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Shelley M. Davis
smd@idahowaters.com

March 27, 2017

VIA U.S. MAIL

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

RECEIVED
MAR 28 2017
WATER RESOURCES
WESTERN REGION

Re: Application for Permit No. 78-12445

Dear Clerk:

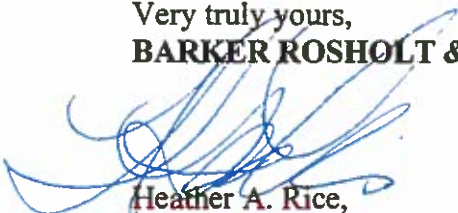
Please find enclosed herewith the following documents for filing in the above referenced application for permit:

1. *Motion for Summary Judgment;*
2. *Memorandum in Support of Motion for Summary Judgment;*
3. *Affidavit of James Henley in Support of Motion for Summary Judgment; and*
4. *Affidavit of Shelley M. Davis in Support of Motion for Summary Judgment.*

Please return conformed copies in the enclosed postage pre-paid, self-addressed stamped envelope.

Please contact me if you have any questions or concerns. Thank you for your assistance.

Very truly yours,
BARKER ROSHOLT & SIMPSON LLP


Heather A. Rice,
Assistant to Shelley M. Davis

/har
Enclosures

ORIGINAL

Shelley M. Davis, ISB No. 6788
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorney for Protestants/Claimants

RECEIVED
MAR 28 2017
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WATER RIGHT
TRANSFER APPLICATION NO. 81039 IN
THE NAME OF WALLACE AND PERMIT
NOS. 78-12439 IN THE NAME OF
KALINOWSKI AND 78-12447 IN THE
NAME OF HENLEY AND 78-12445 IN THE
NAME OF WALLACE

MOTION FOR SUMMARY
JUDGMENT

COMES NOW, the Protestants/Claimants, James and Sandra Henley and Edward Kalinowski, by and through their counsel of record, Shelley M. Davis of the law firm Barker Rosholt & Simpson, LLP, and pursuant to IDAPA 37.01.01.260 and Idaho Rule of Civil Procedure 56(c), move this Court for an Order of Summary Judgment, dismissing transfer application no. 81039 for the reasons set forth in accompanying Memorandum in Support of this Motion. Oral argument on the Motion is requested.

DATED this 27th day of March, 2017.

BARKER ROSHOLT & SIMPSON LLP


Shelley M. Davis
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of March, 2017, I caused a true and correct copy of the foregoing **MOTION FOR SUMMARY JUDGMENT** to be filed with or served upon the following parties by the indicated methods:

Filed with:

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

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

Served on:

Mike and Eulla Wallace
3288 Wallace Lane
New Meadows, ID 83654

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☐ Overnight Mail
☐ Email

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

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☐ Email



Shelley M. Davis
Attorney for Protestants

ORIGINAL

Shelley M. Davis, ISB No. 6788
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorney for Applicants/Protestants

RECEIVED
MAR 28 2017
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WATER RIGHT
TRANSFER APPLICATION NO. 81039 IN
THE NAME OF WALLACE AND PERMIT
NOS. 78-12439 IN THE NAME OF
KALINOWSKI AND 78-12447 IN THE
NAME OF HENLEY

**AFFIDAVIT OF JAMES HENLEY IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

STATE OF IDAHO)
) ss.
County of Adams)

James Henley, being first duly sworn upon oath, deposes and states as follows:

1. My name is James Henley. I am over the age of eighteen and make this affidavit on personal knowledge.

2. My wife and I are the applicants for water right no. 78-12447 at issue in this matter. We reside at 3808 Shadow Pine Circle, New Meadows ID 83654, and have lived there since May, 1998.

3. Since 1998 the Wallace family have entered our property on multiple occasions claiming that they are the sole owners of water emanating from a spring on my property. They have crossed the property with heavy equipment on many occasion, and have caused substantial damage to my property, as well as the neighboring property of Dr. Kalinowski.

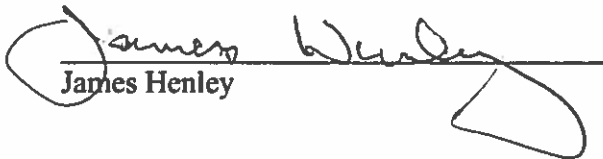
AFFIDAVIT OF JAMES HENLEY

4. After Mr. Leonard Wallace installed a well on the property that he shares with his son and daughter-in-law, Michael and Sissy Wallace, the well produced such abundant water that Leonard Wallace offered to supply the excess water to our neighbors, the Thieles.

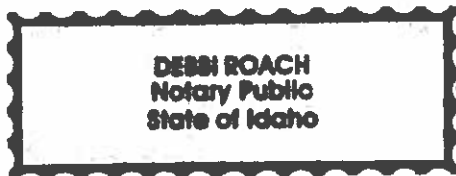
5. An altercation occurred between Leonard Wallace and the Thieles, and as a result the Thieles stopped accepting the excess water from Leonard Wallace. During the time that the excess water was provided to the Thieles it was estimated to produce 4 to 5 gallons per minute of water, just from the excess water.

6. Our property is served by a well that produces also approximately 4 to 5 gallons of water per minute. This quantity of water provides domestic use for our 3,900 square foot, 3 bedroom home, and also provides enough water to irrigate approximately half an acre of lawn, flower beds and a vegetable garden.

DATED THIS 23 day of March, 2017.


James Henley

SUBSCRIBED AND SWORN to before me this 23 day of March, 2017.




NOTARY PUBLIC FOR IDAHO
Residence: New Meadows
My Commission Expires: 8/31/2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 2017, I caused a true and correct copy of the foregoing **AFFIDAVIT OF JAMES HENLEY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** to be filed with or served upon the following parties by the indicated methods:

Filed with:

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

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Served on:

Mike and Eulla Wallace
3288 Wallace Lane
New Meadows, ID 83654

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☐ Email

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

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☐ Overnight Mail
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Shelley M. Davis
Attorney for Protestants

ORIGINAL

Shelley M. Davis, ISB No. 6788
BARKER ROSHOLT & SIMPSON LLP
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Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorney for Applicants/Protestants

RECEIVED
MAR 28 2017
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WATER RIGHT
TRANSFER APPLICATION NO. 81039 IN
THE NAME OF WALLACE AND PERMIT
NOS. 78-12439 IN THE NAME OF
KALINOWSKI AND 78-12447 IN THE
NAME OF HENLEY

MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT

COMES NOW, the Protestants/Claimants, James and Sandra Henley and Edward Kalinowski, by and through their counsel of record, Shelley M. Davis of the law firm Barker Rosholt & Simpson LLP, and pursuant to IDAPA 37.01.01.260 and Idaho Rule of Civil Procedure 56(c), move this Court for an Order of Summary Judgment, dismissing transfer application no. 81039 and recommending that permits be issued for water right nos. 78-12439 and 78-12447, for the reasons set forth below.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

This proceeding was initiated with the filing of the above referenced two applications for permit, and the transfer application. Edward Kalinowski (hereinafter "Kalinowski") filed application for permit no. 78-12439 on May 2, 2016, seeking to appropriate the water from springs emanating on land owned by Kalinowski that is unappropriated. *See* water right backfile for 78-12439. On July 12, 2016, Michael and Eulla Wallace (hereinafter "Wallaces") filed application for transfer no. 81039 seeking to transfer the points of diversion for decreed water

right no. 78-10067 to lands owned by Kalinowski and Henley and to divert the water claimed by Kalinowski and Henley in their applications. *See* transfer application backfile no. 81039. Shortly thereafter, James L. and Sandra J. Henley (hereinafter “Henleys”) filed application for water right no. 78-12447 also on July 12, 2016, seeking to appropriate unappropriated spring water that emanates on land owned by the Henleys. *See* water right backfile for 78-12447. The Wallaces protested both the Henleys’ and Kalinowski applications for permit, and the Henleys and Kalinowski protested the Wallaces transfer application. *Id.*

A pre-hearing conference was set for December 1, 2016, in the proceedings on the Wallaces’ transfer application. Shortly before the pre-hearing conference, then acting-counsel for the Wallaces sent two executed affidavits to counsel for Kalinowski and Henleys, suggesting a review of the information contained therein, and seeking the opportunity to discuss resolution. The two affidavits were of applicant Eulla Wallace, and Leonard Wallace, father of applicant Michael Wallace. Affidavit of Shelley M. Davis in Support of Motion for Summary Judgment, (“Davis Aff.”), Exs. 1 and 2. Ms. and Mr. Wallace both state that they received and reviewed a December 7, 2006, letter from the Idaho Department of Water Resources acknowledging the filing of an SRBA claim for water right no. 78-10067 and requesting evidence of priority. Davis Aff., Ex. 1, ¶ 5 ex. C, Ex. 2, ¶ 7 ex. C. Ms. Wallace states that the letter included “a ‘computer generated print-out’ of his claim showing what we now know were two incorrect points of diversion for the springs claimed.” Davis Aff., Ex. 1, ¶ 5. Both Ms. and Mr. Wallace affirmatively state that they received and reviewed the Idaho Department of Water Resources preliminary recommendation for decreed water right 78-10067 in December 2006 “which described two incorrect points of diversion in T19N, R2E, Sec 9 SENWSW, Lot 3, and T19N, R2E, Sec 9, SENWSW, Lot 3 county of Adams.” Davis Aff., Ex. 1 ¶ 6, ex E, and Ex. 2 ¶ 8. Ms.

Wallace also states that the November 6, 2007, partial decree entered for water right no. 78-10067 included “the same two incorrect points of diversion[.]” *Id.*, ¶ 7. No objection was filed to the IDWR recommendation, nor was any effort made to correct the partial decree before the SRBA court. Instead, when the Wallaces reviewed the partial decree in 2016 they “promptly filed an Application for Transfer to correct the locations of the points of diversion[.]” Davis Aff., Ex. 1, ¶ 8.

Both affidavits also assert that the springs located on the Kalinowski and Henleys’ property are “the sole source of water for the [claimants’] property.” Davis Aff., Ex. 1, ¶ 9, Ex. 2, ¶ 10. This statement is, at best, misleading. Mr. Wallace does recognize that a well was drilled on the property. *Id.* This well supplies such abundant water that excess water was provided to the neighboring Theile property until an altercation occurred between Mrs. Theile and Mr. Wallace. Affidavit of James Henley in Support of Motion for Summary Judgment, (“Henley Aff.”), ¶ 4. Prior to the altercation, Mr. Theile estimated that the excess water that was provided to him from the Wallace well was approximately 4-5 gallons per minute. *Id.*, ¶ 5. To put this into perspective, Mr. and Mrs. Henley’s well produces a total of 4-5 gallons per minute and is sufficient to provide domestic water to their 3,900 square foot, 3 bedroom home, and to irrigate approximately a half acre of lawn, flower beds and garden. *Id.*, ¶ 6.

The pre-hearing conference was held on December 1, 2016, and shortly thereafter the parties stipulated to consolidate the two applications for permit and transfer application into the proceeding currently before this Hearing Officer. This motion follows.

ARGUMENT

I. Only the SRBA Court Can Grant the Wallaces the Relief Requested and the Transfer Application Must be Denied and Dismissed:

The Wallace's filed their transfer applications presumably in reliance on the December 21, 2009, IDWR Transfer Processing Policies and Procedures memorandum authored by Jeff Peppersack. Davis Aff., Ex. 3. In that memorandum, the Department takes the position that "[a]n application for transfer may also be required to correct errors in licenses or decrees." *Id.*, p. 3. No subsequent guidance has been issued regarding this portion of the transfer policies of the Department since the Idaho Supreme Court issued its opinion in *Rangen, Inc. v. Idaho Dept. of Water Resources*, 159 Idaho 798, 367 P.3d 193 (2016). In light of that opinion, however, the IDWR guidance permitting an IDWR transfer proceeding to be undertaken to 'correct' an SRBA decree is impermissible.

In *Rangen*, the underlying IDWR action was a delivery call initiated by Rangen against junior users. *Rangen v. IDWR*, 159 Idaho at 800, 367 P.3d at 196-197 (2016). During the course of the administrative proceedings the Director, acting as Hearing Officer, also interpreted Rangen's decreed water rights in strict conformance with the elements of the decree, which eliminated Rangen's ability to divert from other water sources as it had historically done. *Id.* Rangen appealed, and the District Court affirmed the Director's interpretation of the decrees. *Id.* at 803, 367 P.3d 198.

On appeal the Supreme Court recognized that I.C. § 42-1420 demands that "a decree entered in a general adjudication such as the SRBA is conclusive as to the nature and extent of the water right." *Rangen*, 159 Idaho at 804, 367 P.3d at 199. In *Rangen*, as in this case, when the recommendation for Rangen's water rights was issued by the Department, the point of diversion was not the same as the point of diversion requested in the claim. There too, Rangen did not object to the recommendation and the water right was decreed with a point of diversion that differed from that claimed by Rangen. *Id.* at 805, 367 P.3d at 200. The district court ultimately

held that “if Rangen disagreed with how its water rights were recommended and ultimately decreed, it had an opportunity and responsibility to voice its concerns in the appropriate forum – the SRBA.” *Id.* at 806, 367 P.3d 201. “The district court reasoned ~~that~~ this was necessary because the SRBA is a forum where all parties to the adjudication would have been afforded appropriate notice of Rangen’s arguments and been given the opportunity to respond.” *Id.* Ultimately the Supreme Court affirmed the district court, holding that “[a]ny interpretation of Rangen’s partial decrees that is inconsistent with the plain language would necessarily impact the certainty and finality of the SRBA judgments and, therefore, requests for such interpretations needed to made in the SRBA itself.” *Id.*

In their affidavits both Mr. and Ms. Wallace admitted that they both reviewed the IDWR recommendation including the incorrect points of diversion, as well as reviewing the partial decrees issued in 2007 also including the incorrect points of diversion. *Supra*. Neither took any action before the SRBA court during those proceedings to attempt to correct the recommendation or partial decrees. As the *Rangen* Court held, “[i]f [Wallaces] wanted [their] water rights to be interpreted differently, [they] should have timely asserted that in the SRBA.” *Id.* This is not a proper proceeding to attempt to correct, interpret or modify an SRBA decree. Only the SRBA court has the power to accomplish what the Wallaces have requested of this Hearing Officer. As such, the transfer application must be denied.

II. A Recommendation to Issue Permits for Application Nos. 78-12439 and 78-12447

Should Issue:

The Wallaces are the only protestants to the Henleys’ and Kalinowski applications for permit. A review of the protests reveals that the basis for the protest is the Wallaces mistaken belief that the water right decree no. 78-10067 appropriated the water in the springs to them. The

record belies that assumption. Both Mr. and Ms. Wallace admit that the water right decree no. 78-10067 provides no points of diversion for that right on either of the springs located on the Kalinowski and Henley property. *See* Davis Aff., Ex. 1, ¶¶ 5, 6, and 7, exs. C, E, and F; also see Ex. 2, ¶ 8, ex. E. Therefore, the water is unappropriated and available to appropriation to the Henleys and Kalinowski. “The right to appropriate unappropriated water is guaranteed by article XV, section 3 of the Idaho Constitution.” *Joyce Livestock Co. v. U.S.*, 144 Idaho 1, 9, 156 P.3d 502, 510 (2006), *quoting Parker v. Wallentine*, 103 Idaho 506, 513, 650 P.2d 648, 655 (1982).

Both the Henleys’ and Kalinowski applications are complete, and have satisfied all of the requirements of the Department. The deadline to protest the applications has long since passed. Accordingly, there is no just reason to delay a recommendation that permits be issued for both applications.

CONCLUSION

For the foregoing reasons, the applicants/protestants, James and Sandra Henley and Edward Kalinowski respectfully request that this Hearing Officer grant this Motion for Summary Judgment and Deny and Dismiss transfer application no. 81039, and further issue a recommendation that permits be issued for water right application nos. 78-12439 and 78-12447.

DATED this 27th day of March, 2017.

BARKER ROSHOLT & SIMPSON LLP



Shelley M. Davis
Attorney for Applicants/Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 2017, I caused a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** to be filed with or served upon the following parties by the indicated methods:

Filed with:

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

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Mike and Eulla Wallace
3288 Wallace Lane
New Meadows, ID 83654

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

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Shelley M. Davis
Attorney for Protestants

ORIGINAL

Shelley M. Davis, ISB No. 6788
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

Attorney for Applicants/Protestants

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MAR 28 2017
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WATER RIGHT
TRANSFER APPLICATION NO. 81039 IN
THE NAME OF WALLACE AND PERMIT
NOS. 78-12439 IN THE NAME OF
KALINOWSKI AND 78-12447 IN THE
NAME OF HENLEY

**AFFIDAVIT OF SHELLEY M DAVIS
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

STATE OF IDAHO)
) ss.
County of Ada)

Shelley M. Davis, being first duly sworn upon oath, deposes and states as follows:

1. I am an attorney of record in the above-referenced action, am familiar with the issues and documents in the action, and have personal knowledge of the testimony set forth herein and am competent to testify to all matters addressed herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Affidavit of Eulla "Sissy" Wallace delivered to me by the Ms. Wallace's then-acting counsel. The Affidavit contains the original signature of Ms. Wallace and is dated and verified as of October 19, 2016.

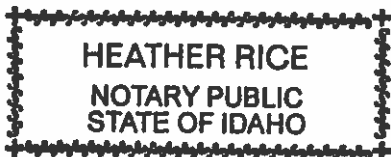
3. Attached hereto as Exhibit 2 is a true and correct copy of Affidavit of Leonard M. Wallace delivered to me by the Ms. Wallace's then-acting counsel. The Affidavit contains the original signature of Mr. Wallace and is dated and verified as of October 19, 2016.

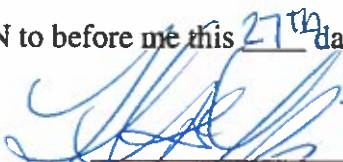
DATED THIS 27th day of March, 2017.



Shelley M. Davis

SUBSCRIBED AND SWORN to before me this 27th day of March, 2017.





NOTARY PUBLIC FOR IDAHO
Residence: Ada County, Boise
My Commission Expires: 12/07/2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of March, 2017, I caused a true and correct copy of the foregoing AFFIDAVIT OF **SHELLEY M. DAVIS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** to be filed with or served upon the following parties by the indicated methods:

Filed with:

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

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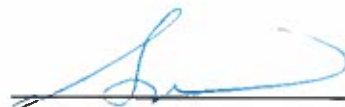
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James Cefalo
Hearing Officer
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☐ Email



Shelley M. Davis
Attorney for Protestants

EXHIBIT 1

COPY

Scott L. Campbell, ISB No. 2251
Sarah A. McCormack, ISB No. 9683
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
slc@moffatt.com
sam@moffatt.com
26671.0000

Attorneys for Michael and Eulla ("Sissy") Wallace

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF CONTESTED
WATER RIGHT TRANSFER
APPLICATION NO. 81039 IN THE NAME
OF WALLACE

Docket No. _____

**AFFIDAVIT OF EULLA "SISSY"
WALLACE**

STATE OF IDAHO)
) ss.
County of Adams)

Eulla "Sissy" Wallace, having been duly sworn upon oath, deposes and states as follows:

1. My name is Eulla "Sissy" Wallace. I am over eighteen years of age and am a joint applicant to Transfer No. 81039 with my husband Michael Wallace. I make this

affidavit upon my own personal knowledge and I am competent to testify regarding the matters contained herein.

2. On May 3, 1988, my father-in-law, Leonard Wallace, filed a Notice of Claim to a Water Right in the Snake River Basin Adjudication ("SRBA") with the Idaho Department of Water Resources (the "Department") for two developed springs gravity fed through a pipeline for domestic use and lawn irrigation on our land. Attached hereto as **Exhibit A** is a true and correct copy of the Notice of Claim. The Department designated the claim as water right claim no. 78-10067. The Notice of Claim described two points of diversion, T19N, R2E, Sec 9, SENWSW and T19N, R2E, Sec 9, SWNWSW, county of Adams.

3. On January 2, 2001, Leonard Wallace transferred his property, which includes the place use for Water Right No. 78-10067, to my husband, Michael Wallace, and me. However, Leonard Wallace and his wife, Sheryl Wallace, remained the owners of record for Water Right No. 78-10067.

4. On August 28, 2005, I 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, R2E, Sec 9, SWNWSW, county of Adams, instead of the two points of diversion Leonard Wallace applied for. Attached hereto as **Exhibit B** is a true and correct copy of the Adjudication Claim Report I printed with the date of August 28, 2005. Since the one point of diversion was described correctly, I did not worry about the missing point of diversion.

5. On December 7, 2006, my father-in-law, Leonard Wallace, received a letter from the Department acknowledging the Notice of Claim in the SRBA from 1988 and requesting evidence of priority. Included with the letter was a "computer generated print-out" of

his claim showing what we now know were two incorrect points of diversion for the springs claimed. Attached hereto as **Exhibit C** are true and correct copies of the letter and “computer generated print-out.” At the time, we did not realize the points of diversion were in the wrong location because we were sure that the points of diversion would be located where the springs were located. Therefore, we did not object to the print-out. In response to the letter, we provided the evidence of priority by affidavit on December 11, 2006. Attached hereto as **Exhibit D** is a true and correct copy of the affidavit.

6. The Department released a preliminary recommendation of water rights for Water Right Claim No. 78-10067 on December 19, 2006, which described two incorrect points of diversion in T19N, R2E, Sec 9, SENWSW, Lot 3 and T19N, R2E, Sec 9, SENWSW, Lot 3, county of Adams. Attached hereto as **Exhibit E** is a true and correct copy of the preliminary recommendation. Again, we did not realize the points of diversion were in the wrong location because we were sure that the points of diversion would be located where the springs were located. Therefore, we did not object to the preliminary recommendation.

7. The Department released the partial decree for Water Right No. 78-10067 on November 6, 2007, which described the same two incorrect points of diversion, T19N, R2E, Sec 9, SENWSW, Lot 3 and T19N, R2E, Sec 9, SENWSW, Lot 3, county of Adams, which is how they are now described. Attached hereto as **Exhibit F** is a true and correct copy of the partial decree.

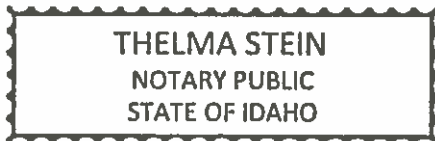
8. It is my belief that the Department made a clerical error in describing the two points of diversions for our springs. When my husband and I finally realized the points of diversion were incorrectly described, we promptly filed an Application for Transfer to correct the locations of the points of diversion to match the locations of the springs.

9. The springs mentioned above are the sole source of water for my husband and I's property.

Further your affiant sayeth naught.

Eulla Sissy Wallace
Eulla "Sissy" Wallace

SUBSCRIBED AND SWORN to before me this 10th day of October, 2016.



Thelma Stein
NOTARY PUBLIC FOR IDAHO
Residing at Valley County, Idaho
My Commission Expires August 17, 2021

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of October, 2016, I caused a true and correct copy of the foregoing **AFFIDAVIT OF EULLA "SISSY" WALLACE** to be served by the method indicated below, and addressed to the following:

Gary Spackman
Director

IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Shelley M. Davis
BARKER RSHOLT & SIMPSON LLP
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P.O. Box 2139
Boise, ID 83701-2139
Facsimile (208) 344-6034
Attorneys for Protestants

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Scott L. Campbell

EXHIBIT A

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A78-10067
Date Received: 6/02/1988 5-3-88
Receipt No: C000534

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LEONARD M. WALLACE 208-347-2446
Address: BOX 126
NEW MEADOWS, ID 83654

AND/OR

Name: SHERYL K. WALLACE 208-347-2446
Address: BOX 126
NEW MEADOWS, ID 83654

2. Date of Priority: SEP 01, 1970

3. Source: SPRINGS Trib. to: THREE MILE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
19N	02E	9	SW	NW	SW		ADAMS

5. Description of diverting works:
TWO DEVELOPED SPRINGS WITH PIPELINE TO PLACE OF USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.080		
IRRIGATION	04/15	10/15	0.200		

7. Total Quantity Appropriated is:
0.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 8.0 Acre Feet Per Annum.

9. Non-irrigation uses:
2 DOMESTICS WITH LAWN IRRIGATION

A78-10067

Page 1

Date: 06/02/88

MICROFILMED
OCT 05 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
19N	02E	8	NE	SE		DOMEST	
			NE	SE		IRR	4.0
					Section Acres		4.0
					Total Acres		4.0

11. Place of use in counties: ADAMS

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: BENEFICIAL USE
Water Right Number:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39356
Ident. Number A78-10067
Date Received 5-3-88
Receipt Number 48632 C000534
CF

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Leonard M. and/or Sheryl K Wallace Phone (208) 347-2446
Mailing Address Box 126 New Meadows Zip 83654
2. Date of Priority (Only one (1) per claim) Sept. 1 1970
3. Source of water supply (a) Springs (2)
which is tributary to (b) Three mile Creek
4. a. Location of existing point of diversion is: Township 19N Range 2E Section 9,
SE 1/4 of NW 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Adams
Additional points of diversion if any: T19N R2E Sec 9 SWNW SW
- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Two developed springs
with pipeline to place of use.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Domestic purposes from 1-1 to 12-31 amount 0.08 or _____

For Irrigation purposes from 4-15 to 10-15 amount 0.20 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.20 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 8 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 2 domestics with lawn irrigation

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
19N	2E	8													D				
		8													4				4

Total number of acres irrigated 4

11. In which county (ies) are lands listed above as place of use located? Adams

12. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (☒)

14. Remarks:

Last Name Wallace ~~A 78-10067~~ Ident No. A 78-10067

MICROFILMED
Series: Water State Yellow Claimant

OCT 05 1992

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments -1-

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s) Leonard M. Wallau Date 5-3-88

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
County of Adams) SS.

Subscribed and sworn (or affirmed) before me this 3rd day of May 19 88

SEAL

Notary Public Carter Fritschle

Residing at Eagle, Id

My Commission Expires 3-21-94

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name Wallace Ident. Number A78-10067

MICROFILMED

OCT 05 1992

EXHIBIT B

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

08/28/2005

WATER RIGHT NO. 78-10067

Owner Type	Name and Address
Current Owner	LEONARD M WALLACE
Current Owner	SHERYL K WALLACE
	BOX 126
	NEW MEADOWS, ID 83654
	(208)347-2446

Priority Date: 09/01/1970

Basis: Beneficial Use

Status: Active

Source	Tributary
SPRINGS	THREEMILE CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/15	10/15	0.2 CFS	
DOMESTIC	1/01	12/31	0.08 CFS	
Total Diversion			0.2 CFS	

Record - Basin Seyer -
34-78-10067

Location of Point(s) of Diversion:

SPRINGS	SWNWSW	Sec. 09	Township 19N	Range 02E	ADAMS County
---------	--------	---------	--------------	-----------	--------------

Place(s) of use:

Place of Use Legal Description: IRRIGATION ADAMS County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
19N	02E	8		NESE	4									

Place of Use Legal Description: DOMESTIC ADAMS County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
19N	02E	8		NESE										

Total Acres: 4

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

EXHIBIT C



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 7, 2006

LEONARD M &/OR SHERYL K WALLACE
PO BOX 126
NEW MEADOWS ID 83654

Re: Claim to a Water Right No. 78-10067

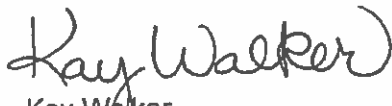
Dear Claimants:

In May of 1988, you submitted the above referenced claim in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim for your reference only; this print-out is **NOT** to be returned or re-filed. You have indicated, when this claim was filed, that the water right was based on a "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the "**Priority Date**" as shown on the enclosed print-out. This claim has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water. Any other claims you may have filed, that are not listed above, do not require evidence of priority be submitted at this time.

Enclosed is a pamphlet entitled "**Evidence of Priority**" which describes why evidence of the priority date is necessary along with examples of types of evidence that can be submitted to fulfill this requirement. If no evidence is submitted, or we do not hear from you within the time limit below, the priority date, as claimed, may not be recommended to the Court for decree. This could jeopardize the water use under this right, if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible.

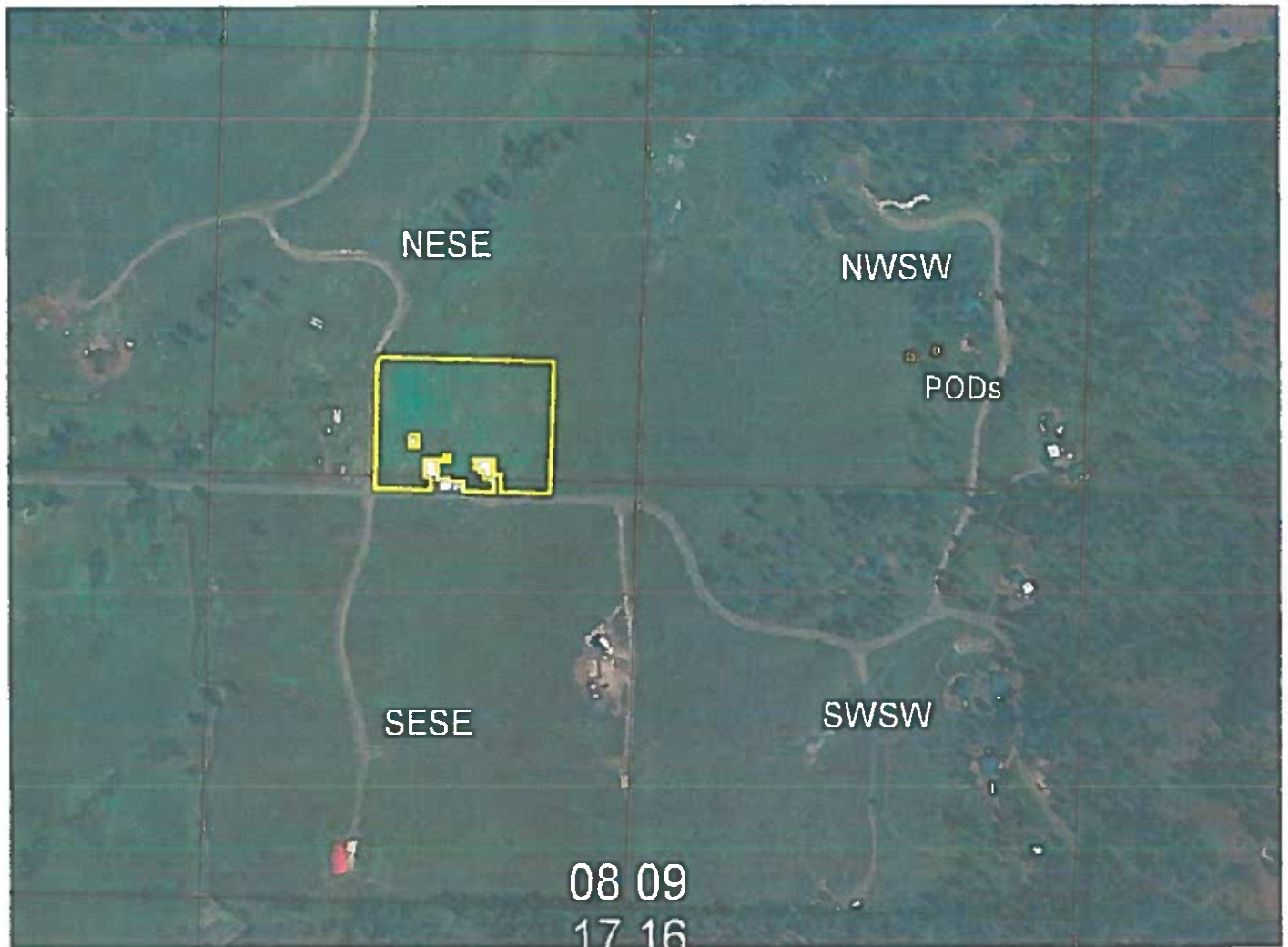
The required evidence supporting the priority date must be submitted by **December 14, 2006**, referencing all documents with the corresponding claim number. If you have any questions not covered by this letter, or the enclosed pamphlet, please feel free to call me at 287-4953.

Sincerely,


Kay Walker
Sr. Water Resource Agent

Enclosures

78-10067



700 0 700 1400 Feet

T19N R02E S08

Map prepared by: Carter Fritschle
Date prepared: 06/16/06
2004 NAIP Photography
Idaho Department of Water Resources



EXHIBIT D

DEC 14 2006

We the undersigned do hereby state that the priority date of September 1, 1970 is correct for water right # 78-10067 which held by Leonard & Sheryl Wallace, P.O. Box 126, New Meadows, Idaho 83654 and it has been used every day & year since 1970.

• Everett Osborn Box 209 New Meadows Id

• Tessie Osborn Box 209 New Meadows Id

• _____

• IF THIS DOES NOT
• GIVE THE REQUIREMENT
• FOR PRIORITY DATE OF
• MY WATER RIGHT
• PLEASE ADVISE
• L E Osborn Wallace
• P.O. BOX 126
• NEW MEADOWS
• IDAHO
• 83654

• _____

• _____

• _____

• _____

• _____

• _____

EXHIBIT E

12/19/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 78-10067

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

SHERYL K WALLACE
PO BOX 126
NEW MEADOWS ID 83654

SOURCE: SPRINGS

TRIBUTARY: THREEMILE CREEK

QUANTITY: 0.160 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 S9 SENWSW Lot 3 Within ADAMS County

T19N R02E S9 SENWSW Lot 3 Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.080 CFS
IRRIGATION	04/01 10/31	0.080 CFS
Domestic use is for 2 homes.		

PLACE OF USE: IRRIGATION in ADAMS County

T19N R02E S08 NESE 4.00

DOMESTIC in ADAMS County

T19N R02E S08 NESE

4 ACRES TOTAL

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

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. Section 42-1412(6), Idaho
Code.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



Idaho Department of Water Resources

SRBA Recommendation:

78-10067
(Irrigation)

Legend

- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Adams County
IDWR Basin 78



0 0.1 0.2 Miles



Prepared by K. Walker
On Tuesday, December 19, 2006
1987/88 Aerial Photography

EXHIBIT F

PAGE 1
Oct-24-2007

EXHIBIT 2

COPY

Scott L. Campbell, ISB No. 2251
Sarah A. McCormack, ISB No. 9683
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
slc@moffatt.com
sam@moffatt.com
26671.0000

Attorneys for Michael and Eulla ("Sissy") Wallace

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF CONTESTED
WATER RIGHT TRANSFER
APPLICATION NO. 81039 IN THE NAME
OF WALLACE

Docket No. _____

**AFFIDAVIT OF LEONARD M.
WALLACE**

STATE OF IDAHO)
) ss.
County of Adams)

Leonard M. Wallace, having been duly sworn upon oath, deposes and states as follows:

1. My name is Leonard M. Wallace. I am over eighteen years of age and am the father of Michael Wallace, an applicant to Transfer No. 81039. I am the current owner of record of Water Right No. 78-10067, which is the subject of this transfer, and I live on the

property that includes the place use for Water Right No. 78-10067. I make this affidavit upon my own personal knowledge and I am competent to testify regarding the matters contained herein.

2. My father, Charles Wallace and his company, Charles Wallace & Sons, Inc., owned 350 acres as a ranch in Adams County, including the point of diversion and place use for Water Right No. 78-10067 and the property now known as Timber Ridge Subdivision. Charles Wallace used the water from the springs associated with Water Right No. 78-10067 since 1970 for domestic and irrigation use on his property.

3. Charles Wallace sold a large portion of the ranch, which is now known as Timber Ridge Subdivision, to Phil and Kenny Walters in the 1970s. The point of diversion for the springs associated with Water Right No. 78-10067 was located on the land transferred to the Walters. However, the place of use associated with Water Right No. 78-10067 was retained by Charles Wallace. Although the location of the point of diversion was owned by the Walters, Charles Wallace used and claimed a water line easement to access the spring water through a pipeline to his property through the property owned by the Walters.

4. Despite their promise not to sell the ranch acreage, Phil and Kenny Walters sold the land to Hobie Alter, a developer from California, in 1993.

5. Once Hobie Alter decided that he was going to subdivide and develop the ranch acreage into Timber Ridge Subdivision, he contacted me about the water line easement to the springs. I told him that our family had used the water from the springs for as long as we had owned the property and that we had an agreed easement to pipe the spring water to our property. He agreed to put the easement on the plat map of Timber Ridge Subdivision to memorialize the

agreement that the easement existed. Attached hereto as **Exhibit A** is a true and correct copy of the plat map executed by Hobie Alter, showing the above-mentioned water line easement.

6. On May 3, 1988, I filed a Notice of Claim to a Water Right in the SRBA with the Department for the two developed springs gravity fed through a pipeline for domestic use and lawn irrigation on the remaining land owned by the Wallace family. Attached hereto as **Exhibit B** is a true and correct copy of the Notice of Claim. The Department designated the claim as water right claim no. 78-10067.

7. On December 7, 2006, I received a letter from the Department acknowledging my Notice of Claim in the SRBA from 1988 and requesting evidence of priority. Attached hereto as **Exhibit C** is a true and correct copy of the letter. I provided the evidence of priority by affidavit on December 11, 2006. Attached hereto as **Exhibit D** is a true and correct copy of the affidavit.

8. The Department released a preliminary recommendation of water rights on December 19, 2006 and the water right was decreed on November 6, 2007. Attached hereto as **Exhibit E** is a true and correct copy of the preliminary recommendation.

9. Charles Wallace passed away and his property was officially transferred to me through a quitclaim deed on March 13, 2000. Attached hereto as **Exhibit F** is a true and correct copy of the quitclaim deed.

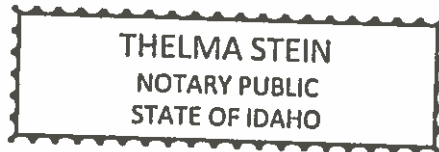
10. On January 2, 2001, I transferred the same property to my son and daughter-in-law, Michael and Eulla ("Sissy") Wallace. The current property consists of five acres in the middle of Timber Ridge Subdivision. I live in a house on one acre and my son and daughter-in-law, Michael and Eulla Wallace, live in a house on the remaining four acres. We use the springs water for domestic use on the two homes and lawn irrigation on our properties. I

also have a well, drilled in 2010, which supplies additional domestic water to my property, but the springs are the sole source of water for my son and daughter-in-law's property.

Further your affiant sayeth naught.

Leonard M. Wallace
Leonard M. Wallace

SUBSCRIBED AND SWORN to before me this 19th day of October, 2016.



Thelma Stein
NOTARY PUBLIC FOR IDAHO
Residing at Valley County Idaho
My Commission Expires August 17, 2021

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of October, 2016, I caused a true and correct copy of the foregoing **AFFIDAVIT OF LEONARD M. WALLACE** to be served by the method indicated below, and addressed to the following:

Gary Spackman
Director

IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Shelley M. Davis
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Facsimile (208) 344-6034
Attorneys for Protestants

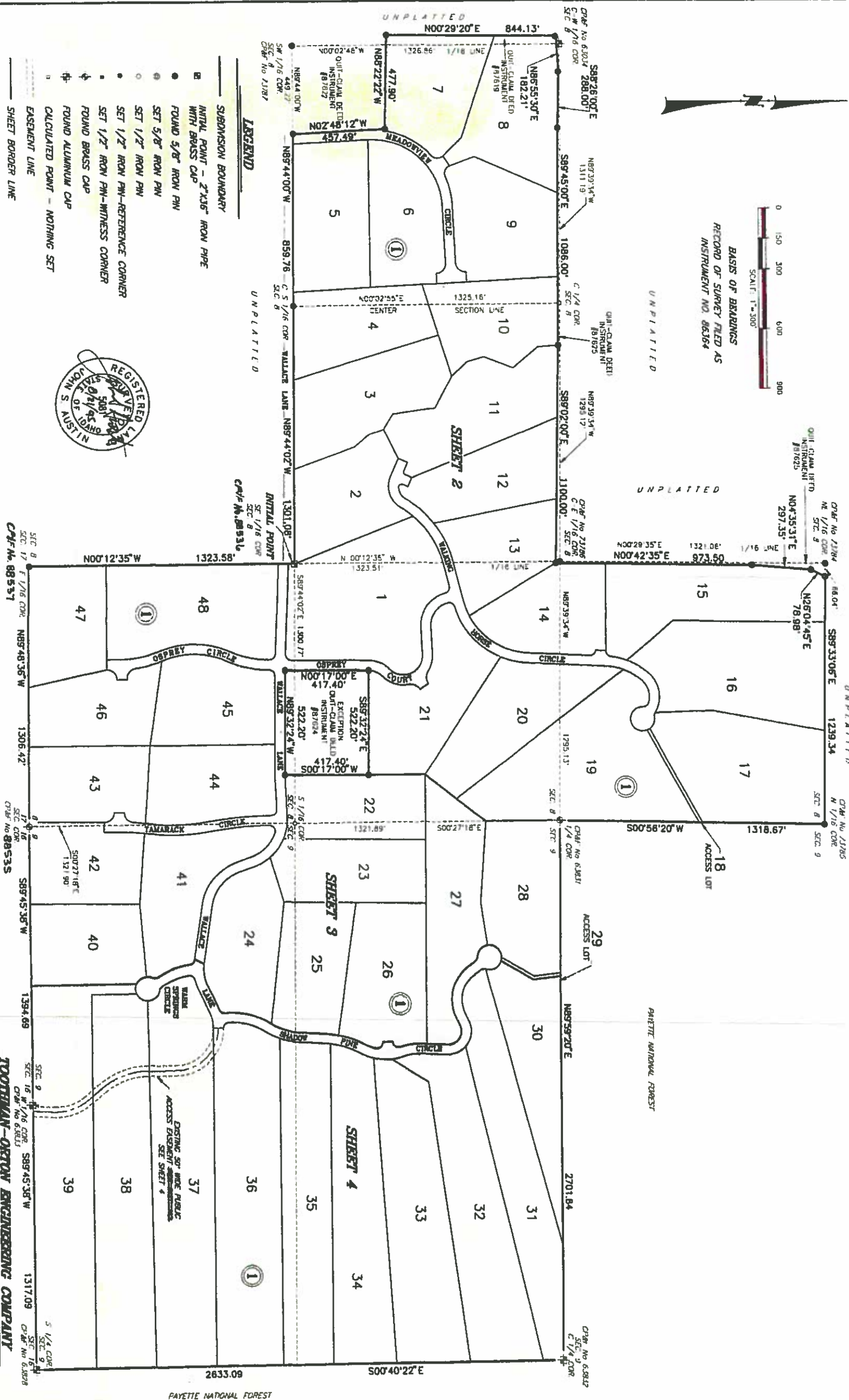
☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Scott L. Campbell

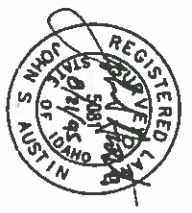
EXHIBIT A

TIMBER RIDGE SUBDIVISION

PART OF SECTIONS 8 AND 9, T.19 N., R.2 E., B.M.
ADAMS COUNTY, IDAHO 1995



- LEGEND**
- SUBDIVISION BOUNDARY
 - INITIAL POINT - 2"x3/16" IRON PIPE WITH BRASS CAP
 - FOUND 5/8" IRON PIN
 - SET 5/8" IRON PIN
 - SET 1/2" IRON PIN
 - SET 1/2" IRON PIN-REFERENCE CORNER
 - SET 1/2" IRON PIN-WITNESS CORNER
 - FOUND BRASS CAP
 - FOUND ALUMINUM CAP
 - CALCULATED POINT - NOTHING SET
 - EASEMENT LINE
 - SHEET BORDER LINE
 - LOT NUMBER
 - BLOCK NUMBER



TOTEMAN-ORTON ENGINEERING COMPANY

SCALE: 1"=200'
BASIS OF BEARINGS
RECORD OF SURVEY FILED AS
INSTRUMENT NO. 86364

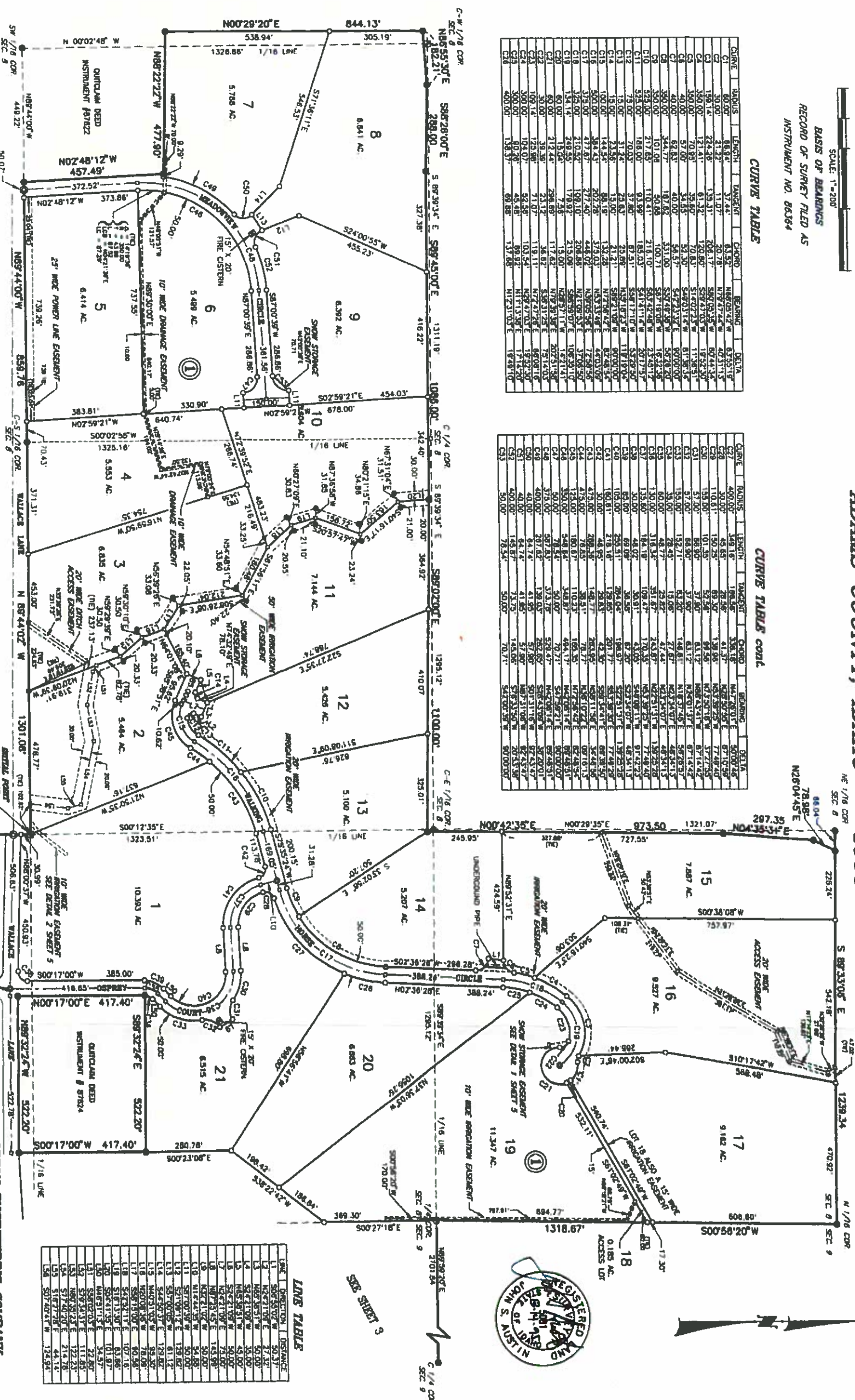


CURVES TABLE

CURVE	RADIUS	LENGTH	INANCE-IT	CHORD	BEARING	DELTA
C1	80.00	68.84	31.47	50.76	N 63° 12' E	63° 51' 13"
C2	30.00	234.31	109.37	100.70	N 19° 47' 44" W	40° 41' 13"
C3	150.00	234.31	139.31	100.17	S 86° 05' 15" W	80° 44' 13"
C4	150.00	234.31	139.31	100.17	N 9° 52' 50" W	10° 52' 50"
C5	30.00	70.93	61.32	120.80	S 76° 41' 03" W	11° 38' 51"
C6	40.00	52.30	34.45	54.06	S 47° 01' 12" E	61° 38' 34"
C7	40.00	62.63	40.50	54.51	S 47° 13' 32" E	60° 00' 00"
C8	150.00	344.77	181.82	331.00	S 59° 48' 58" W	56° 28' 20"
C9	350.00	101.08	50.68	100.71	S 59° 18' 00" W	13° 12' 56"
C10	523.00	217.63	110.41	216.10	S 63° 42' 48" W	23° 45' 17"
C11	523.00	168.00	83.98	164.03	S 41° 41' 54" W	20° 17' 57"
C12	75.00	70.93	37.80	67.51	S 68° 17' 10" W	53° 52' 50"
C13	11.24	31.42	22.63	25.08	N 62° 17' 10" E	11° 18' 00"
C14	15.00	21.38	15.00	21.21	S 89° 21' 10" W	60° 00' 00"
C15	144.34	144.34	88.19	132.28	N 72° 14' 12" E	60° 00' 00"
C16	500.00	384.43	207.28	315.03	N 63° 12' 56" E	60° 00' 00"
C17	315.00	384.43	217.40	204.02	N 63° 12' 56" E	17° 54' 56"
C18	150.00	410.32	199.03	204.02	N 63° 12' 56" E	33° 04' 56"
C19	150.00	410.32	199.03	204.02	S 66° 58' 50" W	106° 24' 10"
C20	184.16	211.17	123.45	215.00	N 66° 58' 50" W	1° 16' 21' 11"
C21	30.00	312.44	128.69	117.62	N 19° 53' 58" E	20° 52' 10"
C22	30.00	31.39	23.12	36.82	S 55° 31' 23" E	75° 14' 03"
C23	109.14	104.08	71.07	118.11	N 62° 41' 26" E	80° 00' 00"
C24	102.50	125.92	52.58	103.54	N 62° 41' 26" E	19° 52' 50"
C25	300.00	90.78	45.46	89.92	N 11° 31' 58" E	17° 14' 20"
C26	400.00	134.31	65.86	137.66	N 12° 31' 03" E	19° 48' 10"

CURVE TABLES cont

CULMID	MOULDS	LENGTH	THICKT	CHORD	BEARING	DELTA
C27	460.00	348.16	1186.45	338.16	M4-7.50/2.5	5000.45
C28	460.00	348.35	78.45	41.37	M5-5.00/2.5	67.15/25
C29	460.00	350.58	68.37	43.36	M5-5.00/2.5	67.15/25
C30	460.00	352.81	52.98	47.50	M5-5.00/2.5	67.15/25
C31	460.00	352.81	68.37	61.56	M5-5.00/2.5	67.15/25
C32	460.00	352.81	52.98	63.12	M6-6.50/4.1	67.15/25
C33	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C34	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C35	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C36	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C37	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C38	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C39	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C40	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C41	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C42	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C43	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C44	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C45	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C46	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C47	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C48	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C49	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C50	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C51	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C52	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25
C53	460.00	352.81	52.98	63.12	M5-5.00/2.5	67.15/25



LONG TABLES

LINE	POSITION	DISTANCE
1	506.51722	32.17
2	M2.51722	32.17
3	M2.5171	50.00
4	M2.5171	50.00
5	M2.5171	50.00
6	M2.5171	50.00
7	M2.5171	50.00
8	M2.5171	50.00
9	M2.5171	50.00
10	M2.5171	50.00
11	M2.5171	50.00
12	M2.5171	50.00
13	M2.5171	50.00
14	M2.5171	50.00
15	M2.5171	50.00
16	M2.5171	50.00
17	M2.5171	50.00
18	M2.5171	50.00
19	M2.5171	50.00
20	M2.5171	50.00
21	M2.5171	50.00
22	M2.5171	50.00
23	M2.5171	50.00
24	M2.5171	50.00
25	M2.5171	50.00
26	M2.5171	50.00
27	M2.5171	50.00
28	M2.5171	50.00
29	M2.5171	50.00
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31	M2.5171	50.00
32	M2.5171	50.00
33	M2.5171	50.00
34	M2.5171	50.00
35	M2.5171	50.00
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46	M2.5171	50.00
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88	M2.5171	50.00
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92	M2.5171	50.00
93	M2.5171	50.00
94	M2.5171	50.00
95	M2.5171	50.00
96	M2.5171	50.00
97	M2.5171	50.00
98	M2.5171	50.00
99	M2.5171	50.00
100	M2.5171	50.00

TOOTHMAN-ORION ENGINEERING COMPANY

300 US-9000 LANE
MCCLARY DAY BUILDING
P.O. BOX 4340
MCCLARY, IDAHO 83403
(208) 634-4003

SHEET NO. 2 OF 7

93068\PLAT-SH2

TIMBER RIDGE SUBDIVISION

Book 2 Page 17 of Plans

PART OF SECTIONS 8 AND 9, T.19 N., R.2 E., B.M.
ADAMS COUNTY, IDAHO 1995

SCALE 1"=200'
BASIS OF BEARINGS
RECORD OF SURVEY FILED AS
INSTRUMENT NO. 86164

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C109	700.00'	69.77'	45.65'	98.01'	N77°03'31" E	25°42'50"
C110	215.00'	53.10'	26.69'	32.97'	N77°16'24" E	48°08'04"
C111	330.00'	265.94'	140.66'	258.80'	N10°23'54" E	48°18'46"
C112	100.00'	160.56'	80.25'	138.60'	N10°09'03" E	39°18'46"
C113	490.00'	199.83'	101.59'	188.18'	N15°32'42" E	25°28'14"
C114	290.00'	207.70'	110.27'	201.78'	N08°43'37" E	21°08'56"
C115	290.00'	92.28'	46.67'	81.17'	N56°12'49" W	116°21'50"
C116	95.00'	192.69'	152.67'	248.09'	N78°22'33" W	189°21'13"
C117	175.00'	272.92'	130.44'	174.46'	S14°54'34" E	50°11'13"
C118	335.00'	178.50'	77.50'	150.00'	N08°21'35" E	49°14'55"
C119	60.00'	48.74'	24.37'	50.00'	N41°37'03" W	65°38'15"
C120	60.00'	48.74'	24.37'	50.00'	N41°37'03" W	65°38'15"
C121	30.00'	27.40'	13.70'	28.46'	N56°10'25" W	32°19'46"
C122	30.00'	110.11'	55.64'	109.53'	N18°50'00" W	20°21'01"
C123	310.00'	110.11'	55.64'	109.53'	N18°50'00" W	20°21'01"
C124	30.00'	48.55'	24.28'	41.00'	N35°27'05" E	66°13'15"
C125	225.00'	48.55'	24.28'	41.00'	N35°27'05" E	66°13'15"
C126	190.00'	68.26'	44.94'	87.47'	N7°30'28" E	76°30'23"
C127	30.00'	45.27'	28.20'	41.09'	N45°57'33" W	86°27'23"
C128	305.00'	192.76'	99.72'	180.57'	N19°22'46" E	36°15'42"
C129	325.00'	76.67'	38.52'	76.50'	N26°43'24" E	13°31'02"
C130	325.00'	97.25'	49.00'	96.90'	N17°23'34" E	17°08'48"
C131	425.00'	34.48'	17.25'	34.47'	N05°08'38" E	04°38'58"
C132	425.00'	154.72'	73.98'	153.40'	N17°51'55" E	19°24'18"
C133	275.00'	73.72'	37.08'	71.90'	N27°24'55" E	19°24'18"
C134	775.00'	91.67'	46.24'	91.20'	N03°17'29" E	13°09'03"
C135	775.00'	63.17'	31.70'	62.86'	N12°45'48" W	21°08'56"
C136	225.00'	83.05'	42.00'	82.28'	N03°21'37" W	50°22'00"
C137	120.00'	103.47'	50.38'	106.46'	N81°27'45" W	65°52'44"
C138	120.00'	137.98'	62.72'	137.25'	N74°13'15" W	57°19'57"
C139	150.00'	208.65'	125.70'	208.65'	N08°32'23" W	52°19'46"
C140	60.00'	22.40'	11.20'	22.40'	N84°35'01" E	12°27'49"
C141	60.00'	22.40'	11.20'	22.40'	N84°35'01" E	12°27'49"
C142	215.00'	53.10'	26.69'	32.97'	S44°39'18" E	86°23'13"
C143	215.00'	53.10'	26.69'	32.97'	S44°39'18" E	86°23'13"
C144	230.00'	186.50'	97.83'	182.20'	S18°59'17" E	47°44'32"

CURVE TABLE CONT.

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C109	700.00'	69.77'	45.65'	98.01'	N77°03'31" E	25°42'50"
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C112	100.00'	160.56'	80.25'	138.60'	N10°09'03" E	39°18'46"
C113	490.00'	199.83'	101.59'	188.18'	N15°32'42" E	25°28'14"
C114	290.00'	207.70'	110.27'	201.78'	N08°43'37" E	21°08'56"
C115	290.00'	92.28'	46.67'	81.17'	N56°12'49" W	116°21'50"
C116	95.00'	192.69'	152.67'	248.09'	N78°22'33" W	189°21'13"
C117	175.00'	272.92'	130.44'	174.46'	S14°54'34" E	50°11'13"
C118	335.00'	178.50'	77.50'	150.00'	N08°21'35" E	49°14'55"
C119	60.00'	48.74'	24.37'	50.00'	N41°37'03" W	65°38'15"
C120	60.00'	48.74'	24.37'	50.00'	N41°37'03" W	65°38'15"
C121	30.00'	27.40'	13.70'	28.46'	N56°10'25" W	32°19'46"
C122	30.00'	110.11'	55.64'	109.53'	N18°50'00" W	20°21'01"
C123	310.00'	110.11'	55.64'	109.53'	N18°50'00" W	20°21'01"
C124	30.00'	48.55'	24.28'	41.00'	N35°27'05" E	66°13'15"
C125	225.00'	48.55'	24.28'	41.00'	N35°27'05" E	66°13'15"
C126	190.00'	68.26'	44.94'	87.47'	N7°30'28" E	76°30'23"
C127	30.00'	45.27'	28.20'	41.09'	N45°57'33" W	86°27'23"
C128	305.00'	192.76'	99.72'	180.57'	N19°22'46" E	36°15'42"
C129	325.00'	76.67'	38.52'	76.50'	N26°43'24" E	13°31'02"
C130	325.00'	97.25'	49.00'	96.90'	N17°23'34" E	17°08'48"
C131	425.00'	34.48'	17.25'	34.47'	N05°08'38" E	04°38'58"
C132	425.00'	154.72'	73.98'	153.40'	N17°51'55" E	19°24'18"
C133	275.00'	73.72'	37.08'	71.90'	N27°24'55" E	19°24'18"
C134	775.00'	91.67'	46.24'	91.20'	N03°17'29" E	13°09'03"
C135	775.00'	63.17'	31.70'	62.86'	N12°45'48" W	21°08'56"
C136	225.00'	83.05'	42.00'	82.28'	N03°21'37" W	50°22'00"
C137	120.00'	103.47'	50.38'	106.46'	N81°27'45" W	65°52'44"
C138	120.00'	137.98'	62.72'	137.25'	N74°13'15" W	57°19'57"
C139	150.00'	208.65'	125.70'	208.65'	N08°32'23" W	52°19'46"
C140	60.00'	22.40'	11.20'	22.40'	N84°35'01" E	12°27'49"
C141	60.00'	22.40'	11.20'	22.40'	N84°35'01" E	12°27'49"
C142	215.00'	53.10'	26.69'	32.97'	S44°39'18" E	86°23'13"
C143	215.00'	53.10'	26.69'	32.97'	S44°39'18" E	86°23'13"
C144	230.00'	186.50'	97.83'	182.20'	S18°59'17" E	47°44'32"

LINE TABLE

LINE	DIRECTION	DISTANCE
L31	N45°42'17" W	36.04'
L32	S65°33'46" W	53.85'
L33	N01°48'56" E	132.63'
L34	S02°51'22" E	50.00'
L35	N07°48'10" E	123.71'
L36	N64°17'02" E	123.92'
L37	S30°00'31" E	101.39'
L38	N45°42'17" W	101.28'
L39	S08°33'17" E	135.63'
L40	N45°42'17" W	36.15'
L41	N45°42'17" W	36.15'
L42	S08°33'17" E	135.63'
L43	S08°33'17" E	135.63'
L44	S08°33'17" E	135.63'
L45	S08°33'17" E	135.63'
L46	S08°33'17" E	135.63'
L47	S08°33'17" E	135.63'
L48	S08°33'17" E	135.63'
L49	S08°33'17" E	135.63'
L50	S08°33'17" E	135.63'



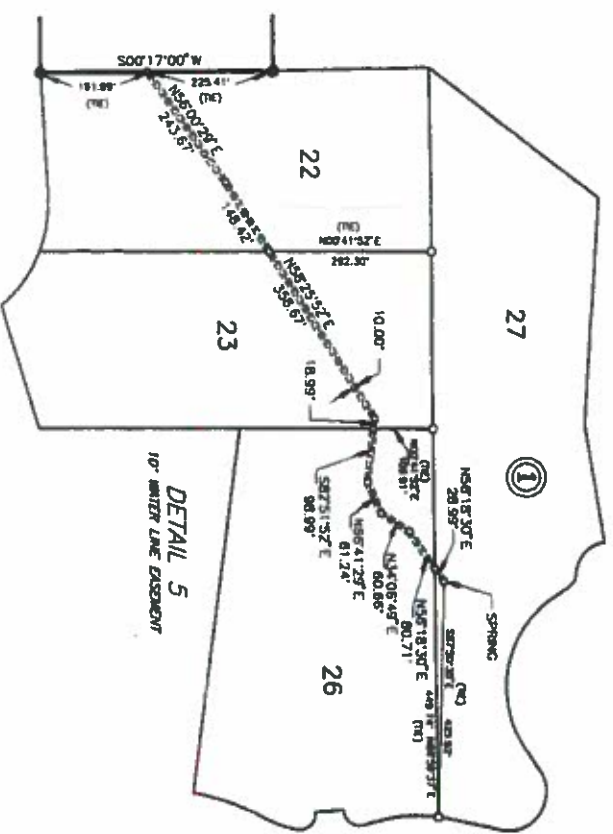
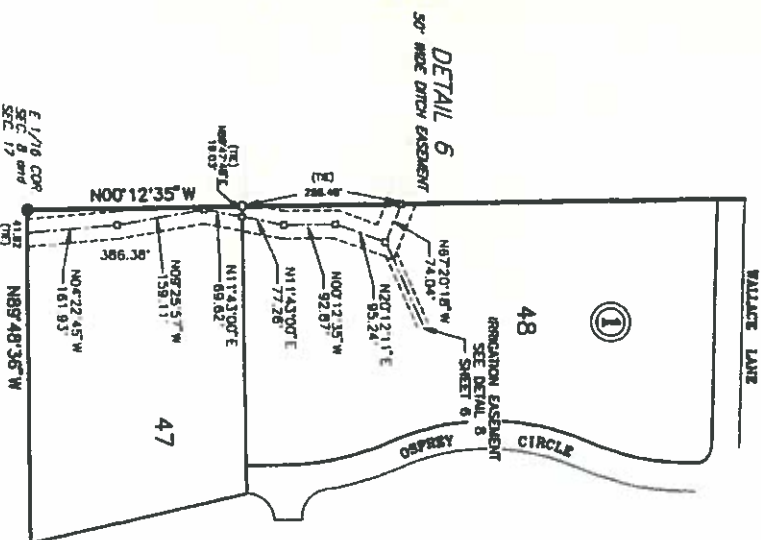
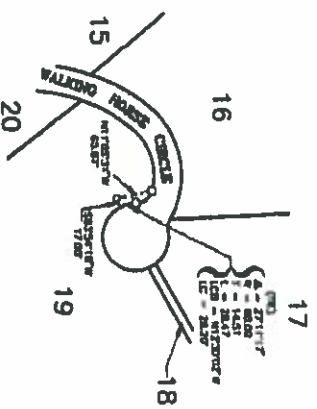
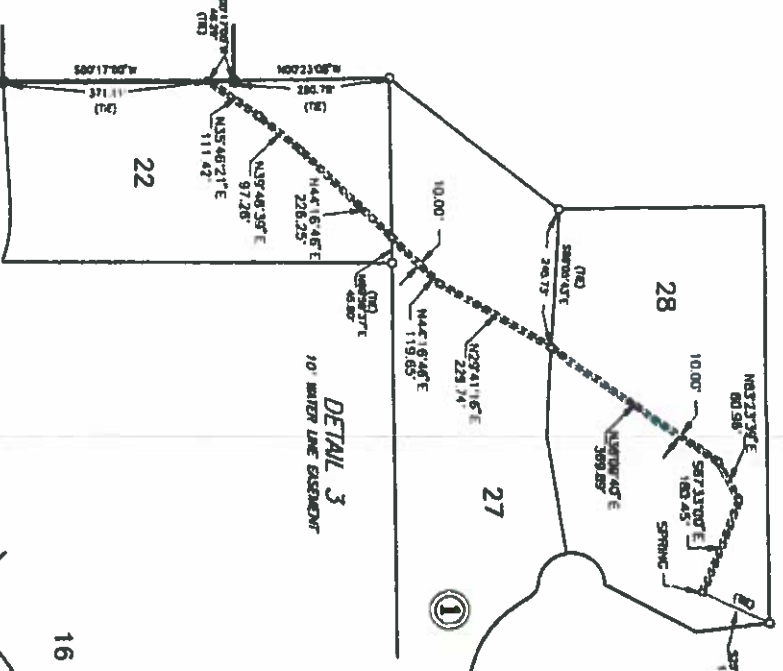
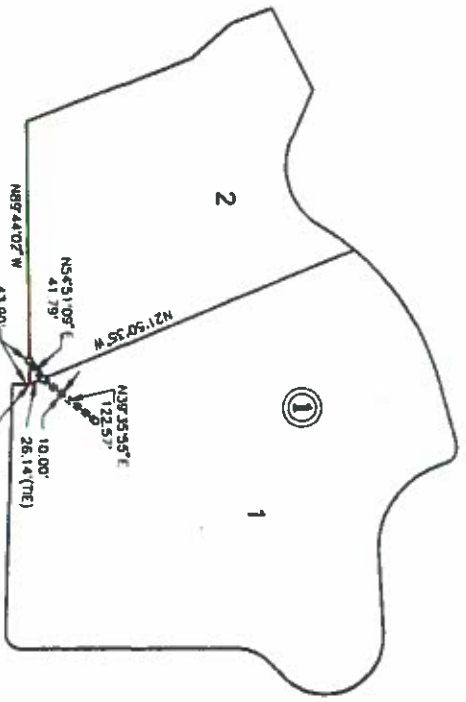
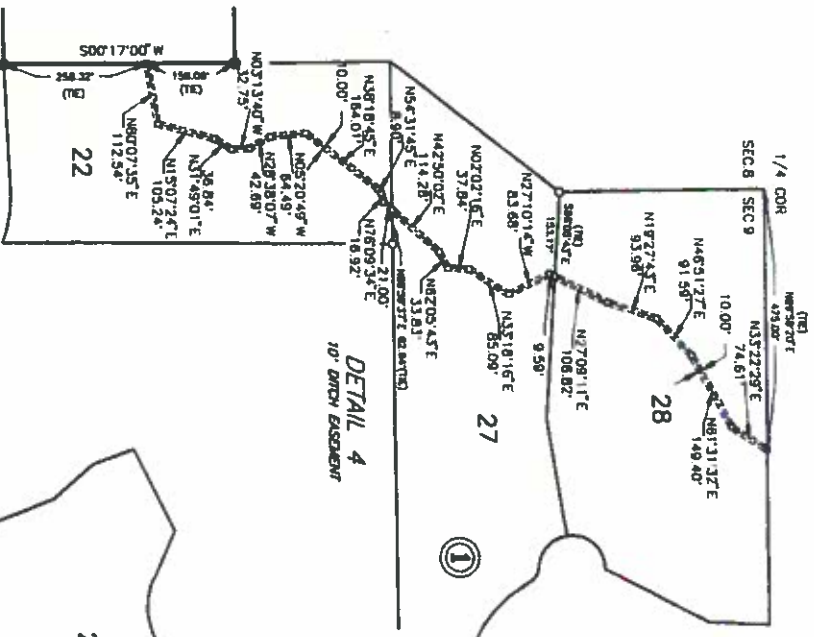
TOOTHMAN-ORTON ENGINEERING COMPANY
301 DENHAM LANE
MCALL, IDAHO 83401
(208) 834-6803

TIMBER RIDGE SUBDIVISION
PART OF SECTIONS 8 AND 9, T.19 N., R.2 E., B.M.
ADAMS COUNTY, IDAHO 1995

EASEMENT DETAIL MAP



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



EASEMENT DETAIL MAP



300 DENWARD LANE
MCCELL AIR TUN BUILDING
P.O. BOX 4240
MCCELL, DOWD BLDG
(708) 634-4863

CERTIFICATE OF OWNERS

PART OF SECTIONS 8 AND 9, T.19 N., R.2 E., B.M.

ADAMS COUNTY, IDAHO 1995

NOTES

- 1) LOTS 18 & 29 ARE 15 FOOT WIDE PRIVATE ACCESS LOTS OWNED BY THE TIMBER RIDGE HOME OWNERS ASSOCIATION.
- 2) ALL LOT LINES ARE SUBJECT TO A 10 FOOT WIDE UTILITY EASEMENT ON EACH SIDE OF A LOT LINE.
- 3) THE RIGHT-OF-WAY OF EACH ROAD WILL ALSO SERVE AS AN EASEMENT FOR PUBLIC UTILITIES AND AS AN EASEMENT FOR THE INSTALLATION OF WATER MAINS.
- 4) BUILDING SETBACKS IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OR C.C.A.R. REQUIREMENTS.
- 5) THIS PLAT IS SUBJECT TO COMPLIANCE WITH IDAHO CODE, SECTION 31-3003, ANNOTATION WHEN WILL BE SUPPLIED TO SOME OF THE LOTS HEREON.

APPROVAL OF SOUTHWEST DISTRICT HEALTH DEPARTMENT

SANITARY RESTRICTIONS OF THIS PLAT OF TIMBER RIDGE SUBDIVISION ARE HEREBY REMOVED ACCORDING TO THE LETTER TO BE READ ON FILE WITH THE COUNTY RECORDER LISTING THE CONDITIONS OF APPROVAL.

INSTRUMENT NO. 205 (CNS) HEALTH OFFICER

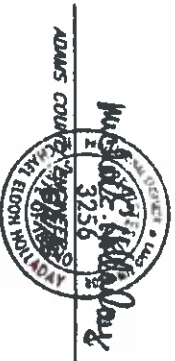
CERTIFICATE OF COUNTY TREASURER

I, THE UNDERSIGNED, COUNTY TREASURER IN AND FOR THE COUNTY OF ADAMS, STATE OF IDAHO, PER THE REQUIREMENTS OF I.C. 50-1309, DO HEREBY CERTIFY THAT ANY AND ALL CURRENT AND OR DELINQUENT COUNTY PROPERTY TAXES FOR THE PROPERTY INCLUDED IN THIS SUBDIVISION HAVE BEEN PAID IN FULL. THIS CERTIFICATION IS VALID FOR THE NEXT THIRTY (30) DAYS ONLY.

DATE 8/18/95 TREASURER

CERTIFICATE OF COUNTY ENGINEER

I, MARIE HOLLADAY, REGISTERED ENGINEER FOR ADAMS COUNTY, IDAHO, DO HEREBY CERTIFY THAT I HAVE CHECKED THIS PLAT AND THAT IT COMPLETES WITH THE STATE OF IDAHO CODE RELATING TO PLATS AND SURVEYS.



COUNTY COMMISSIONERS' ACCEPTANCE

THE FOREGOING PLAT WAS ACCEPTED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF ADAMS COUNTY, IDAHO ON THE 14 DAY OF Aug. 1995.

CHAIRMAN

CERTIFICATE OF COUNTY RECORDER

STATE OF IDAHO } S.S. COUNTY OF ADAMS }

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF JOHN S. AUSTIN, AT 3:00 MINUTES PAST 11 O'CLOCK A.M. ON THE 21 DAY OF August, 1995 IN BOOK 2 OF PLATS

AT PAGES 17 AND INSTRUMENT NO. 88538

EX OFFICIO RECORDER Michael Fisk

DEPUTY

TOOTHMAN-ORTON ENGINEERING COMPANY

NOTARY PUBLIC FOR THE STATE OF IDAHO

MY COMMISSION EXPIRES

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED IS THE OWNER

OF THE PROPERTY HEREAFTER DESCRIBED:
A parcel of land located in the SE 1/4 NE 1/4, N 1/2 SE 1/4, SE 1/4 NE 1/4 SW 1/4 and NW 1/4 SW 1/4 of Section 8, and in the SW 1/4 of Section 9, T.19 N., R.2 E., B.M., Adams County, Idaho, being described as follows:

Beginning at the southeast 1/16th corner of said Section 8, being the initial Point and being marked by a 2 inch iron pipe with brass cap; thence,

- 1) N. 88°44'02"W., 1201.08 feet along the southerly line of the NW 1/4 SE 1/4 of Section 8 to a 5/8 inch pin/cap of the center-south 1/16th corner of said Section 8; thence,
- 2) N. 88°44'02"W., 859.26 feet along the southerly line of the NE 1/4 SW 1/4 of said Section 8 to a 5/8 inch pin/cap of the southeasterly corner of a parcel of land described in a Quit-Claim deed filed in Adams County as instrument No. 87822; thence,
- 3) N. 02°48'12"W., 457.49 feet along the easterly line of said instrument No. 87822 to a 5/8 inch pin/cap of the northeasterly corner of same; thence,
- 4) N. 88°23'22"W., 472.80 feet along the northerly line of said instrument No. 87822 to a 5/8 inch pin/cap of the southeasterly corner of a parcel of land described in a Quit-Claim deed filed as instrument No. 87815; thence,
- 5) N. 00°29'20"E., 844.13 feet along the westerly line of said instrument No. 87815 to a 5/8 inch pin/cap of the northeasterly corner of same; thence,
- 6) N. 88°15'30"E., 182.31 feet along the northerly line of said instrument No. 87819 and along the southerly line of a parcel of land described in a Quit-Claim deed filed as instrument No. 87825 to a 5/8 inch pin/cap of an angle point in said southerly line; thence,
- 7) S. 88°28'00"E., 288.00 feet along said southerly line to a 5/8 inch pin/cap of another angle point in said line; thence,
- 8) S. 88°45'00"E., 1086.00 feet along said southerly line to a 5/8 inch pin/cap of another angle point in said line; thence,
- 9) S. 88°12'00"E., 1100.00 feet along said southerly line to a 5/8 inch pin/cap of the southeasterly corner of said instrument No. 87825; thence,
- 10) N. 00°42'15"E., 972.50 feet along the easterly line of said instrument No. 87825 to a 5/8 inch pin/cap of an angle point in said line; thence,
- 11) N. 04°15'07"E., 297.25 feet along said easterly line to a 5/8 inch pin/cap of another angle point in said line; thence,
- 12) N. 38°14'45"E., 78.88 feet along said easterly line to a 5/8 inch pin/cap of the northeasterly corner of instrument No. 87822; in the northerly line of the SE 1/4 NE 1/4 of Section 8; thence,
- 13) S. 88°33'00"E., 1239.34 feet along the northerly line of said SE 1/4 NE 1/4 to a 5/8 inch pin/cap of the north 1/16th corner common to Sections 8 and 9; thence,
- 14) S. 00°58'30"W., 1318.67 feet along the westerly line of said SE 1/4 NE 1/4 to a 2 inch pipe with brass cap of the 1/4 corner common to Sections 8 and 9; thence,
- 15) N. 88°58'20"E., 2701.84 feet along the northerly line of said SW 1/4 of said Section 9 to a 2 inch pipe with an aluminum cap of the center 1/4 corner of said section 9; thence,
- 16) S. 00°40'22"E., 2633.69 feet along the easterly line of said SW 1/4 to a 2 inch pipe with an aluminum cap of the 1/4 corner common to Sections 9 and 16; thence,
- 17) S. 88°45'38"W., 1217.08 feet along the southerly line of the SE 1/4 SW 1/4 of Section 9 to a 2 inch pipe with an aluminum cap of the west 1/16th corner common to Sections 9 and 16; thence,
- 18) S. 88°45'38"W., 1204.68 feet along the southerly line of the SW 1/4 SW 1/4 of Section 9 to a 2 inch pipe with a brass cap of the corner common to Sections 8, 9, 16 and 17; thence,
- 19) N. 88°48'38"W., 1206.42 feet along the southerly line of the SE 1/4 SE 1/4 of Section 8 to a 5/8 inch pin/cap of the east 1/16th corner common to Sections 8 and 9; thence,
- 20) N. 00°12'15"W., 1321.58 feet along the westerly line of said SE 1/4 SE 1/4 to the POINT OF BEGINNING.

Enclosing a parcel of land described in a Quit-Claim deed filed in Adams County as instrument No. 87824 and described as follows:

Commencing at the 2 inch pipe with brass cap of the corner common to Sections 8, 9, 16 and 17; thence,

- 1) N. 00°17'00"E., 417.40 feet to a 5/8 inch pin/cap; thence,
- 2) N. 88°12'24"W., 522.20 feet to a 5/8 inch pin/cap; thence,
- 3) S. 00°17'00"W., 417.40 feet to a 5/8 inch pin/cap; thence,
- 4) S. 88°12'24"E., 522.20 feet to the POINT OF BEGINNING

Said exception containing 5.004 acres.

The above-described parcel, excluding the above exception, contains 351.864 acres, and is as shown on a Record of Survey filed in Adams County as instrument No. 86364.

THAT IT IS THE INTENTION OF THE UNDERSIGNED TO, AND HE DOES HEREBY INCLUDE SAID LANDS IN THIS PLAT: THAT THE EASEMENTS INDICATED ON SAID PLAT ARE NOT DEDICATED TO THE PUBLIC, BUT THE RIGHT TO USE SAID EASEMENTS IS HEREBY PERMANENTLY RESERVED FOR PUBLIC UTILITIES AND FOR SUCH OTHER USES AS ARE DESIGNATED HEREON AND THAT NO STRUCTURES OTHER THAN FOR SUCH UTILITY PURPOSE ARE TO BE ERRECTED 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.

BY: HOBART L. ALTER, GENERAL PARTNER OF HPL PARTNERS

SIGNED BY: HOBART P. ALTER, PARTNER AND ATTORNEY IN FACT FOR HOBART L. ALTER

EXHIBIT B

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A78-10067
Date Received: 6/02/1988 5-3-88
Receipt No: C000534

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LEONARD M. WALLACE
Address: BOX 126
NEW MEADOWS, ID 83654 208-347-2446

AND/OR
Name: SHERYL K. WALLACE
Address: BOX 126
NEW MEADOWS, ID 83654 208-347-2446

2. Date of Priority: SEP 01, 1970

3. Source: SPRINGS Trib. to: THREE MILE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of SW	1/4 of NW	1/4 of SW	Lot	County
19N	02E	9					ADAMS

5. Description of diverting works:
TWO DEVELOPED SPRINGS WITH PIPELINE TO PLACE OF USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.080		
IRRIGATION	04/15	10/15	0.200		

7. Total Quantity Appropriated is:
0.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 8.0 Acre Feet Per Annum.

9. Non-irrigation uses:
2 DOMESTICS WITH LAWN IRRIGATION

A78-10067

Page 1

Date: 06/02/88

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10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
19N	02E	8	NE NE	SE SE	DOMEST IRR	4.0
Section Acres						4.0
Total Acres						4.0

11. Place of use in counties: ADAMS

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: BENEFICIAL USE
Water Right Number:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39356
Ident. Number A78-10067
Date Received 5-3-88
Receipt Number 48632 C000534
CF

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Leonard M. and/or Sheryl K Wallace Phone (208) 347-2446
Mailing Address Box 126 New Meadows Zip 83654
2. Date of Priority (Only one (1) per claim) Sept. 1 1970
3. Source of water supply (a) Springs (2)
which is tributary to (b) Three mile Creek
4. a. Location of existing point of diversion is: Township 19N Range 2E Section 9,
SE 1/4 of NW 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Adams
Additional points of diversion if any: T19N R2E Sec 9 SWNW SW
- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Two developed springs
with pipeline to place of use.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Domestic purposes from 1-1 to 12-31 amount 0.08 or _____

For Irrigation purposes from 4-15 to 10-15 amount 0.20 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.20 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 8 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 2 domestics with lawn irrigation

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>19N</u>	<u>2E</u>	<u>8</u>													<u>D</u>				
		<u>8</u>													<u>4</u>				<u>4</u>

Total number of acres irrigated 4

11. In which county (ies) are lands listed above as place of use located? Adams

12. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. _____ or None (☒)

14. Remarks:

Last Name Wallace ~~A 78-10067~~ Ident No. A 78-10067

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15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____

Decree _____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments -1-

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Leonard M. Wallau Date 5-3-88

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)

County of Adams) SS.

Subscribed and sworn (or affirmed) before me this 3rd day of May 19 88

SEAL

Notary Public Carter Fritschle

Residing at Eagle, Id

My Commission Expires 3-21-94

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name Wallace Ident. Number A78-10067

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OCT 05 1992

EXHIBIT C



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 7, 2006

LEONARD M &/OR SHERYL K WALLACE
PO BOX 126
NEW MEADOWS ID 83654

Re: Claim to a Water Right No. 78-10067

Dear Claimants:

In May of 1988, you submitted the above referenced claim in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim for your reference only; this print-out is **NOT** to be returned or re-filed. You have indicated, when this claim was filed, that the water right was based on a "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the "Priority Date" as shown on the enclosed print-out. This claim has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water. Any other claims you may have filed, that are not listed above, do not require evidence of priority be submitted at this time.

Enclosed is a pamphlet entitled "Evidence of Priority" which describes why evidence of the priority date is necessary along with examples of types of evidence that can be submitted to fulfill this requirement. If no evidence is submitted, or we do not hear from you within the time limit below, the priority date, as claimed, may not be recommended to the Court for decree. This could jeopardize the water use under this right, if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible.

The required evidence supporting the priority date must be submitted by **December 14, 2006**, referencing all documents with the corresponding claim number. If you have any questions not covered by this letter, or the enclosed pamphlet, please feel free to call me at 287-4953.

Sincerely,

Kay Walker
Sr. Water Resource Agent

Enclosures

78-10067



700 0 700 1400 Feet

T19N R02E S08

Map prepared by: Carter Fritschle
Date prepared: 06/16/06
2004 NAIP Photography
Idaho Department of Water Resources



EXHIBIT D

DEC 1 1970

We the undersigned do hereby state that the priority date of September 1, 1970 is correct for water right # 78-10067 which held by Leonard & Sheryl Wallace, P.O. Box 126, New Meadows, Idaho 83654 and it has been used every day & year since 1970.

- Everett Osborn Box 209 New Meadows Id
- Tessie Osborn Box 209 New Meadows Id

IF THIS DOES NOT
FILL THE REQUIREMENT
FOR PRIORITY DATE OF
MY WATER RIGHT
PLEASE ADVISE
LEONARD WALLACE
P.O. BOX 126
NEW MEADOWS
IDAHO
83654

EXHIBIT E

12/19/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 78-10067

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

SHERYL K WALLACE
PO BOX 126
NEW MEADOWS ID 83654

SOURCE: SPRINGS TRIBUTARY: THREEMILE CREEK

QUANTITY: 0.160 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 S9 SENWSW Lot 3 Within ADAMS County

T19N R02E S9 SENWSW Lot 3 Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.080 CFS
IRRIGATION	04/01 10/31	0.080 CFS
Domestic use is for 2 homes.		

PLACE OF USE: IRRIGATION in ADAMS County

T19N R02E S08 NESE 4.00

DOMESTIC in ADAMS County

T19N R02E S08 NESE

4 ACRES TOTAL

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

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. Section 42-1412(6), Idaho
Code.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



Idaho Department of Water Resources

SRBA Recommendation:

78-10067

(Irrigation)

Legend

Point of Diversion



Place of Use



Townships



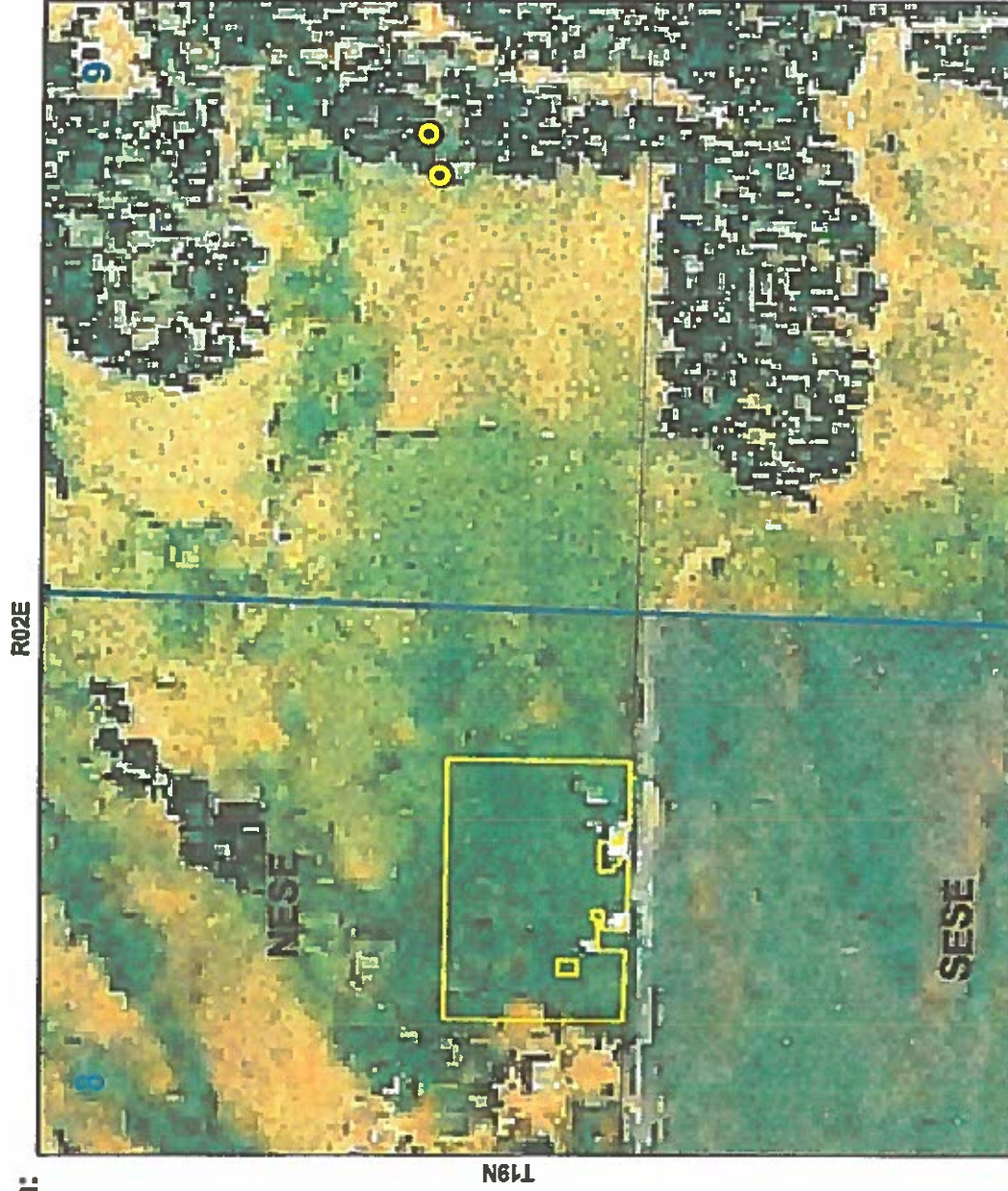
PLS Sections



Quarter Quarters



Adams County
IDWR Basin 78



0 0.1 0.2 Miles



Prepared by K. Walker
On Tuesday, December 19, 2006
1987/88 Aerial Photography

EXHIBIT F

QUITCLAIM DEED

INSTRUMENT NO. 97631
PAGE 1 OF 3

For Value Received LEONARD M. WALLACE as Successor Trustee of
THE CHARLES WALLACE TRUST
Under Trust Agreement dated March 6, 1997

does hereby convey, release, remise and forever quitclaim unto

LEONARD M. WALLACE and SHERYL K. WALLACE,
Husband and wife

whose current address is Box 126, New Meadows, ID 83654

the following described premises, to-wit:

See attached Exhibit A

together with their appurtenances.

Dated: 3-13-2000

THE CHARLES WALLACE TRUST
Under Trust Agreement dated March 6, 1997

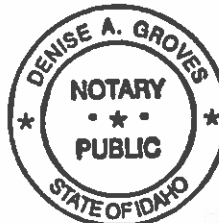
Leonard M. Wallace
LEONARD M. WALLACE, Successor Trustee

STATE OF IDAHO)
COUNTY OF Adams) ss

On this 13 day of March 2000,
before me, a Notary Public in and for said State,
personally appeared LEONARD M. WALLACE,
known or identified to me to the Successor Trustee
of THE CHARLES WALLACE TRUST under
Trust Agreement dated March 6, 1997 that executed
this instrument or the person who executed the
instrument on behalf of said Trust, and acknowledged
to me that such Trust executed the same.

Denise A. Groves
Notary Public

Residing at: Adams County, ID
Commission Expires: 06-27-2002



INSTRUMENT NO. 97631
State of Idaho) ss.
County of Adams)
Filed for record at the request of
Timberline Title & Escrow
this 46 mly. past 3 o'clock P M
this 13 day of March 20 00
by Michael Fisk RECORDER
Deputy
Fee \$ 9.00

EXHIBIT A

A parcel of land situated in the E1/2SE1/4, Section 8, Township 19 North, Range 2 East, Boise Meridian, Adams County, Idaho, 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 degrees 27'23" West 1,272.31 feet along the line common to said Sections 8 and 9;

Thence North 89 degrees 32'24" West 247.33 feet to an existing fence line, the REAL POINT OF BEGINNING;

Thence continuing North 89 degrees 32'24" West 522.20 feet along said existing fence line;

Thence North 00 degrees 17'00" East 417.40 feet along said existing fence line;

Thence South 89 degrees 32'24" East 522.20 feet along said existing fence line;

Thence South 00 degrees 17'00" West 417.40 feet along said existing fence line to the POINT OF BEGINNING.

SUBJECT TO road and power line easements of record.

A parcel of land situated in the NW1/4SW1/4 and the NE1/4SW1/4, Section 8, Township 19 North, Range 2 East, Boise Meridian, Adams County, Idaho, more particularly described as follows:

Commencing at a 5/8" rebar marking the SW 1/16 corner of Section 8, Township 19 North, Range 2 East, Boise Meridian, Adams County, Idaho, the REAL POINT OF BEGINNING;

Thence North 89 degrees 44'00" West 45.15 feet along the Southerly boundary of said NW1/4SW1/4 to a 5/8" rebar;

Thence North 00 degrees 42'00" West 462.24 feet along an existing fence line to a 5/8" rebar;

Thence South 88 degrees 22'22" East 477.90 feet along an existing fence line to a 5/8" rebar;

Thence South 02 degrees 48'12" East 457.09 feet along an existing fence line to the Southerly boundary of said NE1/4SW1/4;

Thence North 89 degrees 44'00" West 449.22 feet to the POINT OF BEGINNING.

SUBJECT TO easements and rights-of-way of use or record.

EXCEPTING County Road right-of-way.

Formerly described as:

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:

Beginning at the Southeast corner of said Section 8;

Thence North 1276.1 feet;

Thence North 89° 54' West 264.4 feet to the REAL POINT OF BEGINNING;

Thence North 89° 54' West 93.5 feet;

Thence North 208.7 feet;

Thence North 89° 54' West 208.7 feet;

Thence South 208.7 feet;

Thence North 89° 54' West 219.5 feet;

Thence North 417.4 feet;

Thence South 89° 54' East 521.7 feet;

Thence South 417.4 feet to the REAL POINT OF BEGINNING.

TRACT 2

Township 19 North, Range 2 East, Boise Meridian, Adams County, Idaho

Section 8: A parcel of land situated in the NE1/4SW1/4 more particularly described as follows:

Beginning at the Southeast corner of said Section 8;

Thence North 1316.1 feet;

Thence North 89° 54' West 3481.6 feet to the REAL POINT OF BEGINNING;

Thence North 89° 54' West 466.7 feet;

Thence North 466.7 feet;

Thence South 89° 54' East 466.7 feet;

Thence South 466.7 feet to the REAL POINT OF BEGINNING.