL HISTORICAL MAINTENANCE
11 ACTIVITIES UNTAKEN WITH RESPECT TO THE SPRINGS IDENTIFIED AS THE POINTS OF DIVERSION FOR
12 TRANSFER APPLICATION NO 81039.
13

14 Since Michael Wallace installed a concrete ring and lid in June 24, 2008 with a lock and chain to stop
15 people from dumping stuff in our water. We stopped having it tested after the placement of the lid. The
16 second spring we have not done anything to the spring, but check the vent once in a while. Reference
17

18
19 INTERROGATORY NO 6: PLEASE IDENTIFY AND DESCRIBE ALL WATER RIGHTS IN YOUR NAME, OR
20 OTHERWISE ASSOCIATED WITH LANDS AS DESCRIBED IN YOUR APPLICATION FOR PERMIT WHICH SERVE
21 THE PLACE OF USE DESCRIBED IN TRANSFER APPLICATION 81039.

22 We have applied for a transfer of Leonard Wallace's springs. The application for 78-12445 is to continue
23 using the ditch that runs through our property for irrigation and stock water.
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Response to Interrogatories

Request for Production - 3

1 INTERROGATORY NO 7: PLEASE EXPLAIN IN DETAIL THE PURPOSE OF WATER RIGHT APPLICATION NO: 78-
2 12445 AND THE LOCATION OF THE "SMALLER DITCH THAT FLOWS THROUGH PROPERTY" AS DESCRIBED
3 IN YOUR AMENDED APPLICATION.

4 I object that this interrogatory is vague, without waiving this objection and to the extent I understand this
5 question, a ditch run the full length of my property year-around. Was answered under interrogatory no 6.

7
8 INTERROGATORY NO 8: PLEASE EXPLAIN AND IDENTIFY THE EXISTING POTABLE WATER SUPPLY FOR
9 DOMESTIC PURPOSES CURRENTLY IN USE FOR THE DESCRIBED PLACE OF USE IN TRANSFER APPLICATION
10 NO. 81039.

11 Until April 13, 2017 this was our only source of domestic water and Irrigation water for Lot 3, NWNWSW,
12 SEC9, TWP19N, R02E Adams Kalinowski property.

13
14
15 INTERROGATORY NO 9: PLEASE IDENTIFY ANY AND ALL REPORTS, ANALYSES OR OTHER DATA IN YOUR
16 POSSESSION CONCERNING THE WATER QUALITY AND DIVERSION RATE FOR THE SPRINGS IDENTIFIED IN
17 THE TRANSFER APPLICATION NO 81039.

18 Water Quality Report from State of Idaho Department of Health and Welfare dated 05/15/97 and
19 submitted as Exhibit 9. To the extent I understand this question, according to the claim to water rights
20 submitted by Charles Wallace in 1955 .20cfs for Irrigation and .04cfs for domestic use, and the water claim
21 submitted by Leonard & Sheryl Wallace in 1970, .08 for domestic and .20cfs for irrigation use. Exhibits 2
22 and 7

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26 INTERROGATORY NO 10: PLEASE EXPLAIN THE BASIS FOR YOUR PROTEST ON WATER RIGHT APPLICATION
27 78-12439.

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Response to Interrogatories

1 Mr. Kalinowski states in his protest that we have been using the spring before he purchased his property
2 in 2008. Any other requests for use of this spring would interfere with vested prior water rights and would
3 be detrimental to the essence of our survival. If the appropriation were to be given to another party, there
4 would be no means to irrigate our property, to support pasturing of our cattle, and would restrict domestic
5 water use for our daily subsistence. Mr. Kalinowski inappropriately used a non-certified "test hole" map
6 to protest our water rights. He also used a picture of a concrete ring that we placed on our spring to
7 protect our water in 2008.
8

9
10 INTERROGATORY NO 11: PLEASE EXPLAIN THE BASIS FOR YOUR PROTEST TO WATER RIGHT APPLICATION
11 78-12447.
12

13 Mr. Henley also states in his application and protest against us, any other requests for use of this spring
14 would interfere with vested prior water rights and would be detrimental to the essence of our survival. If
15 the appropriation were to be given to another party, there would be no means to irrigate our property,
16 to support pasturing of our cattle, and would restrict domestic water use for our daily subsistence. Also
17 Mr. Henley inappropriately used a non-certified "test hole" map to claim that our spring and waterline
18 easements were not in use.
19

20
21 INTERROGATORY NO 12. PLEASE EXPLAIN THE LEGAL BASIS THAT YOU ALLEGE PROVIDES YOU A
22 MECHANISM TO ACCESS THE SPRINGS IDENTIFIED IN TRANSFER APPLICATION NO: 81039.
23

24 The Plat Plan of the Timber Ridge Subdivision located in Adams County, there is a 10 foot wide
25 water line easement in existence which is shown at our property (Quick- Claim Deed Instrument
26 #87624), extending through Lots 22, 27, and terminating at a spring located on the northeast side
27 of Lot 28, Detail 3, sheet 5 of 7 spring1. Also Detail 5, shows the second spring2. It has provided
28

Response to Interrogatories

Request for Production - 5

1 domestic as well as irrigation water for our property and residence prior to the incorporation of
2 the Timber Ridge Subdivision in 1995. Prior to 1980, a 2" line was installed to direct water from
3 this source to our residence. The Adams County Joint Planning Commission, minutes of Public
4 Hearing & Commission Meeting that was held on March 21, 1994.
5

6
7 REQUESTS FOR PRODUCTION

8 REQUEST FOR PRODUCTION NO1: Please produce any and all documents identified in your responses
9 above, or that would tend to support the responses.
10

11 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
12

13 REQUEST FOR PRODUCTION NO2: Please produce all documents reviewed, maintained or generated by
14 any expert witness you intend to call on your behalf at the hearing in this matter, including those
15 documents that reflect, document or otherwise describe facts known or relied upon and or opinions held
16 by such expert witnesses. Attached documents of the Adams county joint planning commission is public
17 records filed at the Adams county court house.
18

19 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
20

21 REQUEST FOR PRODUCTION NO3: Please produce any and all documents that support your Transfer
22 Application no 78-80139 and/or the position you intend to take at the hearing in this matter. Attached:
23 Adams Council Joint Planning Commission meeting of Public Hearing & Commission Meeting Held March
24 21, 1994. Attached: Timber Ridge Plot Map filed in Adams County Court House.
25

26 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
27
28

Response to Interrogatories

1 REQUEST FOR PRODUCTION NO4: Please produce any and all documents that support your Water Right
2 Application No 78-12445 and /or the position you intend to take at the hearing in this matter. Attached is
3 Application for use of ditch on our property.

4 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
5
6

7 REQUEST FOR PRODUCTION NO5: Please produce any and all documents, correspondence or
8 communication you have had with any other party concerning the development and beneficial se of the
9 claimed rights identified here in. Attached: a copy of the letter wrote to the developer of Timber Ridge
10 Subdivision regarding our water rights.

11 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
12
13

14 REQUEST FOR PRODUCTION NO6: Please produce any and all documents that you claim support your
15 protest to Water Right Application No. 78-12439. Attached: Leonard Wallace Water rights date of Priority
16 Sept 1, 1970.

17 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
18
19

20 REQUEST FOR PRODUCTION NO7: Please produce any and all documents that you claim support your
21 protest to Water Right Application No. 78-12447.

22 Attached: Charles Wallace Water rights date Priority 1/1/1955
23

24 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
25

26 REQUEST FOR PRODUCTION NO8: Please produce any and all documentation calculating the spring
27 production capacity for the springs identified in Transfer Application No. 78-81039. I'm unable to produce
28

Response to Interrogatories

Request for Production - 7

1 the calculating of the spring I would use the information from the Idaho department of water resource
2 that is on water claim right that is attached

3 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
4

5
6 REQUEST FOR PRODUCTION NO9: Please produce any and all reports, analyses or other data in your
7 possession that you are aware of relating to ground water testing and monitoring in the vicinity of the
8 springs identified in Transfer Application no. 81039.

9 Attached: ANALYTICAL LABORATORIES. INC from springs1 & 2 until 2008.

10 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
11

12
13 REQUEST FOR PRODUCTION NO10. Please produce any and all documents not previously provided that
14 would support your application and claims.

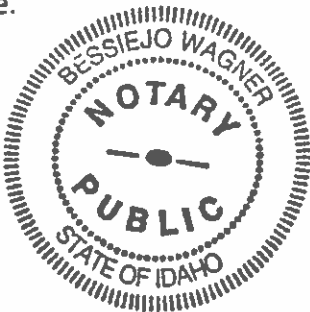
15 Documents sent to your office may 12th and received by you May 15, 2017 as Exhibits 1-23 in 1 binder
16

17
18 Dated this 18 of May, 2017

19 Wallace, Eulla
20

21 State of Idaho)
22 S.S. Valley
23 County of Idaho

24 I, BessieJo Wagner, a notary public, do hereby certify that on this 18 day of May, 2017,
25 personally appeared before me Eulla Wallace, who, being by me first duly sworn, declared that
26 she signed the foregoing document as Eulla Wallace, and that the statements therein contained
27 are true.



BessieJo Wagner
Notary Public

My Commission Expires on 6/2/2020

Response to Interrogatories

Request for Production - 8

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18 day of May, 2017 of, served the foregoing IN THE 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 up all parties of record in this proceeding of the same via facsimile and on May 19, 2017 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 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


Bill Wallace

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MAY 22 2017
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WESTERN REGION