Protest Documentation

Apr. 19, 2006 – Jun. 07, 2007

FOLDER #1

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BRENT T. ROBINSON
JASON D. WALKER

KELLY ARTHUR ANTHON
MICHBAEL P TRIBE

ROGER D. LING, OF COUNSEL

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

RECEIVED
JUN 16 2006
DEPARTMENT OF
WATER RESOURCES

June 14,2006

Karl J. Dreher, Director
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RE: **In the Matter of Applications for Permit Nos. 15-7273, 15-7274, and 15-7275 in the name of M. J. Davis Memorial Limited Partnership**

Dear Mr. Dreher:

Enclosed is a *Notice of Substitution of Counsel* for filing in the above-referenced matter on behalf of our client Samaria Water and Irrigation Company, Protestant. Thank you.

Very truly yours,

Roger D. Ling

RDL:jb

enc

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**NOTICE OF SUBSTITUTION OF COUNSEL**

TO: THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES, GARY SPACKMAN, HEARING OFFICER, AND RANDALL C. BUDGE, ATTORNEY FOR APPLICANT

YOU ARE HEREBY NOTIFIED that Samaria Water and Irrigation Company, the protestant in the above-entitled matter, has substituted Roger D. Ling of the firm Ling, Robinson & Walker, Attorneys at Law, of P. O. Box 396, Rupert, Idaho 83350, as its attorney of record in the above-entitled action in the place and stead of Kent W. Foster of the firm Holden, Kidwell, Hahn & Crapo, P.L.L.C., of P. O. Box 50130, Idaho Falls, Idaho 73405.

YOU ARE FURTHER NOTIFIED that all papers and documents in said action are to be served on Roger D. Ling of Ling, Robinson & Walker.

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

DATED this 9th day of June, 2006

LING, ROBINSON & WALKER

By: _____
Roger D. Ling
Michael P. Tribe

CONSENTS

I, Kent W. Foster, hereby consent to the substitution of Roger D. Ling of the firm Ling, Robinson & Walker as attorney of record for the protestant Samaria Water and Irrigation Company in the above-entitled matter in my place and stead.

DATED this 12th day of June, 2006.

HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

By: _____
Kent W. Foster

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of June, 2006, I served a true and correct copy of the foregoing *Notice of Substitution of Counsel* upon:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

Delon and Paula Atkinson
5166 S. 4600 W.
Malad, Idaho 83252

Douglas and Kathryn Atkinson
4605 W. 4500 S.
Malad, Idaho 83252

Sharon R. Atkinson
(no address listed)

Lynn R. Davis
707 E. Vanessa Lane
Garden City, Utah 84028

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Joseph W. Lindsey
5064 S. 4600 W.
Malad, Idaho 83252

Nancy McKinney
4565 W. 4600 S.
Malad, Idaho 83252

Tim and Wendy Pope
4753 W. 500 S.
Malad, Idaho 83252

Dale W. and Lynette G. Price
4491 W. 4700 S.
Malad, Idaho 83252

Merrill and Twylla Price
4909 S. 4400 W.
Malad, Idaho 83252

Evan P. and Phyllis W. Price
(no address listed)

David Reel
5176 S. 4400 W.
Malad, Idaho 83252

Samaria Recreation District
Samaria Cemetery District
Samaria Residents
(no addresses listed)

M. Elaine Driessen
4898 S. 4700 W.
Malad, Idaho 83252

Willard J. and Kay Higley
4010 S. Samaria Road
Malad, Idaho 83252

Cynthia Hill
4860 S. 4400 W.
Malad, Idaho 83252

Clarence R. Hughes
4030 W. Samaria Road
Malad, Idaho 83252

Darhl Hughes
5196 S. 4400 W.
Malad, Idaho 83252

Clara B. Jensen
(no address listed)

Steve and Sherrie W. Johnson
230 W. 200 N.
Malad, Idaho 83252

Russell and Bula Sortor
4016 S. 4600 W.
Malad, Idaho 83252

Amy Sylvester
4595 W. 500 S.
Malad, Idaho 83252

Dee O. Tolman
(no address listed)

Brad Warren
5199 S. 4600 W.
Malad, Idaho 83252

Brandi Warren
5196 S. 4600 W.
Malad, Idaho 83252

Vickie Warren
(no address listed)

Blanche L. Williams
5184 S. 4600 W.
Malad, Idaho 83252

by depositing copies thereof in the U.S. Mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.

Roger D. Ling
Michael P. Tribe

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

LAW OFFICES OF

RACINE OLSON NYE BUDGE & BAILEY CHARTERED

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
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JOHN R. GOODELL*
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BOISE OFFICE

101 SOUTH CAPITOL
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BOISE, IDAHO 83702
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IDAHO FALLS OFFICE

477 SHOUP AVENUE
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IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
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*ALSO MEMBER WY & IL BARS
**ALSO MEMBER UT BAR
†ALSO MEMBER D. C. BAR
††ALSO MEMBER MO BAR
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‡ALSO MEMBER CA BAR

RECEIVED
MAY 12 2006
DEPARTMENT OF
WATER RESOURCES

May 10, 2006

Gary Spackman, Hearing Office
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: M.J. Davis Memorial Limited Partnership
Application for Permit Nos. 15-7273, 15-7274 and 15-7275

Dear Mr. Spackman:

Enclosed for filing please find Applicant's Second Interrogatories and Requests for Production of Documents to Protestant Samaria Water & Irrigation Company.

Sincerely,

Randy Budge

RANDALL C. BUDGE

RR

RCB:rr
cc: Jeff Davis/M.J. Davis Memorial Limited Partnership
All Parties per Certificate of Mailing
Roger Warner, Eastern Region/IDWR

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS.15-7273, 15-7274 AND 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP.	**APPLICANT'S SECOND INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO PROTESTANT SAMARIA WATER & IRRIGATION CO.**

TO: PROTESTANT SAMARIA WATER & IRRIGATION COMPANY AND THEIR ATTORNEY OF RECORD KENT FOSTER

COMES NOW Applicant M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP (hereinafter "Applicant"), by and through counsel, and pursuant to I.R.C.P. Rules 33, 34 and Rules 520, 524, I.D.W.R. Rules of Procedure, IDAPA 37.01.01, submit the following Interrogatories and Requests for Production of Documents to the above-named Protestant. You are directed to Answer and Respond to the following Interrogatories and Request for Production of Documents within fifteen (15) days of service upon you. Further, these Interrogatories are deemed to be continuing and should you at any time acquire additional information you are to supplement these Interrogatories.

INTERROGATORIES

INTERROGATORY NO. 11: With regard to the Samaria Water & Irrigation Co. "Affidavit Questions", copy of which is attached, please indicate who prepared this questionnaire and the names, addresses and phone numbers of each person to whom the questionnaire was provided, indicating who responded and who did not.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 4: Please produce a list of all persons or entities to which the attached "Affidavit Questions" were disseminated and produce copies of all responses and answers provided.

REQUEST FOR PRODUCTION NO. 5: Please produce copies of the Purchase and Sale Agreement, Minutes and all other records relating to the purchase of "The Samaria and Southwest Mountain Water Irrigation Company" by Samaria Water & Irrigation Co., which occurred on or about July 3, 1893.

DATED this 9th day of May, 2006.

RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 9 day of May, 2006, I mailed a true and complete copy of Applicant's Second Interrogatories and Requests for Production of Documents, postage prepaid, to the following:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Kent Foster
Holden, Kidwell, Hahn & Crapo
Samaria Water and Irrigation Company
P.O. Box 50130
Idaho Falls, Idaho 83405

Randall C. Budge
RANDALL C. BUDGE

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name:_____

   Address:_____

   Phone No.:_____

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? _____

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other _____

_____

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. _____ Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

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Page 2 Affidavit Questions (no. 5 cont.)

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Was there authorized use of water any where above the township lines of Samaria which is also the line of usage as used by the IDWR Platt. If so who and on what property and how many shares?_____

_____

_____

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? _____

_____

_____

_____

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

_____

_____

_____

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

_____

Page 3 Affidavit Questions

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why?

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria?

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Page 4 Affidavit Quesnel

Questions for past and present Board members. Water Masters. or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs?

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

Page 5 Affidavit Quesuon:

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. _____

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

22. Did you remove any dams or other obstructions from the company ditch on his property? _____

Further was this done more than one time? If so when? Year? _____

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? _____

LAW OFFICES OF

RACINE OLSON NYE BUDGE & BAILEY CHARTERED

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

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477 SHOUP AVENUE
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IDAHO FALLS, ID 83402
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May 10, 2006

Gary Spackman, Hearing Office
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

RECEIVED
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Department of Water Resources
Eastern Region

Re: M.J. Davis Memorial Limited Partnership
Application for Permit Nos. 15-7273, 15-7274 and 15-7275

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Sincerely,

RANDALL C. BUDGE

RCB:rr
cc: Jeff Davis/M.J. Davis Memorial Limited Partnership
All Parties per Certificate of Mailing
Roger Warner, Eastern Region/IDWR

Randall C. Budge, ISB No. 1949
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Attorney for M.J. Davis Memorial Limited Partnership

RECEIVED
MAY 11 2006
Department of Water Resources
Eastern Region

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OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS.15-7273, 15-7274 AND 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP.	**APPLICANT'S SECOND INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO PROTESTANT SAMARIA WATER & IRRIGATION CO.**

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By Randall C. Budge
RANDALL C. BUDGE

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Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Kent Foster
Holden, Kidwell, Hahn & Crapo
Samaria Water and Irrigation Company
P.O. Box 50130
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Randall C. Budge
RANDALL C. BUDGE

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   Name:_____

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_____

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. _____ Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

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_____

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map included?

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Page 4 Affidavit Quesnel

Questions for past and present Board members. Water Masters. or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today, are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs?

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Please describe such conditions. _____

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If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

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Describe the out come if you were personally involved in such as you remember it.
_____

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

(Natural or otherwise)

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24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? _____

WR

LAW OFFICES OF

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DANIEL C. GREEN**
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KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D.†
DAVID E. ALEXANDER††
LANE V. ERICKSON**
LISA M. CHRISTON†††
PATRICK N. GEORGE
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STEPHEN J. MUHONEN
BRENT L. WHITING
LISA R. TANNER‡
JUSTIN R. ELLIS
JOSHUA D. JOHNSON†††
JONATHON S. BYINGTON

BOISE OFFICE

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE

477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

*ALSO MEMBER WY & IL BARS
**ALSO MEMBER UT BAR
†ALSO MEMBER D. C. BAR
††ALSO MEMBER MO BAR
†††ALSO MEMBER IL BAR
‡ALSO MEMBER CA BAR

May 10, 2006

RECEIVED
MAY 11 2006
Department of Water Resources
Eastern Region

Kent Foster
Holden, Kidwell, Hahn & Crapo
P.O. Box 50130
Idaho Falls, Idaho 83405-0130

Re: Samaria Water & Irrigation Company - Jeff Davis Water Rights

Dear Kent:

This will follow up on the voice mail message left you last Friday afternoon.

I elected to cancel the deposition of John Roderick scheduled for last Friday, May 5, at 1:00 p.m. at his home. Upon arriving a few minutes early to meet Mr. Roderick and explain the deposition, I met with him, his daughter Patsy Bybee and her husband Andrew and learned that his health and memory were deteriorated following what apparently was a minor stroke a couple of weeks ago. This caused his doctor to express concern and recommend he not be further bothered to avoid adversely affecting his health. Under the circumstances, I did not comfortable or that it was appropriate to proceed and cancelled the deposition. I advised company representatives, John Evans and Dale Price and the court reporter Paul Buchanan that had arrived.

Enclosed please find Applicant's additional discovery requests seeking from Samaria Water & Irrigation Co. minor additional information primarily relating to its recently-circulated "Affidavit Questionnaire".

After reviewing the Company's Application for Preliminary Permit to FERC, I can't help but think the real reason Samaria is so adamantly opposed to Jeff Davis's Applications is that the issuance of his permits would have priority over any hydro rights the company might obtain. In any case, it will be necessary for Davis to petition for intervention and protest both the FERC

Application and the IDWR Application for a Hydropower Water Right, which I understand you are in the process of filing. Please provide me with a copy of that application once it's filed.

Following the cancellation of the deposition, I took the opportunity to inspect the Davis property and the Samaria Creek drainage and visit with some of the water users. Several points jumped out which to share with you.

First, while there is a fair amount of water flowing in the upper reaches, nothing was making it to the townsite. Information received indicated that only in good water years does any water ever make it down Samaria Creek to the townsite. What does make it down is used by shareholders, as a result of which there is little if any contribution ever made from Samaria Creek to the Samaria Canal or "big ditch". In the last 7 or 8 years of drought, water has only made it to the townsite perhaps three times and that small amount was fully used by users along Samaria Creek. Furthermore, whatever mountain water makes it to the townsite occurs only very early in the season with significantly diminished amounts after June, requiring rotation by the couple of shareholders that use it. All of that indicates there would be sufficient water available to satisfy Davis's proposed new permits very early in the season and later when any call by the senior rights of Samaria Water & Irrigation Co. would be futile.

Second, from observing the ditches from Thomas Davis, Dry Pine and Rosebud Creeks which follow the contours of the land, as well as the land immediately below the ditches that would be susceptible to flood irrigation, it certainly appears that the ditches were most likely constructed to facilitate providing water to those lands below the ditch now owned by Davis. The fact that Samaria Water & Irrigation Co., purchased on or about July 13, 1893 "The Samaria and Southwest Mountain Water Irrigation Co." to acquire the mountain water and take in the mountain shareholders is further evidence that water from those streams was historically used to irrigate in that area. Otherwise Davis's predecessors in interest would not have received water shares in the company appurtenant to those lands, which shares were subsequently transferred to Davis.

Third, if Davis was allowed to use his Samaria shares in the mountain areas as he desires, his reliance upon the Samaria Canal water would be reduced, making more water there for other shareholders.

Fourth, unauthorized work done by the Company on Davis's property is surprising, disturbing and has created problems that need to be rectified. It is my understanding that as long as the ditches have been in existence, probably upwards of 100 years, all of the water from Thomas Davis and Rosebud and Dry Pine have been diverted into the ditches on a year-round basis and the natural channel completely dried up. At least since 1998 when Davis acquired the property from his parents, there has been no mechanical ditch maintenance at all on his property and apparently there was little need for it. Various individuals who use Samaria shares above the "big ditch" would occasionally do minor cleaning with shovels which caused little erosive or esthetic impact. For reasons unknown, other than perhaps to facilitate the Company's new-found interest in cleaning the

ditches in Davis's property, the Company turned the water back into the natural channel sometime last fall. That required that they install a headgate and cut the water out of the ditch back into the natural channel. Davis did give the Company the okay to go onto his property to do this at the point where the ditch comes out of Thomas Davis Creek. Rather than making it the installation at this location, for unknown reasons, the Company apparently went in with a backhoe and did excavation and installed culverts and headgates downstream a distance of perhaps 100 to 200 feet. As a result, water goes over a steep embankment dropping perhaps 10 to 15 feet into the natural steam causing considerable erosion which is continuing. They did the same thing in Dry Pine some 1-200 yards down stream from the point the ditch diverts the natural stream causing the water to flow down a steep embankment causing considerable erosion over an even great distance. Presumable the same occurred at Rose Bud Creek. I understand these locations were definitely not approved by Terry Blau, IDWR's stream channel protection person who had instructed the diversions be at the natural channel location. Within the Davis property on Thomas Davis Creek it is requested that the Company repair the damage and move the diversion upstream to where the ditch diverts from the natural channel. Jeff Davis want to be present to over see the work to insure further damage does not occur and arrangements can be made directly with him to set a time and provide access.

Fifth, we also observed that the Company had cut Davis's fence (which was still unrepaired) to access Davis's property and clean the contour ditch coming from Dry Pine and Rosebud Creeks, all without notice, permission or prior arrangement. To make sure we didn't run into this type of problem and to make sure that any cleaning work was authorized in advance and that Jeff would have an opportunity to observe and supervise, he specifically told the Company water master, Luke Waldron, that the Company was not to go on his property without prior arrangements in order to maintain the status quo. Jeff did so at my advice to maintain the status quo and avoid confrontation and escalation of some of the already highly elevated feelings certain shareholders have. I believe you and I also discussed this previously. If there was some urgent need for maintenance, it certainly is not apparent. Nor is there evidence of any cleaning or maintenance anywhere outside of Davis's property. Certainly, Jeff Davis deserves common courtesies and his private properties are entitled to the same respect and protection that other shareholders would expect for their own.

Quite frankly, I see no reason to expect that the Department will not issue the permits Davis applied for. Since such permits would be issued subject to all prior rights and inasmuch as Davis fully acknowledges that he would be subject to and called out by the senior rights of the Company. Delivery of Davis' rights would be available only early season and later during times of futile call. It would seem that the Company's forcing Davis through a contested hearing would only serve to run up the legal expense of both parties and escalate bad feelings that exist. Whether it be the hydro plant or something else, it is quite obvious other motivations exist as common courtesies and reaons are lacking.

The issuance of Davis's proposed new Permits will not solve the question concerning the place of use of the Company's shares on Davis's property in the Thomas Davis area, nor resolve Davis's pending protests to the Company's FERC Application and Hydropower Water Right

Application. Notwithstanding, I am firmly convinced that reasonable minds, common sense and a bit of compromise can and should give rise to practical solutions. Solutions would avoid extensive legal costs, provide certainty and moves towards restoring good neighborly relations. To that end, we would propose a meeting between the Company, Davis and counsel prior to the hearing. Please advise.

Sincerely,

RANDALL C. BUDGE

RCB:rr
Enclosues
cc: M.J. Davis Memorial Limited Partnership/Jeff Davis
Roger Warner/IDWR

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.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 8, 2006

SHIRLEY BLAISDELL
ONEIDA COUNTY RECORDERS OFFICE
10 COURT ST
MALAD CITY ID 83252

Re: Acknowledgement of room reservation

Dear Ms. Blaisdell:

According to our telephone conversation on May 4, 2006, I am acknowledging that the Idaho Department of Water Resources has reserved the conference room at the Oneida County's Road and Bridge building, located at 560 Main Street, Malad City, Idaho, on June 29 and 30, 2006, beginning at 9:00 a.m.

For your information, I am providing you a copy of the Order Authorizing Discovery, Prehearing Order, and Notice of Hearing issued by the department regarding the applications for permits in the name of M. J. Davis Memorial Limited Partnership. Therefore, the hearing officer, Gary Spackman, will arrive at that office at approximately 8:00 a.m. to set up the room for the hearing. He will require at least four or more tables and enough chairs to accommodate 20 or more people. If these can be provided, or are located in the conference room, he will arrange them appropriately. The hearing will be recorded, and is open to the public to attend.

Thank you for your assistance. If you have any questions, please contact me at (208) 287-4942.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

SENDER: COMPLETE THIS SECTION

- Complete items and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

MICHAEL W OLSEN
DEE'S INCORPORA
777 EAST 2100 S
SALT LAKE CITY

15-7273

7005 1160

PS Form 3811, July 1999

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Plea t Clearly) B. Date of Delivery 5-8-06

C. Signature
X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes

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1. Article Addressed to:

SAMARIA WATER & IRRIGATION CO
ATTN KENT W FOSTER
HOLDEN KIDWELL
PO BOX 50130
IDAHO FALLS ID 83405

15-7273

2. 7005 1160 0000 1544 3597

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Plea t Clearly) B. Date of Delivery 5-8-06

C. Signature
X Jessica Patterson ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☑ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

102595-00-M-0952

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

M J DAVIS MEMORIAL LTD
ATTN RANDALL C BUDGE
RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391

15-7273

2. Articl 7005 1160 000

PS Form 3811, July 1999 D

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Plea t Clearly) B. Date of Delivery
CHRISOELOWNS MAY 0 9 2006

C. Signature
X [signature] ☑ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☑ No

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SENDER: COMPLETE THIS SECTION

- Complete items and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

WILLARD J HIGBY
SAMARIA RECREATION &
CEMETERY DISTRICTS
4010 W SAMARIA RD
MALAD ID 83252

15-7273

2 7005 1160 0000 1544 3573

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Plea t Clearly) B. Date of Delivery
WILLARD HIGBY 05/09/06

C. Signature
X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

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Sent To: WILLARD J HIGBY
SAMARIA RECREATION &
CEMETERY DISTRICTS
Street, Apt. No., or PO Box: 4010 W SAMARIA RD
City, State, ZIP+4: MALAD ID 83252

PS Form 3800, June 2002 See Reverse for Instructions

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Sent To: M J DAVIS MEM LTD PARTNERSHIP
ATTN RANDALL C BUDGE
Street, Apt. No., or PO Box: RACINE OLSON
PO BOX 1391
City, State, ZIP+4: POCATELLO ID 83204-1391

PS Form 3800, June 2002 See Reverse for Instructions

7005 1160 0000 1544 3580

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dg

Sent To: MICHAEL W OLSEN
DEE'S INCORPORATED
Street, Apt. No., or PO Box: 777 EAST 2100 SOUTH
City, State, ZIP+4: SALT LAKE CITY UT 84106

PS Form 3800, June 2002 See Reverse for Instructions

7005 1160 0000 1544 3597

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	

5/5/06

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dg

Sent To: SAMARIA WATER & IRRIG CO
ATTN KENT W FOSTER
Street, Apt. No., or PO Box: HOLDEN KIDWELL
PO BOX 50130
City, State, ZIP+4: IDAHO FALLS ID 83405

PS Form 3800, June 2002 See Reverse for Instructions

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT TO APPROPRIATE WATER NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**ORDER AUTHORIZING DISCOVERY, PREHEARING ORDER, AND NOTICE OF HEARING**

The applicant, M. J. Davis Memorial Limited Partnership, moved to compel discovery. The hearing officer interprets the motion as a request for an order authorizing discovery. The hearing officer will also establish a schedule for conducting discovery.

ORDER

IT IS HEREBY ORDERED that the parties may engage in discovery as follows:

1. General discovery can begin immediately.

2. On or before May 12, 2006, each party must disclose to all other parties, in writing, the identity of all expert witnesses that will or may testify at the hearing.

3. All written discovery requests shall be served on or before May 19, 2006. Answers to written discovery must be served on the requesting party on or before June 2, 2006.

4. Written requests for discovery must be either interrogatories or requests for documents. (Requests for admission are not allowed). No more than 10 interrogatories, may be served by any party (or the attorney for several parties) on another party, and no more than 10 unanswered interrogatories served by any party (or the attorney for several parties).may be pending. Each question posed will be considered as one interrogatory.

5. All depositions shall be complete on or before June 12, 2006.

IT IS FURTHER ORDERED that, on or before June 19, 2006, each party shall serve on all other parties copies of exhibits that may be offered at the hearing.

NOTICE OF HEARING

PLEASE TAKE NOTICE that a formal hearing will be held on **June 29, 2006, beginning at 9:00 a.m. and may continue on June 30, 2006,** at the **Onieda County Road &**

Bridge Building's Conference Room at 560 S. Main (across from Fairgrounds), Malad, Idaho. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the department's Rules of Procedure requires that a copy be provided to each party and to the presiding officer.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department. IDAPA 37.01.01. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in accordance with the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing. Inquires about scheduling, hearing facilities, etc., should be directed to Deborah Gibson, Administrative Assistant, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4942, fax: (208) 287-6700.

All parties appearing in this matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the appropriation of water this application has bearing on, during the course of this hearing.

Dated this 4th day of May, 2006.

Gary Spackman
Hearing Officer

CORRECTED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of May, 2006, a true and correct copy of the documents described below were served on the following as noted:

Document(s) Served: Order Authorizing Discovery, Prehearing Order, and Notice of Hearing

M J DAVIS MEM LTD PARTNERSHIP
ATTN RANDALL C BUDGE
RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391

(✓) U.S. Mail, Postage Prepaid
(✓) Facsimile
( ) E-mail

SAMARIA WATER & IRRIGATION CO
ATTN KENT W FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405

(✓) U.S. Mail, Postage Prepaid
( ) Facsimile
( ) E-mail

MICHAEL W OLSEN
DEE'S INCORPORATED
777 EAST 2100 SOUTH
SALT LAKE CITY UT 84106

(✓) U.S. Mail, Postage Prepaid
( ) Facsimile
( ) E-mail

WILLARD J HIGBY
SAMARIA RECREATION & CEMETERY
DISTRICTS
4010 W SAMARIA RD
MALAD ID 83252

(✓) U.S. Mail, Postage Prepaid
( ) Facsimile
( ) E-mail

Deborah J. Gibson
Administrative Assistant

LAW OFFICES OF

RACINE OLSON NYE BUDGE & BAILEY CHARTERED

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN**
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D.†
DAVID E. ALEXANDER††
LANE V. ERICKSON**
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BRENT L. WHITING
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JUSTIN R. ELLIS
JOSHUA D. JOHNSON†††
JONATHON S. BYINGTON

BOISE OFFICE

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
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477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

*ALSO MEMBER WY & IL BARS
**ALSO MEMBER UT BAR
†ALSO MEMBER D. C. BAR
††ALSO MEMBER MO BAR
†††ALSO MEMBER IL BAR
‡ALSO MEMBER CA BAR

April 17, 2006

Gary Spackman, Hearing Office
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: M.J. Davis Memorial Limited Partnership
Application for Permit Nos. 15-7273, 15-7274 and 15-7275

Dear Mr. Spackman:

The above-referenced matter is scheduled for hearing before you on May 24 at the Pocatello Airport commencing at 9:00 a.m. I represent the applicant, Kent Foster represents protestant Samaria Irrigation Company and the other protestants are pro se.

Attached please find the Applicant's Motion to Compel Discovery and attached Discovery Requests consisting of ten interrogatories, three requests for production and a notice of taking deposition.

The interrogatories and requests for production of documents have been modified from prior discovery requests you've seen from me in other cases to comply with your Order Authorizing Discovery and Prehearing Order entered February 16, 2006, in the matter of the Application of Johnson Ranch Resort, L.L.C.

The proposed deposition of John Roderick has been to accommodate the schedule of Kent Foster, the only other attorney involved, with all other protestants residing in or around Samaria where the deposition will be taken. Mr. Roderick is 98 years of age and unable to attend the hearing because of his advanced age and deteriorated health. He is believed to have important facts relevant

to the issues as a former president of Samaria Water and Irrigation Company for some 29 years.

Under the circumstances, I respectfully request that you promptly act upon the Order Authorizing Discovery without delay so that the deposition can proceed as scheduled and protestants will have an opportunity to respond to these discovery requests to permit the applicant with a full and fair opportunity to prepare for the hearing. If you have any questions or concerns, please contact me. The foregoing has been discussed with Mr. Foster who expresses no objection. This letter, the Motion and the proposed Discovery is being simultaneously served upon all protestants per the certificate of mailing.

Thank you for your consideration.

Sincerely,

RANDALL C. BUDGE

RCB:rr
cc: Jeff Davis/M.J. Davis Memorial Limited Partnership
All Parties per Certificate of Mailing
Roger Warner, Eastern Region/IDWR

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274 and 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**MOTION TO COMPEL DISCOVERY**

COMES NOW Applicant, M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP ("Applicant"), through counsel, and moves the presiding Hearing Officer pursuant to Rules 521 and 522 of the Rules of Practice and Procedure of IDWR, IDAPA 37.01.01 for the entry of an Order authorizing and compelling discovery in accordance with the procedure and time tables of the Idaho Rules of Civil Procedure. Specifically, Applicant requests authorization to file and compel Protestants herein to answer the attached First Interrogatories, Requests for Production of Documents and take the deposition of witness John Roderick of Samaria, Idaho, pursuant to the attached Notice of Taking Deposition. This Motion is made upon the grounds and for the reasons as follows:

1. Applicant has a pending Applications for Permit Nos. 15-7273, 15-7274 and 15-7275 which have been protested by Samaria Water and Irrigation Company represented by Kent

Foster, Dee's Incorporation, Samaria Recreation District, Samaria Cemetery District and Samaria Residents.

2. The Applications and Protests are scheduled for hearing before a Department Hearing Officer on May 24 at 9:00 a.m. at the Pocatello Airport.

3. Protestants have made general allegations of injury to water rights, that the Applications will reduce the quantity of water under existing water rights, that the water supply is insufficient for the purpose, and that it will conflict with the local public interests. However, the exact nature and extent of these protests and any injury has not been set forth in the protests and is unknown.

4. The requested Interrogatories and Requests for Production of Documents are reasonable and necessary to determine and evaluate the basis upon which Protestants object to this transfer and to enable Applicant to adequately prepare for hearing.

5. The deposition of witness John Roderick is necessary because he is 98 years of age and is unable to leave his home in Samaria to attend the hearing due to his advanced age and deteriorated health. As the former president of Samaria Irrigation Company for some 29 years, it is believed that Mr. Roderick has extensive knowledge regarding the historic use of water which is the subject matter of the Applications and Protests.

WHEREFORE, Applicant respectfully requests that the Presiding Hearing Officer immediately act upon this motion without delay and enter an Order authorizing the attached discovery and compelling the Protestants timely respond to the same in compliance with the Idaho Rules of Civil Procedure.

DATED this 17th day of April, 2006.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE
Attorney for Applicant

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS.15-7273, 15-7274 AND 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP.	**APPLICANT'S FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO PROTESTANTS**

TO: ALL PROTESTANTS AND THEIR ATTORNEYS OF RECORD PER ATTACHED CERTIFICATE OF MAILING

COMES NOW Applicant M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP (hereinafter "Applicant"), by and through counsel, and pursuant to I.R.C.P. Rules 33, 34 and Rules 520, 524, I.D.W.R. Rules of Procedure, IDAPA 37.01.01, submit the following Interrogatories and Requests for Production of Documents to the above-named Protestants. You are directed to Answer and Respond to the following Interrogatories and Request for Production of Documents within fifteen (15) days of service upon you. Further, these Interrogatories are deemed to be continuing and should you at any time acquire additional information you are to supplement these Interrogatories.

INTERROGATORIES

INTERROGATORY NO. 1: Please set forth the name, address and phone number of each person who is providing the information to answer each respective interrogatory.

INTERROGATORY NO. 2: Please state the name and address of each person you intend to call as a witness at the hearing of this matter and the substance of each person's expected testimony.

INTERROGATORY NO. 3: Identify by name and address each and every person you intend to call as an expert at the trial of this matter and for each such person the following:

a. The scientific, technical or other specialized knowledge possessed by such person.

b. The knowledge, skill, experience, training and education which qualifies such person as an expert.

c. A brief statement summarizing the facts and data upon which the expert bases his opinion.

d. A brief statement summarizing the opinions and inferences to which the expert may testify and the reasons therefor.

INTERROGATORY NO. 4: For each Protestant, please provide the following information:

a. Full name and current address;

b. A brief summary of your educational background and training and any expertise you may have as an engineer, hydrologist or geologist.

c. A general statement summarizing your experience in irrigating agricultural land.

INTERROGATORY NO. 5: Do you contend that you own water rights which will be injured if the Applicant's Applications for Permit are approved? If your answer is yes, please answer the following for each water right you contend is injured:

a. Indicate the water right number;

b. Provide a copy of each water right or describe the priority date, quantity, point of diversion, place of use and period of use;

c. Describe precisely and in detail how each of your water rights will be injured.

d. Quantify the amount of water you claim your water right will be diminished if the Application is granted and describe precisely and in detail how you calculated each amount.

INTERROGATORY NO. 6: If any of your water rights identified in your answer to Interrogatory No. 5 above were curtailed during any irrigation season from 2001 to date, please indicate for each right and for each year:

a. The date the curtailment began and ended.

b. The reason for the curtailment.

c. The amount of the curtailment.

INTERROGATORY NO. 7: Please describe precisely and in detail how you believe your water rights will be injured if Applications for Permit are approved and what evidence you will present at the time of hearing to prove such injury.

INTERROGATORY NO. 8: Do you contend the approval of Applications for Permit will reduce the quantity of water available under any of your existing water rights? If your answer is yes, please describe precisely and in detail why you believe the quantity of water under existing rights will be reduced, the amount of any such reduction, and all evidence you will

present at the time of trial to prove such quantity of reduction.

INTERROGATORY NO. 9: Do you contend that the approval of this Application will conflict with the local public interests? If your answer is yes, please describe precisely and in detail how you believe the approval of this Application will conflict with the public interests and all evidence you will present at the time of hearing to prove such conflict.

INTERROGATORY NO. 10: Do you contend that the water supply itself is insufficient for the purpose of this Application? If your answer is yes, please describe precisely and in detail why you believe the water supply itself is insufficient for the purpose of the application and all evidence you will present at the time of hearing to prove the water supply is insufficient.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents which pertain to and/or which you base your answer to the above interrogatories.

REQUEST FOR PRODUCTION NO. 2: Produce a copy of all documents which you intend to present as exhibits at the time of hearing.

REQUEST FOR PRODUCTION NO. 3: Please produce any ASCS map or other maps or diagrams which you have available indicating the point of diversion and place of use of each of any water rights which you contend will be injured if Applicant's Applications are approved.

DATED this 17th day of April, 2006.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS.15-7273, 15-7274 AND 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP.	**NOTICE OF TAKING DEPOSITION**

TO: ALL PROTESTANTS AND THEIR ATTORNEYS OF RECORD PER ATTACHED CERTIFICATE OF MAILING

YOU WILL PLEASE TAKE NOTICE that the Applicant will take the testimony on oral examination of JOHN RODERICK pursuant to Rules 26 and 30(a) of the Idaho Rules of Civil Procedure, before an agent of Buchanan Court Reporting Service, a Notary Public, or in case of their inability to act or be present, before some other officer authorized to administer oaths, on the 5th day of May, 2006, at the hour of 1:30 p.m., on said day at 4765 W. Highway 38, Malad, Idaho.

Oral examination will continue from time to time until completed and you are hereby notified to appear and take part in the examination.

DATED this 17th day of April, 2006.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274 and 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 17 day of April, 2006, I mailed a true and complete copy of Motion to Compel Discovery, Applicant's First Interrogatories and Requests for Production of Documents, and Notice of Taking Deposition, postage prepaid, to the following:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Kent Foster
Holden, Kidwell, Hahn & Crapo
Samaria Water and Irrigation Company
P.O. Box 50130
Idaho Falls, Idaho 83405

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Samaria Recreation District
Samaria Cemetery District
Samaria Residents

Willard J. And Kay Higley
4010 S. Samaria Road
Malad, ID 83252

Clarence R. Hughes
4030 W. Samaria Road
Malad, Idaho 83252

Dale W. And Lynette G.Price
4491 W. 4700 S.
Malad, ID 83252

Evan P. and Phyllis W. Price

Merrill and Twylla Price
4909 S. 4400 W.
Malad, ID 83252

Delon and Paula Atkinson
5166 S. 4600 W.
Malad, ID 83252

Blanche L. Williams
5184 S. 4600 W.
Malad, ID 83252

Brad Warren
5199 S. 4600 W.
Malad, ID 83252

Vickie Warren

Nancy McKinney
4565 W. 4600 S.
Malad, ID 83252

Sharon R. Atkinson

Douglas and Kathryn Atkinson
4605 W. 4500 S.
Malad, ID 83252

Brandi Warren
5196 S. 4600 W.
Malad, ID 83252

Clara B. Jensen

Tim and Wendy Pope
4753 W. 5000 S.
Malad, ID 83252

Dee O. Tolman

M. Elaine Driessen
4898 S. 4700 W.
Malad, ID 83252

Russell and Bula Sortor
4016 S. 4600 W.
Malad, ID 83252

Joseph W. Lindsey
5064 S. 4600 W.
Malad, ID 83252

David Reel
5176 S. 4400 W.
Malad, ID 83252

Darhl Hughes
5196 S. 4400 W.
Malad, ID 83252

Steve and Sherrie W. Johnson
230 W. 200 N.
Malad, ID 83252

Lynn R. Davis
707 E. Vanessa Lane
Garden City, UT 84028

Amy Sylvester
4595 W. 500 S.
Malad, ID 83252

Cynthia Hill
4860 S. 4400 W.
Malad, ID 83252

Randall C. Budge

RANDALL C. BUDGE

FOLDER

#2

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT TO APPROPRIATE WATER NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**NOTICE OF HEARING**

On December 16, 2005, M.J. Davis Memorial Limited Partnership, filed Applications for Permits to Appropriate Water, Nos. 15-7273, 15-7274, and 15-7275 with the Idaho Department of Water Resources. Samaria Water & Irrigation Company, Michael W. Olsen for Dee's Incorporated, and Willard J. Higley for Samaria Recreation District, Samaria Cemetery District and Residents of Samaria timely protested the applications.

PLEASE TAKE NOTICE that a formal hearing will be held on **September 6 & 7, 2006, beginning at 9:00 a.m.** at the Oneida County Road & Bridge Building, 560 Main Street, Malad, Idaho. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the department's Rules of Procedure requires that a copy be provided to each party and to the presiding officer.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department, known as IDAPA 37.01.01. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in accordance with the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing. Inquires about scheduling, hearing facilities, etc., should be directed to Deborah Gibson, Administrative Assistant, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4942, fax: (208) 287-6700.

All parties appearing in this matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the appropriation of water this application has bearing on, during the course of this hearing.

DATED this 14th day of July, 2006.

GARY SPACKMAN
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 2006, a true and correct copy of the documents described below were served on the following as noted:

Document(s) Served: Notice of Hearing

M J DAVIS MEM LTD PARTNERSHIP ATTN RANDALL C BUDGE RACINE OLSON PO BOX 1391 POCATELLO ID 83204-1391	(✓) U.S. Mail, Postage Prepaid ( ) Facsimile ( ) E-mail
SAMARIA WATER & IRRIGATION CO ATTN ROGER D LING LING ROBINSON & WALKER PO BOX 396 RUPERT ID 83350-0396	(✓) U.S. Mail, Postage Prepaid ( ) Facsimile ( ) E-mail
MICHAEL W OLSEN DEE'S INCORPORATED 777 EAST 2100 SOUTH SALT LAKE CITY UT 84106	(✓) U.S. Mail, Postage Prepaid ( ) Facsimile ( ) E-mail
WILLARD J HIGLEY SAMARIA RESIDENTS REC & CEMETERY DISTRICTS 4010 W SAMARIA RD MALAD ID 83252	(✓) U.S. Mail, Postage Prepaid ( ) Facsimile ( ) E-mail

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant

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

July 17, 2006

SHIRLEY BLAISDELL
ONEIDA COUNTY RECORDERS OFFICE
10 COURT ST
MALAD CITY ID 83252

Re: Acknowledgement of room reservation

Dear Ms. Blaisdell:

This letter is to acknowledge that the Idaho Department of Water Resources has reserved the conference room located at the Oneida County's Road and Bridges building, located at 560 Main Street, Malad City, Idaho for September 6 & 7, 2006, from 8:00 a.m. to 5:00 p.m.

For your information, I am providing you a copy of the Notice of Hearing issued by the department regarding the matter. The hearing officer, Gary Spackman, and staff from the department's regional office will arrive at approximately 8:00 a.m. to set up the room for the hearing. Please provide four or five tables and enough chairs to accommodate approximately 10 to 15 people. The hearing will be recorded, and is open to the public to attend.

I understand that this conference room does comply with the American's with Disabilities Act. If my understanding is not correct, or if you have any questions, please contact me immediately at (208) 287-4942.

Thank you for your assistance.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure
Cc: Eastern Region (w/encl.)

RECEIVED
JUN 30 2006
DEPARTMENT OF WATER RESOURCES

LAW OFFICES OF

RACINE OLSON NYE BUDGE & BAILEY CHARTERED

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www racinelaw.net

SENDER'S E-MAIL ADDRESS: rcb@racinelaw net

BOISE OFFICE
101 SOUTH CAPITOL BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE
477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN**
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D †
DAVID E. ALEXANDER††
LANE V. ERICKSON**
LISA M. CHRISTON†††
PATRICK N. GEORGE
SCOTT J. SMITH
LISA A. WOOD, CPA
STEPHEN J. MUHONEN
BRENT L. WHITING
LISA R. TANNER‡
JUSTIN R. ELLIS
JOSHUA D. JOHNSON†††
JONATHON S. BYINGTON

*ALSO MEMBER WY & IL BARS
**ALSO MEMBER UT BAR
†ALSO MEMBER D. C. BAR
††ALSO MEMBER MO BAR
†††ALSO MEMBER IL BAR
‡ALSO MEMBER CA BAR

June 27, 2006

Gary Spackman, Hearing Office
Idaho Department of Water Resources
P O. Box 83720
Boise, Idaho 83720-0098

Re. M.J. Davis Memorial Limited Partnership
Application for Permit Nos. 15-7273, 15-7274 and 15-7275

Dear Mr. Spackman:

In response to the Order Continuing Hearing and Prehearing Order dated June 23, 2006, in the above-referenced matter, the following are the Applicant's unavailable dates for hearing during September and October 2006:

September: 1, 4, 11, 18, 25
October: 2, 9, 16, 23, 30

Sincerely,

RANDALL C. BUDGE

RCB:rr
cc: Jeff Davis/M.J. Davis Memorial Limited Partnership
Roger Ling

RECEIVED
JUL
DEPARTMENT OF
WATER RESOURCES

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
615 "H" STREET
P. O BOX 396
RUPERT IDAHO 83350-0396

TELEPHONE 436-4717
FAX 436-6804

BRENT T ROBINSON
JASON D WALKER

KELLY ARTHUR ANTHON
MICHAEL P TRIBE

ROGER D LING OF COUNSEL

June 30, 2006

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P O Box 83720
Boise, Idaho 83720-0098

RE: **In the Matter of Applications for Permit Nos. 15-7273, 15-7274, and 15-7275 in the name of M. J. Davis Memorial Limited Partnership**

Dear Mr. Spackman:

The following are protestant Samaria Water and Irrigation Company's unavailable dates for hearing during September and October, 2006 in response to the *Order Continuing Hearing and Prehearing Order* dated June 23, 2006

September 1, 4, 8, 19, 25-29
October 13-20

Sincerely,

LING, ROBINSON & WALKER

Michael P. Tribe

MPT:jb

pc: Randall C Budge, Esq.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT TO APPROPRIATE WATER NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**ORDER CONTINUING HEARING AND PREHEARING ORDER**

On June 16, 2006, Roger Ling of Ling, Robinson and Walker filed with the Idaho Department of Water Resources (IDWR) a *Notice of Substitution of Counsel* for protestant Samaria Water and Irrigation Company (Samaria Irrigation). Roger Ling replaces Kent Foster as counsel for Samaria Irrigation.

On June 20, 2006, Roger Ling and Michael P. Tribe filed a *Motion to Continue Hearing* scheduled for June 29, 2006. Ling and Tribe assert that there is insufficient time for them to prepare for the hearing. Ling and Tribe also assert that Randall C. Budge, counsel for the applicant, verbally agreed to the continuance. During the last week, the hearing officer conversed with Budge about other water right matters, and Budge mentioned the possible change of counsel, and stated that he would probably acquiesce to a continuance.

ORDER

IT IS HEREBY ORDERED that the hearing scheduled for June 29 and 30, 2006, in Malad, Idaho, is **Vacated** and is **Continued** until a later date.

IT IS FURTHER ORDERED that deadlines for hearing are amended as follows:

1. On or before July 17, 2006, each party must disclose to all other parties, in writing, the identity of all expert witnesses that will or may testify at the hearing.

2. All written discovery requests shall be served on or before July 31, 2006.

3 Written requests for discovery must be either interrogatories or requests for documents. (Requests for admission are not allowed). No more than 10 interrogatories, may be served by any party (or the attorney for several parties) on another party, and no more than 10 unanswered interrogatories served by any party (or the attorney for several parties) may be pending. Each question posed will be considered as one interrogatory.

4. All depositions shall be complete on or before August 21, 2006.

IT IS FURTHER ORDERED that, on or before July 7, 2006, each party shall inform the hearing officer of unavailable dates for hearing during September and October of 2006. If unavailable dates are not identified the hearing officer will assume that all days during September and October 2006 are open for the hearing. Notice of hearing will be prepared and served shortly after July 7, 2006.

Dated this 23rd day of June, 2006.

Gary Spaethman
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of June, 2006, a true and correct copy of the documents described below were served on the following as noted:

Document(s) Served: Order Continuing Hearing and Prehearing Order

M J DAVIS MEM LTD PARTNERSHIP
ATTN RANDALL C BUDGE
RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391

(✓) U.S. Mail, Postage Prepaid
(✓) Facsimile
( ) E-mail

SAMARIA WATER & IRRIGATION CO
ATTN ROGER LING
LING ROBINSON & WALKER
PO BOX 396
RUPERT ID 83350-0396

(✓) U.S. Mail, Postage Prepaid
(✓) Facsimile
( ) E-mail

MICHAEL W OLSEN
DEE'S INCORPORATED
777 EAST 2100 SOUTH
SALT LAKE CITY UT 84106

(✓) U.S. Mail, Postage Prepaid
(✓) Facsimile
( ) E-mail

WILLARD J HIGLEY
SAMARIA RECREATION & CEMETERY
DISTRICTS
4010 W SAMARIA RD
MALAD ID 83252

(✓) U.S. Mail, Postage Prepaid
( ) Facsimile
( ) E-mail

Deborah J. Gibson
Administrative Assistant

IDAHO DEPARTMENT OF WATER RESOURCES

FAX

To:	**RANDALL BUDGE, ROGER LING/MICHAEL TRIBE & MICHAEL OLSEN**	**From:**	**Deborah J. Gibson (208) 287-4942**
Fax:	**208-232-6109, 208-436-6804, & 801-487-4207**	**Date:**	**June 23, 2006**
Phone:		**Pages:**	4
Re:		**CC:**	

☑ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Please see the attached Order Continuing Hearing (June 29 & 30, 2006) and Prehearing Order for the above-referenced matter

Please contact me at the above number if you have any problems with the transmission of this fax

* * * Journal (Jun 23 2006 3:47PM) * * *

1) Idaho Dept of Water Resources
2)

(Manual print)

⟨ TX ⟩

Date	Time	Destination	Mode	TXtime	Page	Result	User Name	File No
Jun 21	3:07PM	2083845219	G3TEDM	0'14"	P 1	OK		9765
	6:23PM	IDWR Fax	⟐TDM@	0'01"	P 1	--		9766
	7:05PM	IDWR Fax	⟐TDM@	0'01"	P 1	--		9767
Jun 22	7:39AM	-- LAN-Fax -->)	*DM	0'03"	P 8	OK		9768
	7:44AM	-- LAN-Fax -->)	*DM	0'06"	P 17	OK		9769
	7:44AM	-- LAN-Fax -->)	*DM	0'07"	P 30	OK		9770
	7:39AM	360-236-2217	G3TEDM	5'54"	P 8	OK		9768
	7:46AM	2083880000	G3TESM#	5'12"	P 17	OK		9769
	7:51AM	2083880000	G3TESM#	8'54"	P 30	OK		9770
	8:08AM	-- LAN-Fax -->)	*DM	0'01"	P 1	OK		9771
	8:09AM	208 336 0449	G3TEDM	0'16"	P 1	OK		9771
	10:24AM	IDWR Fax	⟐TSM@	0'01"	P 2	--		9772
	10:46AM	IDWR Fax	⟐TSM@	0'01"	P 1	--		9773
	11:37AM	-- LAN-Fax -->)	*DM	0'01"	P 1	OK		9774
	11:37AM	208 327 7415	G3TEDM	0'14"	P 1	OK		9774
	12:09PM	IDWR Fax	⟐TDM@	0'01"	P 2	--		9775
	3:12PM	IDWR Fax	⟐TSM@	0'01"	P 5	--		9778
	3:59PM	IDWR Fax	⟐TSM@	0'01"	P 1	--		9779
	7:35PM	IDWR Fax	⟐TDM@	0'01"	P 3	--		9780
Jun 23	8:25AM	-- LAN-Fax -->)	*DM	0'01"	P 6	OK		9781
	8:37AM	-- LAN-Fax -->)	*DM	0'01"	P 2	OK		9782
	8:37AM	2083880000	G3TESM	0'32"	P 2	OK		9782
	8:46AM	IDWR Fax	⟐TDM@	0'01"	P 4	--		9783
	9:42AM	IDWR Fax	⟐TDM@	0'01"	P 2	--		9785
	10:24AM	IDWR Fax	⟐TSM@	0'01"	P 1	--		9786
	10:27AM	IDWR Fax	⟐TSM@	0'01"	P 4	--		9787
	10:28AM	IDWR Fax	⟐TSM@	0'01"	P 1	--		9788
	12:14PM	00000000000000000000	G3TES⟩	0'19"	P 1	OK		9789
	12:22PM	IDWR Fax	⟐TSM@	0'01"	P 2	--		9790
	12:31PM	IDWR Fax	⟐TDM@	0'01"	P 1	--		9791
	1:03PM	IDWR Fax	⟐TSM@	0'01"	P 3	--		9792
	3:43PM	208 232 6109	G3TES⟩	0'28"	P 4	OK		9795
	3:44PM	9120843668O4	G3TES⟩	0'30"	P 4	OK		9796
	3:46PM	801 487 4207	G3TES⟩	0'55"	P 4	OK		9797

⟨ RX ⟩

Date	Time	Sender	Mode	RXtime	Page	Result	User Name	File No
Jun 21	6:22PM		G3RED	0'47"	P 1	OK		9766
	7:04PM		G3RED	0'47"	P 1	OK		9767
Jun 22	10:23AM	3779202	G3RES	1'20"	P 2	OK		9772
	10:46AM	208 332 2962	G3RES	0'26"	P 1	OK		9773
	12:09PM	3773685	G3RED	0'46"	P 2	OK		9775
	3:11PM	208 344 6034	G3RES	0'49"	P 5	OK		9778
	3:58PM	5032398940	G3RES	0'29"	P 1	OK		9779
	7:34PM	8989197	G3RED	0'35"	P 3	OK		9780
Jun 23	8:45AM	208 229 0291	G3RED	1'06"	P 4	OK		9783
	9:40AM	208 527 3413	G3RED	1'15"	P 2	OK		9785
	10:23AM		G3RS	0'43"	P 2	E		9786
	10:25AM		G3RS	1'55"	P 4	OK		9787
	10:28AM		G3RS	0'40"	P 1	OK		9788
	12:22PM		G3RES	0'40"	P 2	OK		9790
	12:30PM	208 527 3413	G3RED	0'28"	P 1	OK		9791
	1:02PM	BANK CDA LOAN SVCS	G3RES	0'36"	P 3	OK		9792

TX Count 027834

RX Count 018248

: Batch
M : Memory
S : Standard
⟩ : Reduction
Q : RX Notice Req

C : Confidential
L : Send later
D : Detail
H : Stored/D Server
A : RX Notice

$: Transfer
@ : Forwarding
F : Fine
* : LAN-Fax

P : Polling
E : ECM
U : Super Fine
+ : Delivery

WP

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
615 "H" STREET
P. O BOX 396
RUPERT IDAHO 83350-0396

BRENT T ROBINSON
JASON D WALKER

KELLY ARTHUR ANTHON
MICHBAEL P TRIBE

ROGER D LING OF COUNSEL

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

RECEIVED
JUN 21 2006
DEPARTMENT OF
WATER RESOURCES

June 20, 2006

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P O Box 83720
Boise, Idaho 83720-0098

RE: **In the Matter of Applications for Permit Nos. 15-7273, 15-7274, and 15-7275 in the name of M. J. Davis Memorial Limited Partnership**

Dear Mr. Spackman:

Enclosed is a *Motion to Continue Hearing* for filing in the above-referenced matter on behalf of our client Samaria Water and Irrigation Company, Protestant. Thank you.

Very truly yours,

Michael P. Tribe

Michael P. Tribe

enc

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**MOTION TO CONTINUE HEARING**

TO: THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES, GARY SPACKMAN, HEARING OFFICER

COMES NOW the Protestant, Samaria Water and Irrigation Company, by and through its attorney of record, Roger D. Ling of the firm Ling, Robinson & Walker, and moves the Hearing Officer to continue the hearing in the *Matter of Applications for Permit Nos. 15-7273, 15-7274 and 15-7275 in the Name of M. J. Davis Memorial Limited Partnership* which is presently scheduled for June 29, 2006.

This Motion is made due to the fact that Protestant has retained new counsel as of June 12, 2006, is preparing answers to Interrogatories propounded to Protestant by Applicant and the close proximity of the hearing date will not allow Protestant's counsel to properly prepare for

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

the hearing. The Claimant, through its attorney of record, Randall C. Budge, has been contacted and has no objection to continuing the hearing.

Based on the above, Protestant respectively requests that this Court vacate the June 29th hearing and reset it for a time that would allow Attorneys for Protestant to properly prepare for the hearing and a time that is convenient for the Applicant.

DATED this 20th day of June, 2006

LING, ROBINSON & WALKER

By: _____
Roger D. Ling
Michael P. Tribe

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of June, 2006, I served a true and correct copy of the foregoing *Motion to Continue Hearing* upon:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O Box 83720
Boise, Idaho 83720-0098

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Willard J. Higley
Samaria Recreation District
Samaria Cemetery District
Samaria Residents
4010 S. Samaria Road
Malad, Idaho 83252

by depositing copies thereof in the U.S. Mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.

Roger D. Ling
Michael P. Tribe

WA

RECEIVED
JUN 16 2006
DEPARTMENT OF
WATER RESOURCES

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**NOTICE OF SUBSTITUTION OF COUNSEL**

TO: THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES, GARY SPACKMAN, HEARING OFFICER, AND RANDALL C. BUDGE, ATTORNEY FOR APPLICANT

YOU ARE HEREBY NOTIFIED that Samaria Water and Irrigation Company, the protestant in the above-entitled matter, has substituted Roger D. Ling of the firm Ling, Robinson & Walker, Attorneys at Law, of P. O. Box 396, Rupert, Idaho 83350, as its attorney of record in the above-entitled action in the place and stead of Kent W. Foster of the firm Holden, Kidwell, Hahn & Crapo, P.L.L.C., of P. O. Box 50130, Idaho Falls, Idaho 73405.

YOU ARE FURTHER NOTIFIED that all papers and documents in said action are to be served on Roger D. Ling of Ling, Robinson & Walker

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

DATED this 9th day of June, 2006

LING, ROBINSON & WALKER

By: _____
Roger D. Ling
Michael P. Tribe

CONSENTS

I, Kent W. Foster, hereby consent to the substitution of Roger D. Ling of the firm Ling, Robinson & Walker as attorney of record for the protestant Samaria Water and Irrigation Company in the above-entitled matter in my place and stead.

DATED this 12th day of June, 2006.

HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

By: _____
Kent W. Foster

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of June, 2006, I served a true and correct copy of the foregoing *Notice of Substitution of Counsel* upon:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O Box 83720
Boise, Idaho 83720-0098

Joseph W. Lindsey
5064 S. 4600 W.
Malad, Idaho 83252

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Nancy McKinney
4565 W. 4600 S.
Malad, Idaho 83252

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

Tim and Wendy Pope
4753 W. 500 S.
Malad, Idaho 83252

Delon and Paula Atkinson
5166 S. 4600 W.
Malad, Idaho 83252

Dale W. and Lynette G. Price
4491 W 4700 S.
Malad, Idaho 83252

Douglas and Kathryn Atkinson
4605 W. 4500 S.
Malad, Idaho 83252

Merrill and Twylla Price
4909 S. 4400 W.
Malad, Idaho 83252

Sharon R. Atkinson
(no address listed)

Evan P. and Phyllis W. Price
(no address listed)

Lynn R. Davis
707 E. Vanessa Lane
Garden City, Utah 84028

David Reel
5176 S. 4400 W.
Malad, Idaho 83252

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Samaria Recreation District
Samaria Cemetery District
Samaria Residents
(no addresses listed)

M. Elaine Driessen
4898 S. 4700 W.
Malad, Idaho 83252

Willard J. and Kay Higley
4010 S. Samaria Road
Malad, Idaho 83252

Cynthia Hill
4860 S. 4400 W.
Malad, Idaho 83252

Clarence R. Hughes
4030 W. Samaria Road
Malad, Idaho 83252

Darhl Hughes
5196 S. 4400 W.
Malad, Idaho 83252

Clara B. Jensen
(no address listed)

Steve and Sherrie W. Johnson
230 W. 200 N.
Malad, Idaho 83252

Russell and Bula Sortor
4016 S. 4600 W.
Malad, Idaho 83252

Amy Sylvester
4595 W. 500 S.
Malad, Idaho 83252

Dee O. Tolman
(no address listed)

Brad Warren
5199 S. 4600 W
Malad, Idaho 83252

Brandi Warren
5196 S. 4600 W.
Malad, Idaho 83252

Vickie Warren
(no address listed)

Blanche L. Williams
5184 S. 4600 W.
Malad, Idaho 83252

by depositing copies thereof in the U S. Mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.

Roger D. Ling
Michael P. Tribe

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

LAW OFFICES OF

RACINE OLSON NYE BUDGE & BAILEY CHARTERED

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN**
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D. †
DAVID E. ALEXANDER††
LANE V. ERICKSON**
LISA M. CHRISTON†††
PATRICK N. GEORGE
SCOTT J. SMITH
LISA A. WOOD, CPA
STEPHEN J. MUHONEN
BRENT L. WHITING
LISA R. TANNER‡
JUSTIN R. ELLIS
JOSHUA D. JOHNSON†††
JONATHON S. BYINGTON

BOISE OFFICE

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE

477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

*ALSO MEMBER WY & IL BARS
**ALSO MEMBER UT BAR
†ALSO MEMBER D. C. BAR
††ALSO MEMBER MO BAR
†††ALSO MEMBER IL BAR
‡ALSO MEMBER CA BAR

June 15, 2006

RECEIVED
JUN 16 2006
Department of Water Resources

Gary Spackman, Hearing Office
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re *M.J. Davis Memorial Limited Partnership*
Application for Permit Nos. 15-7273, 15-7274 and 15-7275

Dear Mr. Spackman:

Enclosed for filing please find Applicant's Exhibit List.

Sincerely,

RANDALL C. BUDGE

RCB:rr
cc: Jeff Davis/M.J. Davis Memorial Limited Partnership
All Parties per Certificate of Mailing
Roger Warner, Eastern Region/IDWR

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274 and 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**APPLICANT'S EXHIBIT LIST**

In compliance with the Hearing Officer's May 4, 2006 Order Authorizing Discovery, Prehearing Order and Notice of Hearing, the Applicant M.J. Davis Memorial Limited Partnership hereby serves on all other parties copies of Exhibits that may be offered at the hearing:

1. Application for Permit No. 15-7273, 15-7274 and 15-7275 in the name of M.J. Davis Memorial Limited Partnership.
2. Water Right License No. 15-07032.
3. Samaria Water & Irrigation Company Stock Certificate Nos. 517, 588, 539, 536, 599.
4. Samaria Water & Irrigation Co. Statutory Claim Nos. 15-4066, 15-4067, 15-4068.
5. Articles of Incorporation and By Laws of Samaria Water & Irrigation Co.
6. Notice of Exception filed 12/16/05.
7. Warranty Deed dated October 9, 1928: Martin to Campbell.
8. Warranty Deed dated August 23, 1946: Thomas to Fredrickson.
9. Warranty Deed dated April 19, 1930: Jones to Davis.
10. Minutes of Samaria Water & Irrigation Co.

11. Affidavit questions - Samaria Water & Irrigation Co.

12. Purchase Agreement between The Samaria and Southwest Mountain Water Irrigation Company and Samaria Water & Irrigation Co., dated July 3, 1893. (Copy not attached as not available to Applicant but requested from Protestant Samaria Water & Irrigation Company.)

13. Protestant's Response to Applicant's Discovery Requests. (Requested and past due, but not yet received.)

14. Application for Preliminary Permit Project No. P-12653-000, Samaria Water & Irrigation Co. to Federal Energy Regulatory Commission re Samaria Hydro.

15. Motion to Intervene and Protest FERC Application for Preliminary Permit.

DATED this 15th day of June, 2006.

RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

CERTIFICATE OF MAILING

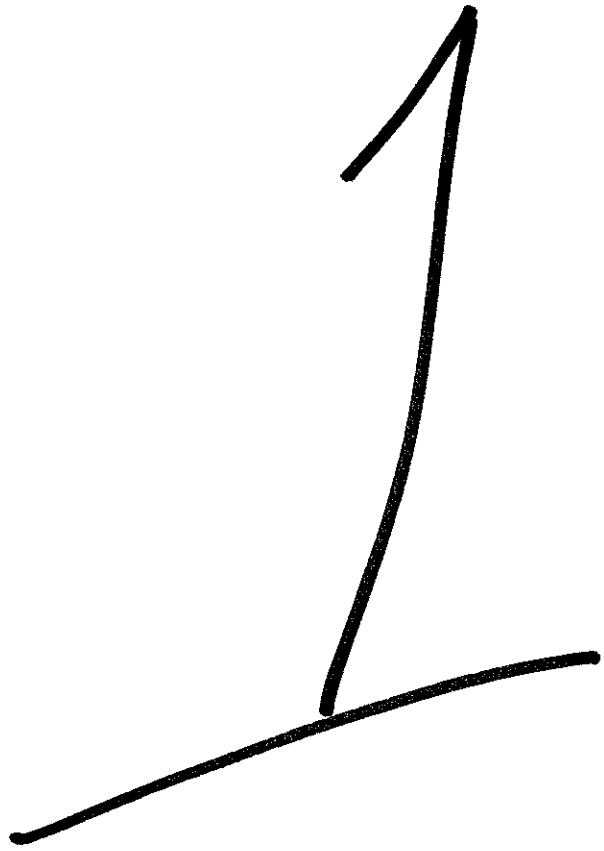
I HEREBY CERTIFY that on this 15th day of June, 2006, I mailed a true and complete copy of the foregoing document, postage prepaid, to each of the following:

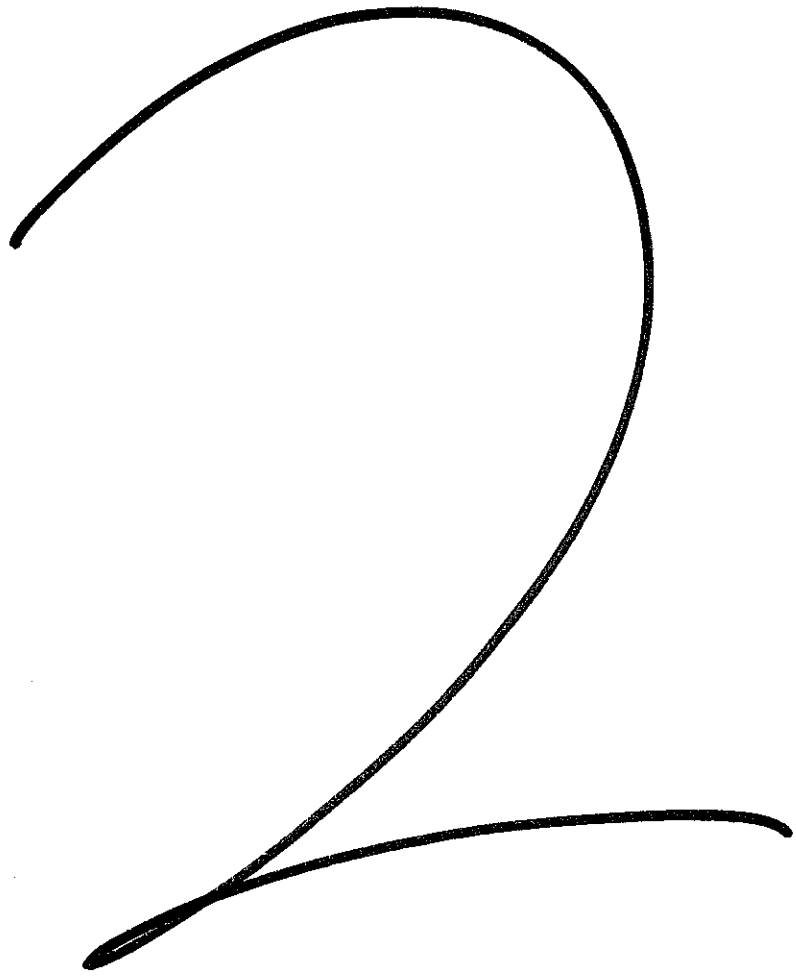
Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

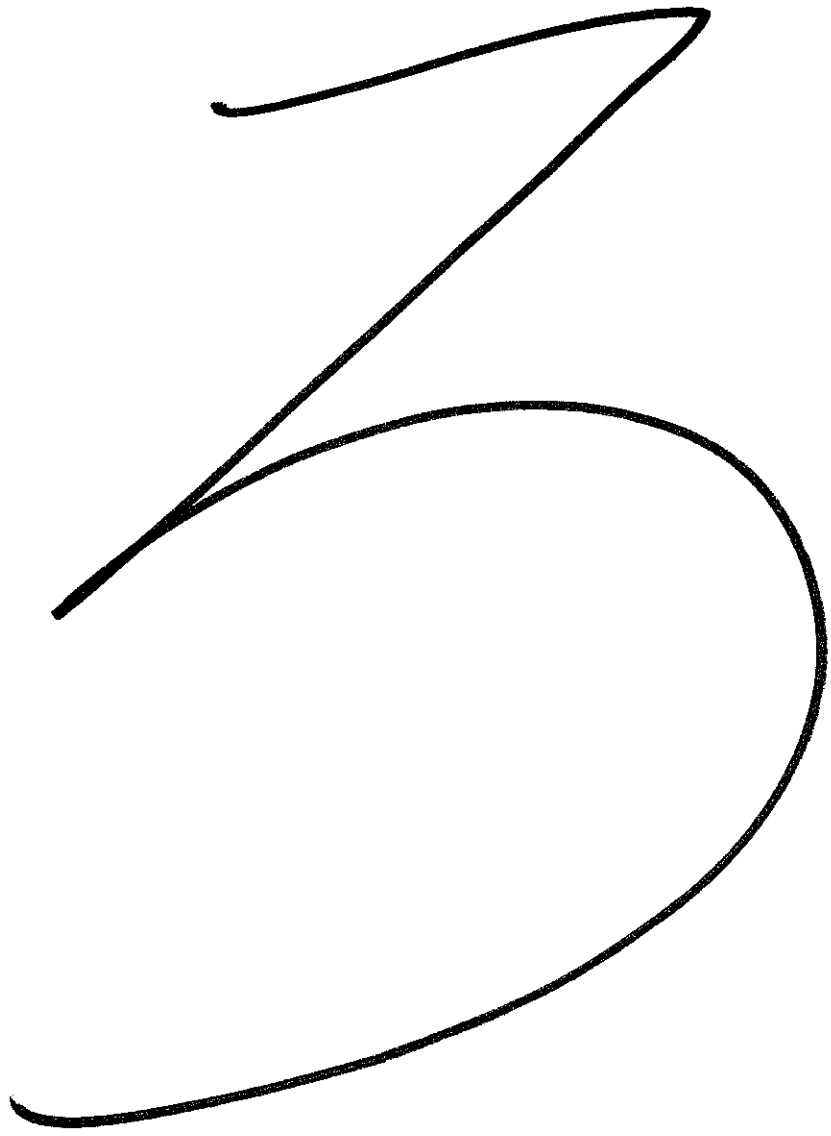
Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

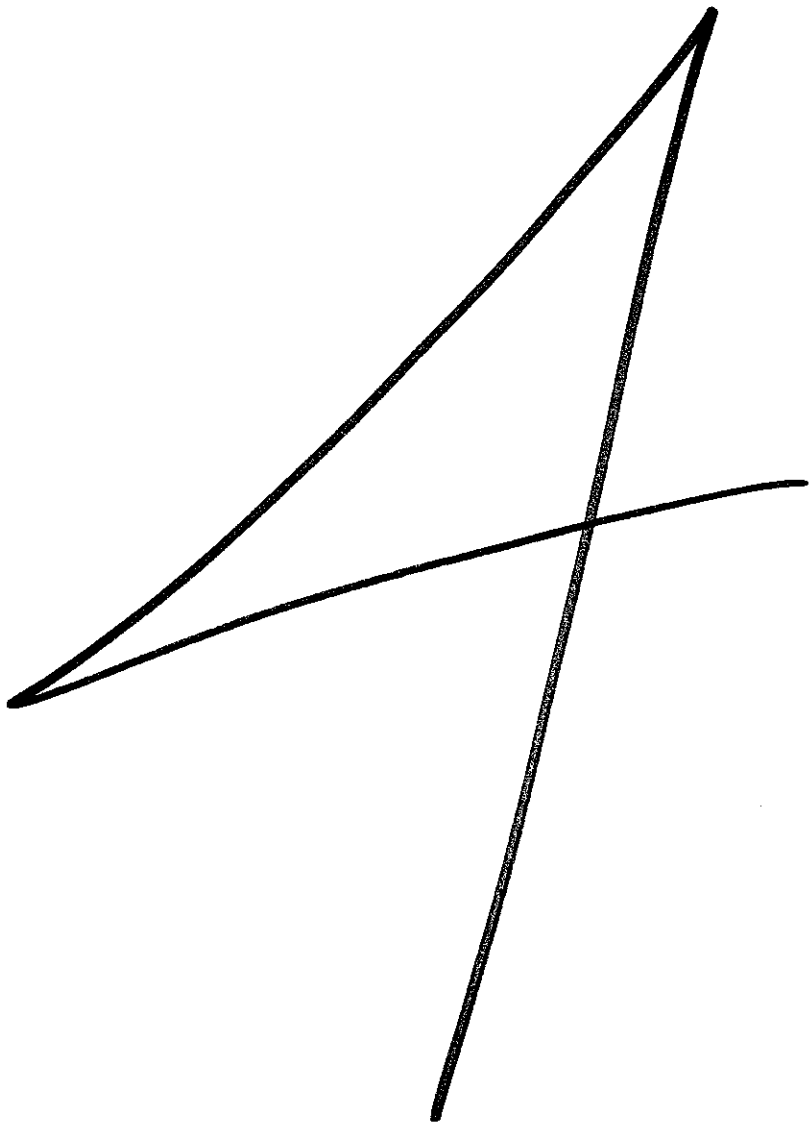
Roger Ling
Ling Robinson
Samaria Water and Irrigation Company
P.O. Box 396
Rupert, Idaho 83350

Robin Rowland
for RANDALL C. BUDGE









IDWR Water Right and Adjudication Search

Note: This search tool identifies active water rights and active transfers. If you want to search both active and inactive water rights, please check the box below.

☐ Search for both active and inactive water right records.

Search Results

Type of Query USAGE INSTRUCTION

☐ All SRBA & Water Rights

SRBA	Water Rights
☐ Claims	☐ Applications
☐ Recommendations	☐ Permits
☐ Both	☐ Decrees, Licenses and Statutory Claims
	☐ Transfers
	☑ All of the above

Basin | Who | What | When | Where | Clear | Search | Help

Query parameters:
basinFrom = 15
sequenceNumberFrom = 4066
sequenceNumberTo = 4068
Search for: active Records

Information for type: Statutory Claim, Decree and License

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diversi Rate
Details / Related Documents / General Provision	1	15	4066			Statutory Claim	Active	1925-11-01	0.9
Details / General Provision	2	15	4067			Statutory Claim	Active	1925-11-01	0.2
Details / General Provision	3	15	4068			Statutory Claim	Active	1925-11-01	0.9

Number of records = 3

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

03/21/2006

WATER RIGHT NO. 15-4066

Owner Type	Name and Address
Current Owner	SAMARIA WATER & IRRIGATION CO C/O DEVERL JOHN RFD MALAD CITY, ID 83252

Priority Date: 11/01/1925
Basis: Statutory Claim
Status: Active

Source	Tributary
THOMAS DAVIS SPRINGS	SAMARIA CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	0.9 CFS	
STOCKWATER	5/01	9/01	0.01 CFS	
Total Diversion			0.9 CFS	

Location of Point(s) of Diversion:

THOMAS DAVIS SPRINGS	SWSW	Sec. 27	Township 15S	Range 35E	ONEIDA County

Place(s) of use:

Place of Use Legal Description: IRRIGATION ONEIDA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	A
15S	35E	14		SESW	20									
		23		NENE	35		NWNE	5		SENE	20			
				NENW	20		NWNW	25						
		24		NENE	40		NWNE	40		SWNE	40		SENE	4(
				NENW	40		NWNW	40		SWNW	40		SENW	4(
				NESW	40		NWSW	40		SWSW	30		SESW	4(
				NESE	40		NWSE	40		SWSE	40		SESE	4(
		25		NENE	40		NWNE	35		SENE	5			
				NENW	10									

Place of Use Legal Description:STOCKWATER same as IRRIGATION

Total Acres: 845

Dates:
Licensed Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

03/21/2006

WATER RIGHT NO. 15-4067

Owner Type	Name and Address
Current Owner	SAMARIA WATER & IRRIGATION CO C/O DEVERL JOHN RFD MALAD CITY, ID 83252

Priority Date: 11/01/1925
Basis: Statutory Claim
Status: Active

Source	Tributary
ROSEBUD SPRING	SAMARIA CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	0.2 CFS	
STOCKWATER	5/01	9/01	0.01 CFS	
Total Diversion			0.2 CFS	

Location of Point(s) of Diversion:

ROSEBUD SPRING	SWSE	Sec. 28	Township 15S	Range 35E	ONEIDA County

Place(s) of use:

Place of Use Legal Description: IRRIGATION ONEIDA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	A
15S	35E	14		SESW	20									
		23		NENE	35		NWNE	5		SENE	20			
				NENW	20		NWNW	25						
		24		NENE	40		NWNE	40		SWNE	40		SENE	4(
				NENW	40		NWNW	40		SWNW	40		SENW	4(
				NESW	40		NWSW	40		SWSW	30		SESW	4(
				NESE	40		NWSE	40		SWSE	40		SESE	4(
		25		NENE	40		NWNE	35		SENE	5			
				NENW	10									

Place of Use Legal Description:STOCKWATER same as IRRIGATION

Total Acres: 845

Dates:
Licensed Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

03/21/2006

WATER RIGHT NO. 15-4068

Owner Type	Name and Address
Current Owner	SAMARIA WATER & IRRIGATION CO C/O DEVERL JOHN RFD MALAD CITY, ID 83252

Priority Date: 11/01/1925
Basis: Statutory Claim
Status: Active

Source	Tributary
DRY PINE SPRING	SAMARIA CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	0.9 CFS	
STOCKWATER	5/01	9/01	0.01 CFS	
Total Diversion			0.9 CFS	

Location of Point(s) of Diversion:

DRY PINE SPRING	SWSE	Sec. 28	Township 15S	Range 35E	ONEIDA County

Place(s) of use:

Place of Use Legal Description: IRRIGATION ONEIDA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	A
15S	35E	14		SESW	20									
		23		NENE	35		NWNE	5		SENE	20			
				NENW	20		NWNW	25						
		24		NENE	40		NWNE	40		SWNE	40		SENE	4(
				NENW	40		NWNW	40		SWNW	40		SENW	4(
				NESW	40		NWSW	40		SWSW	30		SESW	4(
				NESE	40		NWSE	40		SWSE	40		SESE	4(
		25		NENE	40		NWNE	35		SENE	5			
				NENW	10									

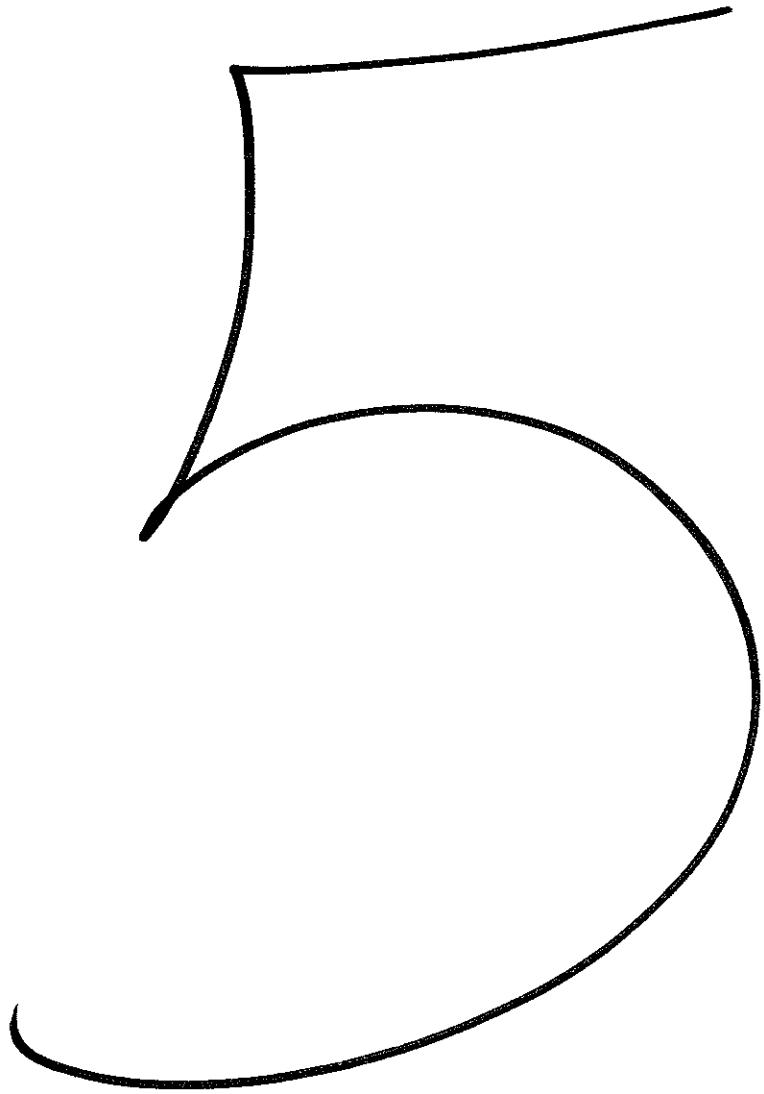
Place of Use Legal Description:STOCKWATER same as IRRIGATION

Total Acres: 845

Dates:
Licensed Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close



CERTIFICATE OF AMENDMENT OF ARTICLES OF INCORPORATION

of

THE SAMARIA WATER AND IRRIGATION COMPANY

KNOW ALL MEN BY THESE PRESENTS: That we, Joseph R. May and Warren Edwards, the President and Secretary, respectively, of the Samaria Water and Irrigation Company, a corporation duly organized and existing under the laws of the State of Idaho, being first duly and severally sworn, say:

That at a Special Meeting of the Board of Trustees of the Samaria Water and Irrigation Company, duly called and held at Malad City, Idaho, on June 4, 1971, at which a quorum of the members of the Board were present, the following resolution and order was duly and unanimously adopted, to-wit:

> "BE IT RESOLVED by the Board of Trustees of The Samaria Water and Irrigation Company, that a Special Meeting of the Stockholders of said Company be and the same is hereby called, to be held at the Samaria Ward Church, in Samaria, Oneida County, State of Idaho, at 8:00 o'clock P.M., on the 15th day of July, 1971, for the purpose of considering and acting upon the following matters:
>
> 1. To amend the Articles of Incorporation of the Company in the following particulars:
>
> (a) To increase the capital stock of the Company from 1000 shares of the par value of $20.00 per share to 1000 shares of the par value of $400.00 per share.
>
> (b) To give the corporation perpetual existence.
>
> "BE IT FURTHER RESOLVED that the Secretary be, and he is hereby ordered and directed to give notice of such Special Meeting of the Stockholders in the manner provided by law."

That pursuant to said RESOLUTION the Secretary of said Company did, at least 30 days prior to the date set for said Special Meeting of the Stockholders, duly served upon each stockholder of the Company a written NOTICE of said Special Stockholders Meeting in words and figures following:

NOTICE IS HEREBY GIVEN: June 14, 1971

That a Special Meeting of the Stockholders of THE SAMARIA WATER AND IRRIGATION COMPANY is hereby called and will be held on Thursday, the 15th day of July, 1971, at 8:00 o'clock P.M. at the Samaria Ward Church, in Samaria, Oneida County, State of Idaho, for the purpose of voting and acting upon the following Resolutions and transacting such other business as shall properly come before the said meeting, to-wit:

I.

RESOLVED that the Articles of Incorporation of The Samaria Water and Irrigation Company be amended as follows:

1. That ARTICLE IV be amended so that it shall, as amended, read as follows, to-wit:

"That this Corporation shall have perpetual existence."

2. That ARTICLE V be amended so that it shall, as amended, read as follows, to-wit:

"That the amount of the Capital Stock of the corporation is and shall be Four Hundred Thousand Dollars ($400,000.00), divided into One Thousand shares of the par value of Four Hundred Dollars ($400.00), each; of which 723 shares have been subscribed and are paid for in full."

BY ORDER OF THE BOARD OF TRUSTEES

Warren Edwards, Secretary

That on the 15th day of July, 1971, at 8:00 o'clock P.M., at the Samaria Ward Church, in Samaria, Oneida County, State of Idaho, the following Resolution was duly passed by a vote of more than two-thirds of the outstanding capital stock of said corporation, said Resolution being in words and figures following, to-wit:

RESOLVED that the Articles of Incorporation of The Samaria Water and Irrigation Company be amended as follows:

1. That ARTICLE IV be amended so that it shall, as amended, read as follows, to-wit:

"That this Corporation shall have perpetual existence."

2. That ARTICLE V be amended so that it shall, as amended, read as follows, to-wit:

"That the amount of the Capital Stock of the corporation is and shall be Four Hundred Thousand Dollars ($400,000.00), divided into One Thousand shares of the par value of Four Hundred Dollars ($400.00), each; of which 723 shares have been subscribed and are paid for in full."

Filed by E. L. Scott, 26 Court Street, Malad City, Idaho

That the total number of shares of the subscribed capital stock of said corporation at said time was 723 shares. That th amount of capital stock represented on the adoption of said Resolution was 506.65 shares; that the total amount of shares of stockholders voting in the affirmative on said REsolution was 506.65 shares, and there were no shares voting against the passage of said Resolution.

That the total amount to which the capital stock of said corporation has been increased is Four Hundred Thousand Dollars ($400,000.00), divided into One Thousand (1000) shares of the par value of $400.00 each.

That the corporation was given perpetual existence.

IN WITNESS WHEREOF we have hereunto set our hands this 16th day of July, 1971.

Joseph R. Neary
President

William M. Echeverria
Secretary

Subscribed and sworn to before me this 16th day of July, 1971.

E. L. Scott
Notary Public at Malad City, Idaho
My Commission expires May 19, 1975

State of Idaho, County of Oneida ss.
I hereby certify that this instrument was filed for record at request of E. L. Scott, at 45 minutes past 2 o'clock P.M. this 26 day of July A.D., 1971, in my office and duly recorded on Film as Inst. No.
Fee 1.00
Calvin H. Smeeton Jr.
Ex-Officio Recorder
By Melba Jensen
Deputy

Filed by E. L. Scott, 76 Court Street, Malad City, Idaho

ARTICLES OF INCORPORATION OF

THE SAMARIA WATER AND IRRIGATION COMPANY

KNOW ALL MEN BY THESE PRESENTS; That we the undersigned have this day vuluntarily associated ourselves together for the purpose of forming a corporation under the laws of the State of Idaho, for the re-incorporation of The Samaria Water and Irrigation Company whose present Charter has expired; and we do certify;

ARTICLE I.

That the name of this corporation shall be and is The Samaria Water and Irrigation Company.

ARTICLE II.

That the principal place of business of this corporation is and shall be at Samaria in the County of Oneida and State of Idaho.

ARTICLE III.

That the number of Directors shall be Seven; and until their successors are elected and qualified the following named persons shall be the officiers and directors of this corporation, namely;

NAMES	RESIDENCE
David Hughes	Samaria, Idaho; President and Director
William A. Morse	Samaria, Idaho; Vice-President and Director
Hyrum W. Jones	Pleasantview, Idaho; Secretary and Treasurer
Levi S. Waldron	Gwenford, Idaho; Director
Samuel J. Williams	Samaria, Idaho Director
Samuel Williams	Samaria, Idaho Director
Alfred Atkinson	Samaria, Idaho Director

ARTICLE IV.

That the term for which this corporation is to exist is and shall be Fifty Years from and after the date of its incorporation.

ARTICLE V.

That the amount of the capital stock of this corporation is and

...n will be issued upon the surrender of the same.

ARTICLE VI.

That the purposes for which this corporation is formed are to convey the waters of Big Malad River from a point about two miles below the head thereof, and also the waters of Sulphur Springs otherwise known as Farm Springs; and also the waters of Thomas Davis Rose Bush and Dry Pine streams, located North and South and West of Samaria, Oneida County, Idaho, by ditches, canals and aqueducts; or other means of conveying waters, to the lands in and about Samaria in the valley of Malad in said Oneida County, Idaho, for the purpose of irrigating said lands, and for the further purposes that this corporation may require; to establish reservoir sites; to build, erect and maintain reservoirs for the impounding of waters for agricultural purposes, and to buy, own, sell and acquire real estate necessary for the uses and requirements of this corporation; to apply for, acquire and obtain permits for the appropriation and distribution of waters for agricultural and irrigation purposes, and to retain all its acquired rights to waters, reservoir sites, ditch and canal rights of way, now owned or claimed and belonging to it, however evidenced and, to do all things necessary for the proper operation and management of this Company for its properties in Malad Valley, Oneida County, Idaho.

IN WITNESS WHEREOF we have hereunto set or hands and seals this the 8th. day of March 1924.

Signed and sealed
in the presence of

_____

_____

David Hughes SEAL

Wm. L. Morse SEAL

H. W. Jones SEAL

D.J.Williams SEAL

...Waldron SEAL

Samuel Williams SEAL

...lf Atkinson SEAL

Owen L. Davis SEAL

Daniel ... Price SEAL

STATE OF IDAHO)
SS
County of Oneida)

On this the 8th. day of March 1924 before me J. Peter Jensen; Clerk of the District Court for said County and State, personally appeared David Hughes; William S. Morse Hyrum W. Jones; Samuel J. Williams; Levi S. Waldron; Samuel Williams; Alfred Atkinson; Owen T. Davis; Daniel E. Price John Daniels and J.F.Fredrickson, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Clerk of the District Court for Oneida County, Idaho.

STATE OF IDAHO)
SS
COUNTY OF ONEIDA)

I, J. Peter Jensen; Clerk of the District Court and Ex-Officio Auditor and Recorder, do hereby certify that the foregoing is a full true and correct copy of the Articles of Incorporation of The Samaria Water and Irrigation Company, as filed in my office the 10th. day of March 1924.

Clerk of the District Court and
Ex-Officiao Auditor and Recorder.

BY LAWS
OF
THE SAMARIA WATER AND IRRIGATION COMPANY

ARTICLE 1. OFFICE.

The principal office of the Corporation in the state of Idaho will be located at Samaria in the county of oneida.

ARTICLE 2. Stockholders.

Section 1. Annual Meeting.

The regular annual meeting of the stockholders shall be held on the frist Monday in March of each year at Samaria ,Idaho,for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the state of Idaho, such meeting shall be held on the next succeeding business day.

Section 2. Special Meetings.

Special meetings of the stockholders for any purpose may be called by the President or by the Board of Directors and shall be called by the President at the request of holders of not less than one-fifth of all the outstanding shares of the corporation entitled to vote at the meeting.

Section 3. Notice of Meeting.

Written notice of the time, place and purposes of meetings including annual meetings shall be given by the secretary or other person authorized so to do, to all stockholders entitled to vote at such meeting, at least ten (10) days prior to the day named for the meeting. If such written notice is placed in the united states mail, postage prepaid, and addressed to a shareholder at his last known post-office address, notice shall be deemed to have been given him.

Section 4. Quorum.

A majority of the outstanding shares of the corporation entitled to vote, represented in person or by proxy, shall constitute a quorm at a meeting of the shareholders, provided however, that at the annual meetings of the shareholders duly noticed, those shareholders present either in person or by proxy shall constitute a quorm and may elect Directors and transact all other business proper to be done by them.

Section 5. Proxies.

At all meetings of the stockholders, a stockholder may vote by proxy excuted in writing by the stockholders or by his duly authorized attorney in fact. Such proxy shall be filed with the secretary of the corporation before or at the time of the meeting.

Section 6. Voting of Shares.

Subject to the provisions of Section 7 of this Article II, each outstanding share entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of stockholders.

Section 7. Cumulative Voting.

At each election for Directors every Stockholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are Directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many votes as the number of such Directors multiplied by the number of his shares shall equal or by distributing such votes on the same principle among any number of candidates.

ARTICLE III. Directors.

Section 1. General Powers.

The business and affairs of the corporation shall be managed by its Board of Directors.

Section 2. Number, Tenure, and Qualifactions.

The number of Directors of the Corporation shall be Seven (7) consisting of a President, a Vice President and five Directors.

Each Director shall hold office until the next annual meeting of the Stockholders and until his successor shall have been elected and qualified.

Section 3. Meetings.

A regular meeting of the Board of Directors shall be held without notice other than this By-Law immediately after, and at the same place as, the annual meeting of Stockholders.

The Board of Directors may provide by resolution the time and place for the holding of additional regular meetings without other notice than such resolution.

Special Meetings of the Board of Directors may be called by or at the request of the President or any two Directors.

Section 4. Notice.

Notice of any Special Meeting shall be given at least two days previously thereto by written notice delivered personally or mailed to each Director at his business address.

Section 5. Quorum.

A majority of the number of Directors shall constitute a quorum for the transaction of business at any meeting of

the Board of Directors, but if less than such majority is present at a meeting a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 6. Manner of Acting.

The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 7. Vacancies.

Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors.

A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 8. Compensation.

The members of the Board of Directors shall receive no compensation for their services as such.

Section 9. Powers.

(a) To call Special Meetings of the Stockholders at their discretion, giving such notice as prescribed by law. It shall be their duty to call Special meetings upon the written request of persons representing at least one-fifth of the capital stock actually paid up.

(b) To appoint a Watermaster on the fourth Monday of March of each year, prescribe his duties, fix his compensation and require of him such security of the faithful performance of his duties as may be determined by the Board of Directors.

(c) To levy and cause to be collected such assessments as may be necessary for the use of the Company, in the manner provided by law. No water shall be delivered to any person owning stock, or using water under stock, upon which an assessment has been made and remains unpaid.

(d) To make rules and regulations for the guidance of the officers of the Company.

(e) To incur such indebtedness as they may deem necessary for the normal operation and maintenance of the Company and distributing system during the year of tenure of the Board then acting.

(f) It shall be the duty of the Board to cause to be kept a complete record of all their meetings and acts, and also of the proceedings of the Stockholders; present a full statement at the regular annual meeting of the Stockholders showing in detail the collections, disbursements, and liabilities of the Company, and generally the condition of its property. A similar statement shall be presented at

any other meeting of the Stockholders when thereto previously requested by persons representing at least one-third of the stock actually paid up.

(g) To cause to be issued to the Stockholders in proportion to their interest in the Company certificates of stock not to exceed in the aggregate the capital stock of the Company. Said certificates to be subject to assessment as herein provided.

(h) They shall impose a fine of not less than Ten ($10.00) nor more than Fifty Dollars ($50.00) upon any member of the Company for each and every time that he takes any water out of his turn and without the consent of the Watermaster, and shall instruct the Watermaster after such fine has been imposed upon any Stockholder to withhold the water from said Stockholder until the fine is paid.

(i) All fines that may be collected of any members of the Company shall be expended under the direction of the Board of Directors the same as any other money belonging to the Company.

(j) To make rules and regulations for the guidance of the Watermaster as they may deem necessary to enable him to distribute the water of the Company to its Stockholders according to the shares owned by each Stockholder, and to this end shall provide the Watermaster with a suitable Book to keep time of watering. He shall set down the date and time of day the Company commenced irrigating and the names of the persons using it and the number of shares each person draws water on, and the time when each person commenced and left off, and the amount of inches each had at the measuring gate.

(k) No contract, appointment or any bargain whatever shall be valid or binding on the Company when such contract appointment or bargain shall be between the Board of Directors and one of its own members, other than the lawful business of the Company.

(l) It shall be the duty of the Board to inspect or cause to be inspected the springs, ditches and channels of all springs and sources of water belonging to the Company and to prevent the appropriation of Company waters by any person whomsoever.

ARTICLE IV. Officers.

Section 1. Number.

The officers of the corporation shall be a President, a Vice President, a Secretary, and a Treasurer. The Secretary may act in the dual capacity of Secretary- Treasurer at the instance of the Board of Directors.

Section 2. Election and term of office.

The officers to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the Stockholders. Each officer shall

hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed from office.

Section 3. Removal.

Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Company would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Vacancies.

A vacancy in the office because of death, resignation, removal, disqualification or otherwise, may be filed by the Board of Directors for the unexpired portion of the term.

Section 5. President.

The President shall be the principal executive officer of the Company, and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the corporation. He shall have the following powers, and it shall be his duty:

(a) Preside at all meetings of the Board of Directors and of the Stockholders.

(b) Sign as President all certificates of stock and all contracts and other instruments in writing which have been first approved by the Board of Directors.

(c) Draw all checks and warrants on the Treasurer.

(d) He shall cast the tie-breaking vote in all situations where a tie vote has been encountered by the Stockholders or the Board of Directors.

(e) He shall supervise all the officers and employees of the Company, see that their duties are properly discharged, and report to the Board of Directors any negligence or mis-conduct of such officers and employees.

Section 6. Vice President.

In the absence of the President or in the event of his death, or inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers and be subject to all the restrictions upon the president.

Section 7. Secretary.

The Secretary shall be appointed by the Board of Directors at their first meeting and shall hold his office during the pleasure of the Board of Directors. He shall have the following powers and be charged with the following duties:

(a) Keep the minutes of the Stockholders' meetings and of the Board of Directors' meetings in one or more books provided for that purpose.

(b) See that all notices are duly given in accordance with the provisions of these By Laws as required by law.

(c) Be the custodian of the corporate records and of the seal of the Company, and see that the Seal of the Company is affixed to all documents, the execution of which on behalf of the corporation under its seal, is duly authorized.

(d) Keep a register of the postoffice address of each Stockholder which shall be furnished to the Secretary by such Stockholder.

(e) Sign with the President, or Vice President, certificates for shares of the corporation, the issuance of which shall have been authorized by resolution of the Board of Directors.

(f) Have general charge of the stock transfer books of the Company.

(g) In general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Treasurer.

The Treasurer shall be appointed by the Board of Directors at their first meeting and shall hold his office at the pleasure of the Board of Directors. He shall have the following powers and be charged with the following duties:

(a) Have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the Company from any source whatsoever, and deposit all such moneys in the name of the corporation in such Banks as shall be selected by the Board of Directors.

(b) In general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

ARTICLE V. Contracts, Loans and Checks.

Section 1. Contracts.

The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

No contract by any officer or officers of the Company shall be valid without the previous authorization or subsequent ratification of the Board of Directors.

Section 2. Loans.

No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors.

Section 3. Checks, Drafts, etc.

All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

ARTICLES VI. Certificates for Shares.

Section 1. Certificates for Shares.

Certificates representing shares of the corporation shall be in such form as shall be determined by the Board of Directors. Such Certificates shall be signed by the President and by the Secretary when issued. All certificates for shares shall be consecutively numbered.

The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer books of the Company.

Section 2. Transfer of Shares.

Transfer of shares of the corporation shall be made only on the stock transfer books of the corporation by the holder of record thereof or by his legal representative, who shall furnish proper evidence of authority to transfer, or by his attorney thereunto authorized by power of attorney duly executed and filed with the Secretary, and on surrender for cancellation of the certificate for such shares. The person in whose name shares stand on the books of the corporation shall be deemed by the corporation to be the owner thereof for all purposes.

No transfer of any shares of stock shall be valid upon which any assessments are due and unpaid, or the holder thereof is indebted in any way to the Company without the consent of the Board of Directors.

Section 3. Stock Rights.

Each share of stock issued and outstanding shall represent the right to share equally with every other share of stock issued and outstanding in the delivery and use of irrigation water available to the Company.

Company says this is basis of restricting use upstream

Section 4. Restriction on Sale.

No stock shall be sold hereafter in any instance where the use of the water therefrom shall be transferred to lands lying above the Pleasantview Hot Springs. It is the intent of this restriction that as much clean and clear water as possible be available for mixing with the water from the Hot Springs and use by persons below. No Stock

shall be transferred on the books of the Company where it can be shown that such transfer would result in the use of water contrary to this provision.

Section 5. Stock Assessable.

The capital stock of this corporation shall be assessable to defray costs of operation and other corporate indebtedness lawfully incurred.

ARTICLE VII. Watermaster.

Section 1. Duties.

The Watermaster shall have the management of all of the waters of the Company under the directors, and any other water that may be conveyed through the Company ditches. Water shall be timed whenever all the streams at the disposal of the Watermaster are taken.

Section 2. Rights of Stockholders.

Any member of the corporation that may be aggrieved by the action of the Watermaster or any other officer of the Company shall make his complaint in writing to the President of the Company. The President must notify the defendant of said Complaint and the time and place that an examination will be made before the Board of Directors, and said examination shall be made forthwith as soon as the Board can be called together and the defendant notified. The decision of the Board shall be final as far as the corporation is concerned.

ARTICLE VIII. Responsibilities of water users.

Section 1.

Every Stockholder shall be personally responsible for his gates, dams or flumes that leads water to his lands. It shall be good evidence against him before the Board of Directors if any water passes through his gate, dam, flume, without the consent of the Watermaster and out of his turn. He shall be dealt with according to subsection (h) of Article III unless he can prove by good evidence of his innocence.

Section 2.

No one shall have a right to take water from the Company's ditches without permission of the Watermaster.

ARTICLE IX. Ditches, Structures, and Water Rights.

Section 1. The Board of Directors shall cause the ditches of the Company to be repaired in time always before the commencement of the Irrigating season each year.

Section 2. The Board of Directors shall cause all gates and flumes, where water is measured, to be examined before irrigating time each year by a Watermaster and a member of the Board of Directors appointed and instructed as to their

duties not later than the last Saturday in March of each year who shall report in writing to the Board within seven days after their appointment recommending such repairs as shall be needed. They shall also examine the ditches at the same time and state in their report what places should be reapired, cleaned, or if any new ditches are needed, and estimate the expense to cover said repairs, cleanings or the amking of the new ditches. Should any new gates or flumes be required, to estimate the amount and kind of material necessary to build said gates or flumes. The Board shall cause said repairs, or whatever the report calls for, to be done in time so as not to interfere with watering in the irrigating time.

Said Watermaster and member of the Board shall receive for such services a sum as allowed by the Board of Directors.

Section 3. It shall be the duty of the Board to cause to be built suitable gates and boxes, all of the same dimensions so that the same quantity of water may be given to each shareholder according to the shares held by him. Each and every aperture used must be the same dimensions all through one round of watering.

Section 4. When a gate or box is constructed by the Company hereunder, all costs of material and construction shall be paid for by the person using the same or for whose benefit it was made.

Section 5. No person using water from the Company, or having a right thereto, shall construct any fence, building or other obstruction within one rod of the Company ditches and canals.

Section 6. The approval of the Board in writing shall be first had before any bridge or culvert shall be constructed or installed in any Company ditch or canal.

Section 7. It shall be the duty of the owners and users of culverts, bridges and other structures and improvements on, in and near the Company ditches to clean the ditches through and around such structures in the Spring of the year and to keep the same clean in order that a free flow of water through or around such structures may be had.

ARTICLE X. General Provisions.

Section 1. Amendment.

These By Laws may be altered or amended at any annual meeting of the Company or at any Special meeting called for that purpose by a vote of two-thirds (2/3) of the outstanding stock of the Company.

Section 2. Possession.

These By Laws shall remain always in the possession of the Secretary of this Company. Copies shall be available and it shall be the duty of each Director upon taking the oath of office to seek the possession of the copy of his predecessor and retain possession thereof until he is succeeded in office.

Section 3. Officers to take oaths.

All Officers and Directors of this Company shall within one week of their election and before assuming the duties of their office, qualify by taking an oath before an officer authorized to administer oaths, that he will perform the duties of his office to the best of his ability, and in accordance with the laws of the State of Idaho and the By Laws of this Company. Said oath shall be in writing and shall be filed with the Secretary of the Company.

CERTIFICATE OF ADOPTION

State of Idaho

County of Oneida, ss

We, JOHN J. RODERICK, STEPHEN HUGHES, LEO BROWN, MELVIN J. DAVIS and JOSEPH R. MAY, being a majority of the Directors of THE SAMARIA WATER AND IRRIGATION COMPANY, and WARREN EDWARDS the Secretary thereof, do hereby certify that the foregoing BY LAWS were adopted as the By Laws of said The Samaria Water and Irrigation Company, at a Special meeting of the Stockholders duly called and held for that purpose on the 15th day of July, 1971, at 8:00 o'clock P.M. of said day by the affirmative vote of all stockholders present, represented in person or by proxy, 506.65 shares of the capital stock outstanding which being at said time more than two-thirds of the total issued and outstanding capital stock of said corporation.

Dated this 16th day of July, 1971.

Joseph R. May, President and Director

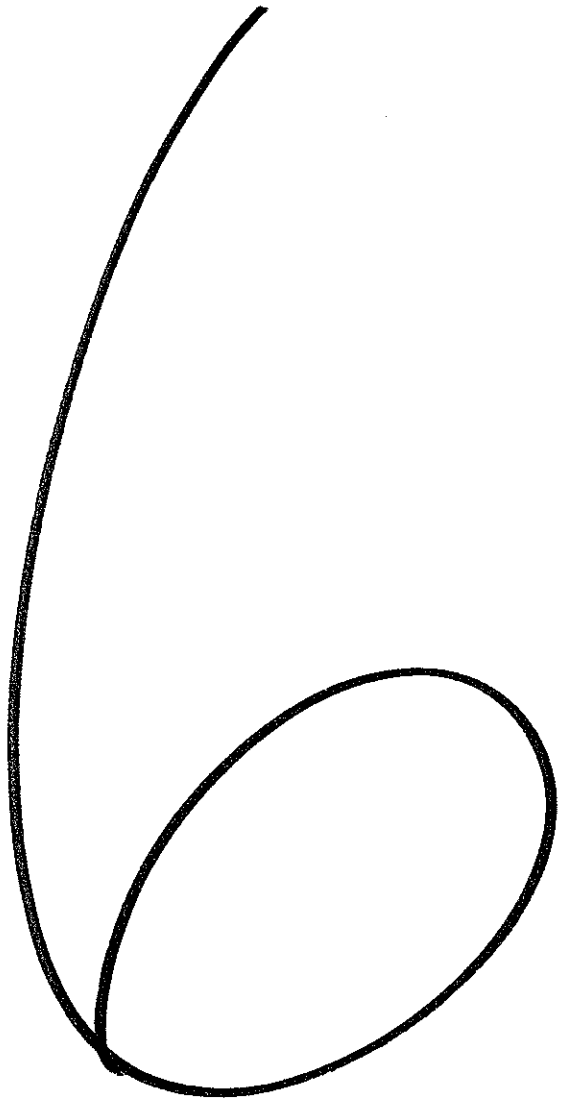
John J. Roderick, Director

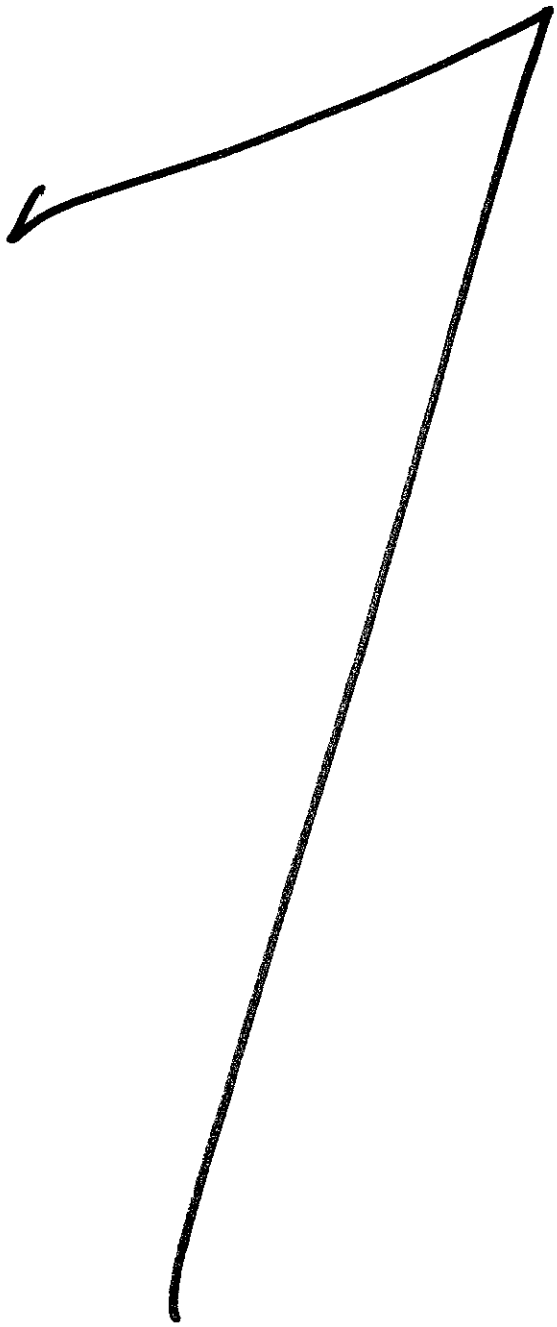
Stephen Hughes, Director

Leo Brown, Director

Melvin J. Davis, Director

Warren Edwards, Secretary





Instrument No. 46003

THIS INDENTURE, Made this 9th day of October in the year of our Lord one thousand nine hundred and Twenty-eight between Edward Martin and his wife Emma Martin

of Samaria County of Oneida State of Idaho the part ies of the first part, and

of Malad County of Oneida State of Idaho the part y of the second part,

Daniel Campbell

WITNESSETH: That the said part ies of the first part, for and in consideration of the sum of

Three Thousand and no/100---------- Dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, ha ve and other good and valuable consideration granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said part y of the second part, and to his heirs and assigns forever, all the following described real estate situated in Oneida County, State of Idaho, to-wit:

The West half of Section Twenty-Seven(27) in Township Fifteen South,Range Thirty-Five(35) East of the Boise Meridian,in Idaho,containing 320 acres;together with all improvements located thereon and all acquired rights of roadway leading to and from the above described premises to the main highway.

Also One-Half share of the Capital Stock of the Samaria Water and Irrigation Company,an Idah Corporation

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estates, right, title and interest in and to the said property, as well in law as in equity, of the said part ies of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the said part y of the second part, and to his heirs and assigns forever. And the said part ies of the first part, and their heirs, the said premises in a quiet and peaceable possession of the said part y of the second part, his heirs and assigns, against the said part ies of the first part, and their heirs and against all and every person and persons whomsoever lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said part ies of the first part ha ve hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of

S.T.Jeppsen

Edward Martin (SEAL)

Emma Martin (SEAL)

(SEAL)

(SEAL)

STATE OF Utah
County of Weber } ss.

On this Tenth day of June in the year 19 29 before me,

S.T.Jeppesen a Notary Public in and for said County, personally appeared

Edward Martin andxkxxi his wife Emma Martin

known to me to be the person s whose name s are subscribed to the within instrument. and acknowledged to me that the y executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL) S.T.Jeppesen

Notary Public;Residing at Ogden,Utah

(SEAL)

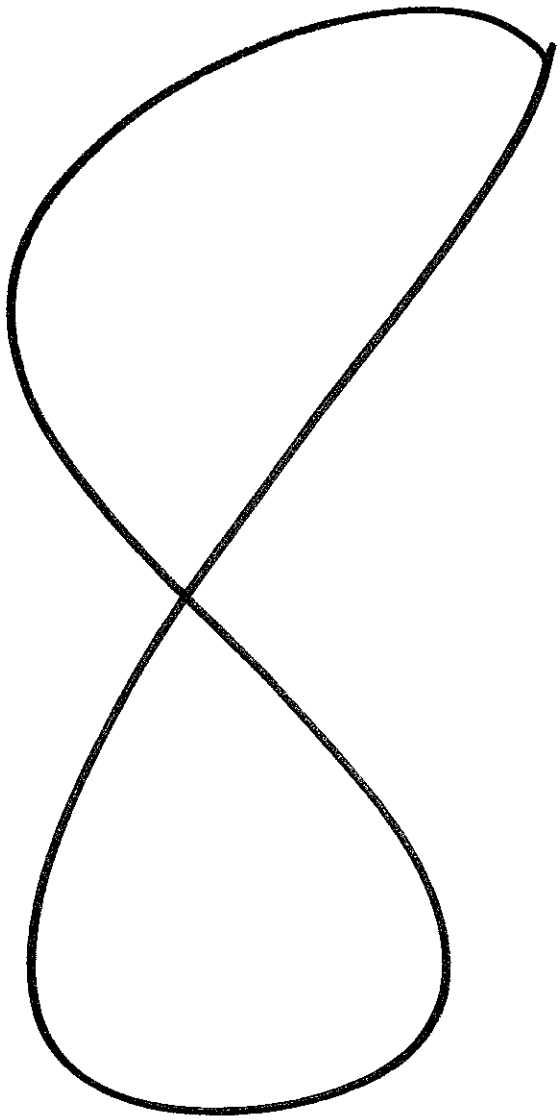
My Commission Expire s

Aug.29,1930

Filed for record this 30th day of July A. D. 1929 at 2-40 o'clock P. M.

J.V.Lykins
Ex-Officio Recorder.

By.....
Deputy.



Instrument No. 68243

WARRANTY DEED

THIS INDENTURE, Made this --23rd. day of --August;-------, in the year of our Lord one thousand nine hundred and Forty-Six;-----, between David P. Thomas and his wife Anna D. Thomas of --Malad;---, County of --Oneida--, State of --Idaho---, the parties of the first part, and --J. F. Fredrickson;---- of --Malad, County of ---Oneida;---, State of --Idaho---, the party of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Ten Dollars and other good and valuable consideration---------- DOLLARS, lawful money of the United States of America, to --them---- in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all of the following described real estate situated in the, County of Oneida, State of Idaho, to-wit:

The East Half of Section Twenty-Seven (27), the Southwest quarter of Section Twenty-Six (26), the North Half of the Northeast quarter and the North Half of the Northwest quarter of Section Thirty-Four (34) all in Township Fifteen (15) South of Range Thirty-Five (35) East of the Boise Meridian, in Idaho, together with all improvements located thereon, and all waters and water rights used with, upon and belonging to or in anywise appurtenant to the above described lands, and all acquired or deeded rights of roadway used with and leading to and from the above described premised to the main Public Highways.

Also One Share of the Capital stock of the Samaria Water and Irrigation Company, an Idaho corporation.---

$9.00 Documentary stamps attached and duly cancelled.

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever, and the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of

E. E. Thomas

David P. Thomas (SEAL)

Anna D. Thomas (SEAL)

(SEAL)

(SEAL)

STATE OF IDAHO, }
COUNTY OF Oneida } ss

On this --23rd.--day of --August;------- in the year 19 46, before me, ----H. E. Thomas-------, a Notary Public in and for said State, personally appeared David P. Thomas and his wife Anna D. Thomas;----- known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

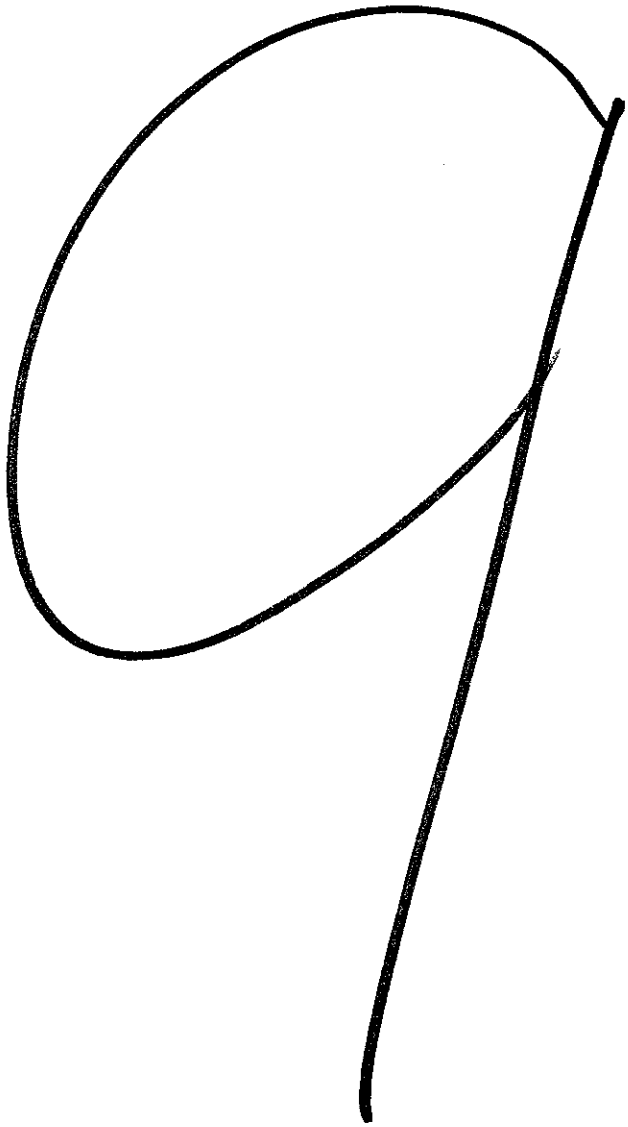
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Seal) H. E. Thomas
Notary Public for the State of Idaho, residing at
Malad Idaho

STATE OF IDAHO, }
COUNTY OF ONEIDA. } ss.

Filed for record this 17th day of March, A.D. 19 47, at 2:30 o'clock P. M.

John H. McAllister, *Ex-Officio Recorder.* By Merle Read, *Deputy.*



Instrument No. 46928 Deeds Book 20 pg 378

THIS INDENIURE Made this 19th day of April in the year of our Lord one thousand nine hundred and Thirty between John E.Jones and wife Winniefred Jones

of Malad County of Oneida State of Idaho the parties of the first part, and

Thomas M.Davis

of Samaria County of Oneida State of Idaho the party of the second part,

WITNESSETH: That the said parties of the first part for and in consideration of the sum of

Twenty-nine hundred - - - - - - - - - - - - - - Dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate situated in Oneida County, State of Idaho, to-wit:

The Southwest Quarter of Section 22, Township 15 South, Range 35 East, Boise Meredian; also
One share of water stock of the Samaria Water and Irrigation Co.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estates, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever. And the said parties of the first part and their heirs, the said premises in a quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs and against all and every person and persons whomsoever lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written

Signed, Sealed and Delivered in the Presence of

John E.Jones (SEAL)

Winniefred Jones (SEAL)

(SEAL)

(SEAL)

STAIE OF Idaho }
County of Oneida } ss.

On this 19th day of April in the year 1930 before me,

T.E.Ray a Notary Public in and for said County personally appeared

John E.Jones and his wife Winniefred Jones

known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)
Commission Expire

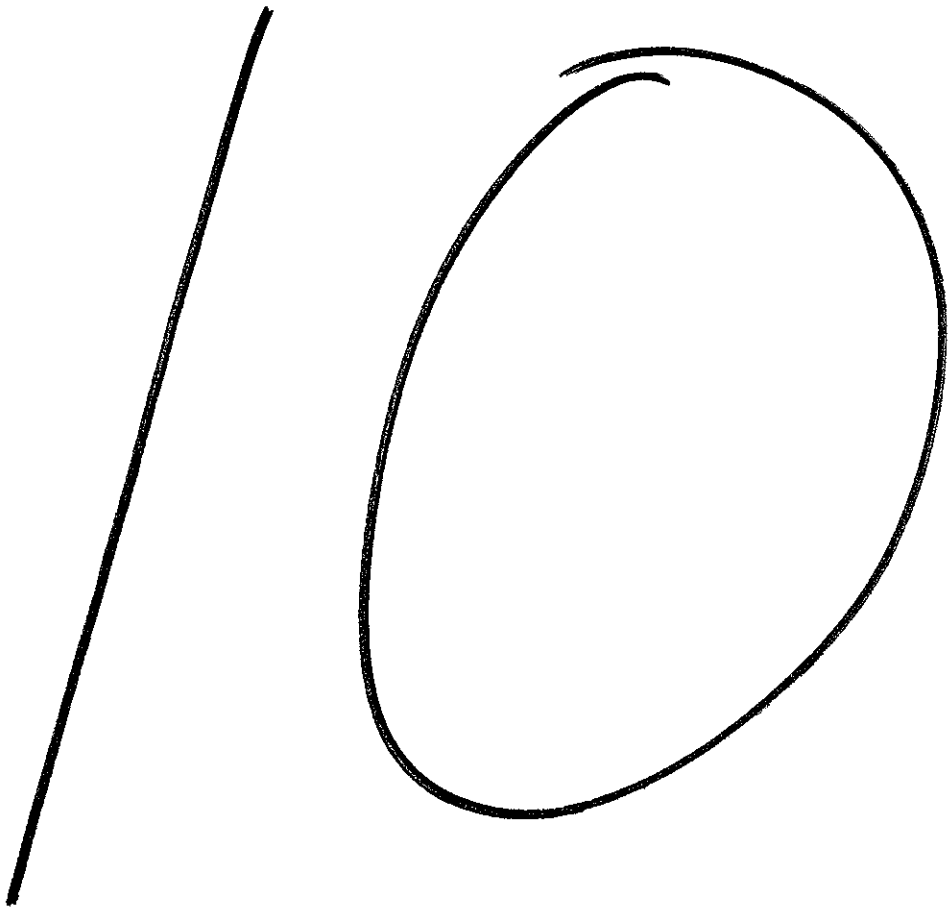
T.E.Ray
Notary Public for the State of Idaho
Residing at Malad,Idaho.

Filed for record this 20th day of April A D 1930 at 4-20 o'clock P.M

J.V.Lykins
Ex-Officio Recorder

By L.L.Peck
Deputy.

COMPARED



FROM : FAX NO. :719 593-1240 Apr. 17 2006 02:02PM P1/1

ATTN: Kandy Budge

Instructions to the watermaster of the Samaria Water and Irrigation Co., For the Year 1942.

-* 1 -*

Number of inches per stream 100 inches

-* 2 -*

Number of hours per share 6 hours

-* 3 -*

Unless the above are changed by the board

-* 4-*

Water turns running out during the night may be adjusted to give or take in order to make daylight turns, necessary adjustment to be made on the following turn.

-* 5 *-

Not permissable to carry over shares from one turn to another, (only for garden purposes)

-* 6 -*

Shareholders must be given 24 hours notice of water turn by the WATERMASTER

-* 7 -*

Leaks in boxes causing loss of water to the Company, to be charged to the person using the box at the time of the loss

-* 8 -*

When shares are rented notice must be given the Watermaster before the water turn is started, so the same may be charged to the shareholder rented from, Therefore preventing the same from being used more than once during the turn or the season.

-* 9 -*

The mountain water to be divided according to the best judgement of the watermaster in order that all above the ditch may receive the same amount according to their shares.

-* 10 -*

Shares rented from shareholders south of the Warm springs cannot be used from the upper ditch unless there is water available without making the turns farther apart then the turns south of the Warm springs.

-* 11 -*

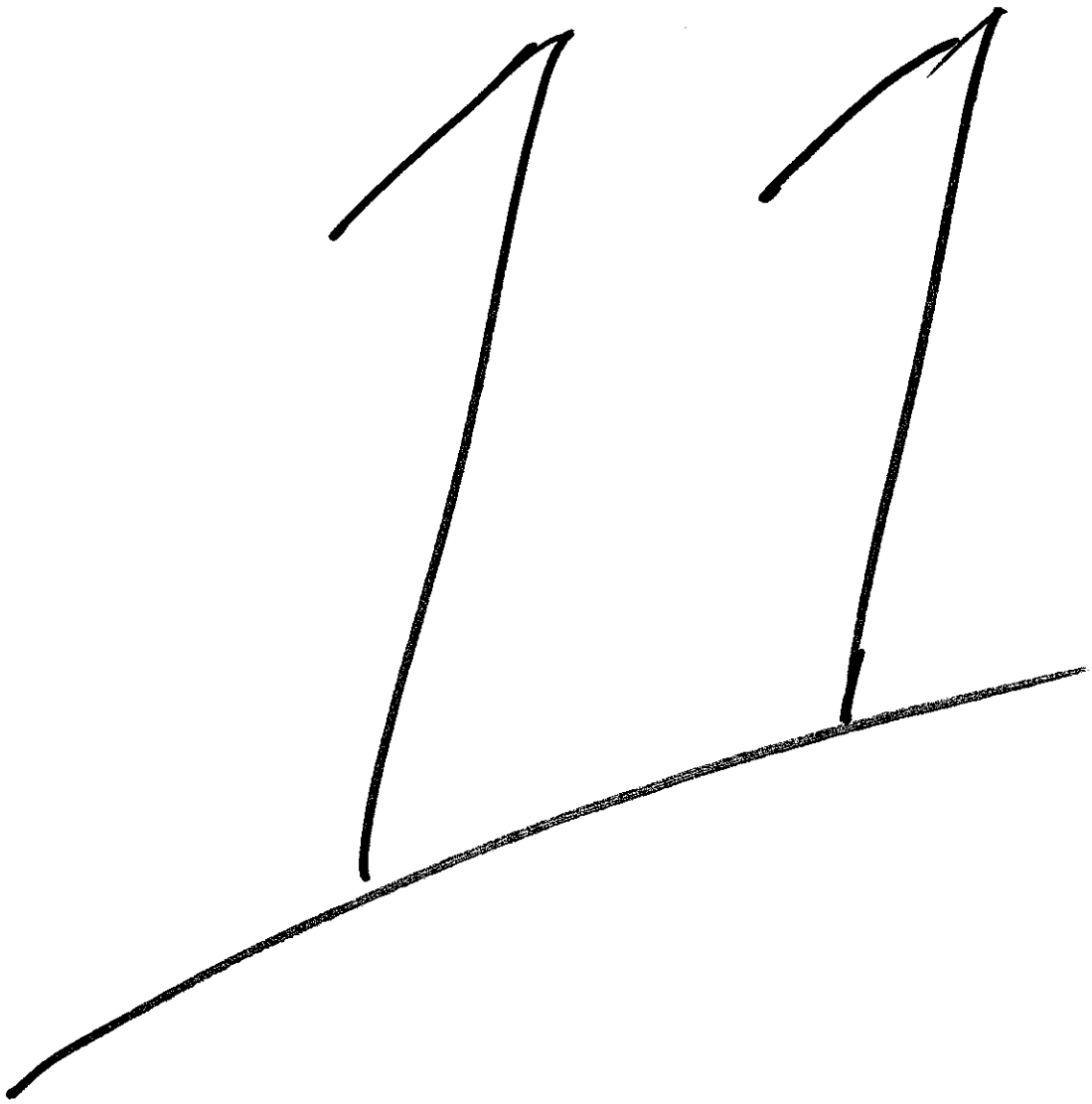
[illegible] duty to report to the Board parti[illegible] out of their turns -*- Or in an[illegible] from the Canals of the Company mo[illegible] they are entitled to.

-* 12 -*

[illegible] measure the streams of the Compan[illegible] fifteenth of each month, and k[illegible] record of the same in your recor[illegible] to you.

-* 13 -*

[illegible] follow the ditch once each week[illegible] to the other



Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name:_____

   Address:_____

   Phone No.:_____

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? _____

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other _____

_____

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. _____ Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use?

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

05/03/2006

Page 3 Affidavit Questions

9. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why?

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria?

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell our the movement of shares historically used below the "Hot Water Springs" with in the company area?

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Page 4 Affidavit Quesnel

Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs?

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company?

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

Page 5 Affidavit Quesuon:

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. _____

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

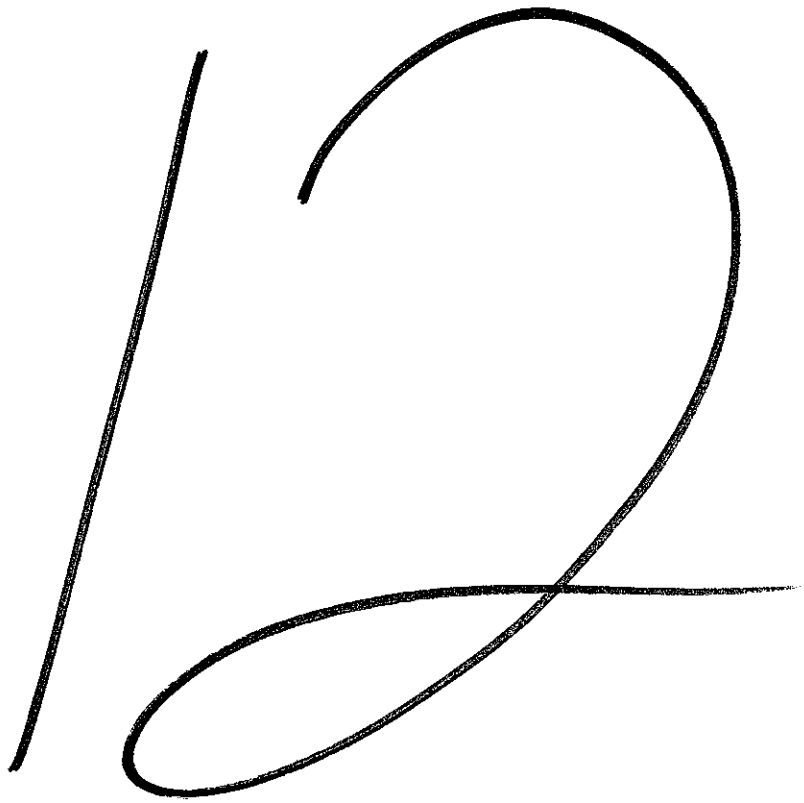
22. Did you remove any dams or other obstructions from the company ditch on his property? _____

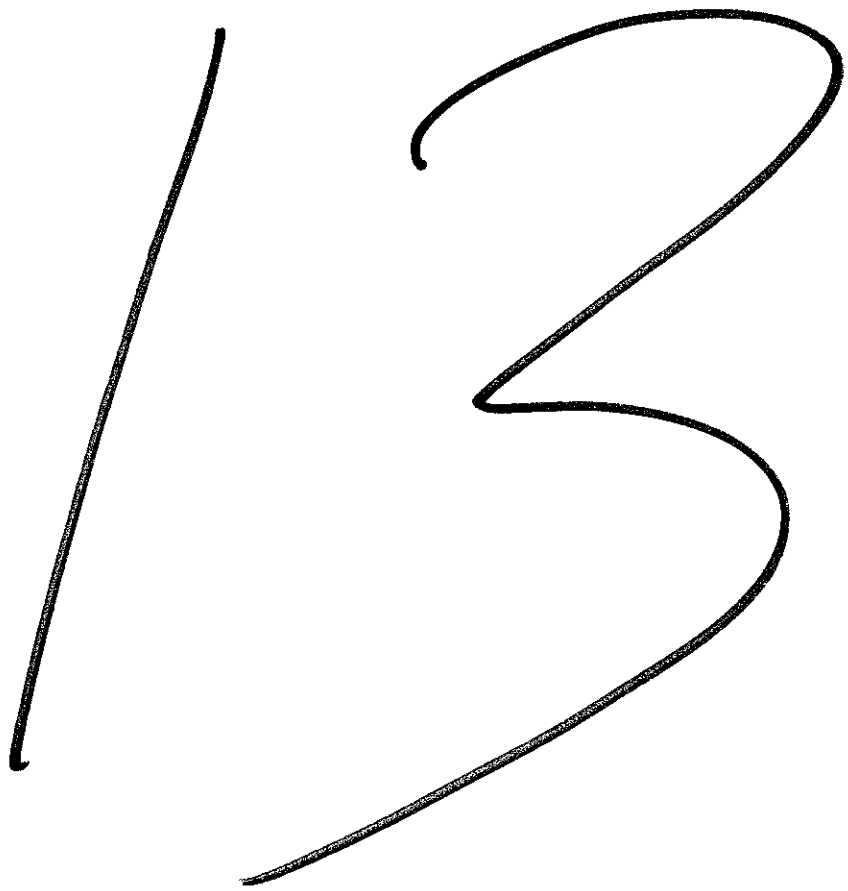
Further was this done more than one time? If so when? Year? _____

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

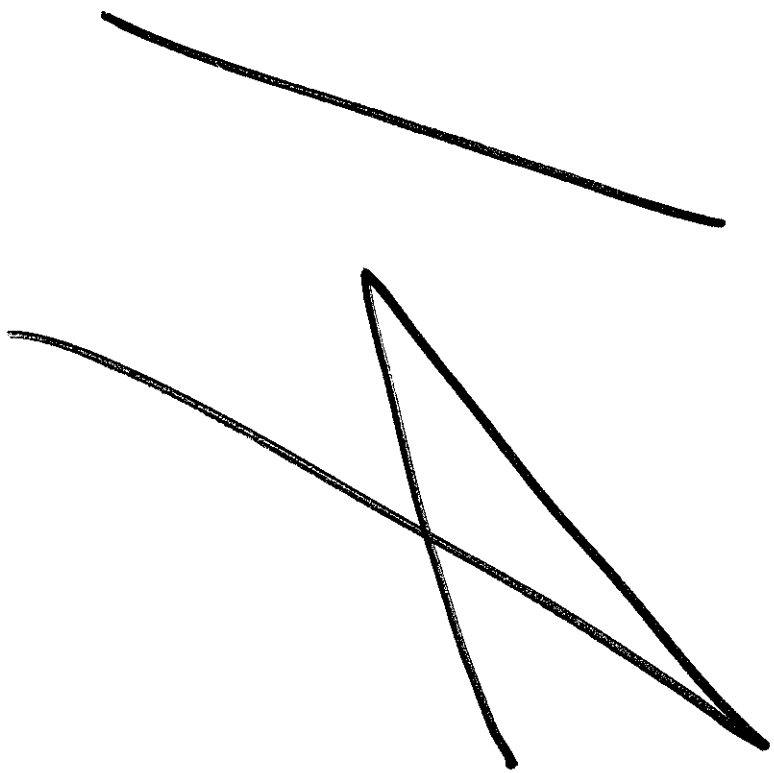
Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? _____

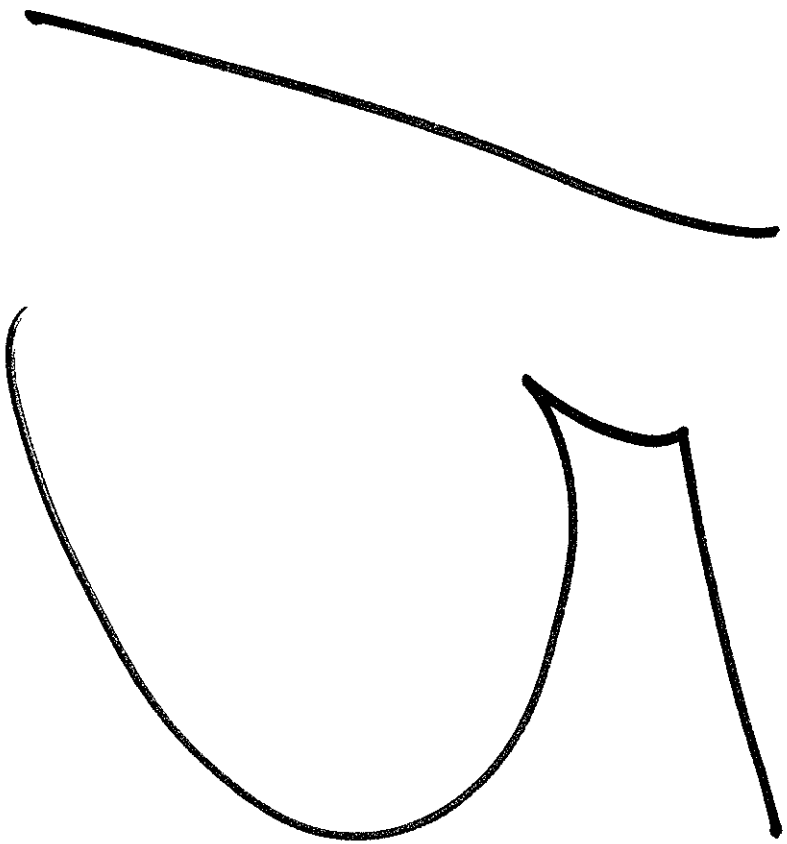




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JOHN R. GOODELL*
JOHN B. INGELSTROM
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*ALSO MEMBER WY & IL BARS
**ALSO MEMBER UT BAR
***ALSO MEMBER CO BAR
†ALSO MEMBER D. C. BAR
††ALSO MEMBER MO BAR
†††ALSO MEMBER CA BAR
‡ALSO MEMBER IL BAR
‡‡ALSO MEMBER WA BAR

RECEIVED
AUG 18 2006
DEPARTMENT OF
WATER RESOURCES

August 16, 2006

Gary Spackman, Hearing Office
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: M.J. Davis Memorial Limited Partnership
Application for Permit Nos. 15-7273, 15-7274 and 15-7275

Dear Mr. Spackman:

Enclosed for filing in the captioned matter please find the following documents:

1. Applicant's Answers to Protestant's First Set of Interrogatories, Requests for Admission and Requests for Production of Documents.

2. Applicant's Witness List.

3. Applicant's Amended ~~Witness~~ Exhibit List.

Sincerely,

RANDALL C. BUDGE

RCB:rr
Enclosures
cc: Roger Ling
IDWR/Eastern Region
Jeff Davis

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274 and 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**APPLICANT'S ANSWERS TO PROTESTANT'S FIRST SET OF INTERROGATORIES, REQUESTS FOR ADMISSIONS AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

TO: PROTESTANT SAMARIA WATER AND IRRIGATION COMPANY
by and through its attorneys, ROGER D. LING AND MICHAEL P. TRIBE

COMES NOW the Applicant, M.J. Davis Memorial Limited Partnership, by and through counsel, and, pursuant to Rules 26 and 33 of the Idaho Rules of Civil Procedure, answers and responds to Protestant's interrogatories, requests for admission and production requests dated July 20, 2006,as set forth below. To the extent that the definitions and instructions contained in Protestant's interrogatories conflict with, vary from or add to the requirements of such rules, the Applicant does hereby object to the same and states that its answers hereto are made without regard to such definitions and instructions.

INTERROGATORIES

INTERROGATORY NO. 1: Please state the name, addresses and telephone numbers of

all persons you intend to call as a witness at the hearing of this matter. With respect to the witnesses which you intend or expect to call at the trial of this action, please also provide the following information:

a. The current occupation of the witness;

b. A summary of the substance of each witness's testimony.

ANSWER: Applicant may call some or all of the following witnesses. Applicant reserves the right to name and identify additional witnesses prior to the hearing.

1. Jeff Davis; anesthesiologist. Mr. Davis is expected to testify concerning all matters relevant to the pending Applications, including but not limited to his knowledge and ownership of the property and the historic flows and use of water from Dry Pine, Rosebud and Thomas Davis, Samaria Water & Irrigation Company shares and water use, plat maps, stock certificates, and documents and records produced in response to discovery requests. Further, that there is adequate water for the proposed uses set forth in the Applications for Permit and said use will not impair any other water rights having earlier priority dates.

2. Emma Louise Chambers, retired. Mrs. Chambers is expected to testify regarding the subject property and the historic use of water.

3. Jackie Olson, Franklin County Public Health Nurse. Jackie Olson is expected to testify regarding the historic use of the property and water.

4. Luke Waldron, Water Master. Mr. Waldron is expected to testify concerning the water available and historic use of water from Dry Pine, Rosebud, Thomas David Canyons and the Samaria Irrigation system, together with delivery to shareholders.

5. Russ Sortor, retired. Mr. Sortor is expected to testify regarding use of water near

the town of Samaria on his property and flow available from mountain streams.

6. Rick Higley, farmer. Mr. Higley is expected to testify regarding water available from Thomas Davis, Dry Pine and Rosebud Canyons and the historic diversion and use of the same by him and others.

7. John Roderick, retired. Mr. Roderick is expected to testify regarding historic use of the water while he was an officer and board member of Samaria Water & Irrigation Company. Also his responses to the Company's "Affidavit Questions" wherein he identified in answer to question number 6 certain shareholders who had historically used mountain shares in that area.

8. President, Secretary and Board Members of Samaria Water & Irrigation Company. Expected to testify concerning records of the company, shareholders, water rights, delivery of water rights and all related matters relevant to the pending applications.

9. Spencer Atkinson, retired. Mr. Atkinson may testify concerning the use and sale of water shares known as Mountain Shares and answers given in response to his "Affidavit Questions" submitted by the company.

INTERROGATORY NO. 2: Please state the historic use of the waters for which you have filed an application under permit Nos. 15-7273, 15-7274, and 15-7275.

ANSWER: See documents produced by Samaria Water & Irrigation Company. The water from Dry Pine, Rosebud and Thomas Davis Canyons commonly referred to as "mountain water" was originally appropriated by Samaria and Southwest Mountain Water & Irrigation Company. Pursuant to the Notice of Water Right of James Thomas, et al., dated July 3, 1893, use of the water by the named claimants is believed to have existed prior to the date of the filing of the notice. The notice indicates that mountain water was diverted and used in the mountain

area. The Deed and Indenture dated July 31,1893, reflects the sale of these water rights by the Samaria and Southwest Mountain Water and Irrigating Company to Samaria Water & Irrigation Company, after which water is believed to have continued to be diverted and used in the mountain areas of these streams. Applicant is the successor in interest to a portion of the lands and water rights of these original claimants. Applicant and his predecessors in interest continued to use the so-called mountain shares in Samaria Water & Irrigating Company on their properties in the mountain areas until interfered with by the Company in 2005. *See* Applicant's Exhibit List, Exhibit Nos. 7, 8, 9, 12, 16. *See* Answer to Interrogatory No. 1.

INTERROGATORY NO. 3: Please identify all persons with knowledge as to the historic use of Rosebud Creek, Dry Pine Creek, and Thomas Davis Creek. Please include addresses and telephone numbers for such persons.

ANSWER: Applicant objects to this request as overbroad and burdensome. There are obviously many people who may have knowledge of the historic use of water which are unknown to Applicant. See Answer to Interrogatory No. 1.

INTERROGATORY NO. 4: Do you intend to raise the issue of futile call doctrine at the hearing in this matter? If so, please describe how such futile call doctrine will affect your applicant for Permit Nos. 15-7273, 15-7274 and 15-7275.

ANSWER: Yes. The doctrine of futile call is relevant to the issue of the availability of water from the mountain streams available for appropriation. It is believed that in certain years early in the irrigation season and in times of spring runoff or heavy rain, there is ample water to satisfy the rights sought under the Applications in excess of prior water rights. Additionally, in most years and particularly in recent drought years, during much of the summer there is no water

from the mountain streams that reaches any downstream shareholders or other appropriators, other than applicant. During such times any call upon upstream junior rights would be futile and not provide water to downstream senior users.

REQUEST FOR PRODUCTION NO. 1: If your answer to Interrogatory No. 4 is in the affirmative, please produce copies of all documents you intend to use as evidence and exhibits at the hearing in this matter to prove the futile call doctrine.

RESPONSE: Water delivery records of the Company. The Company has not yet responded to Applicant's Discovery Requests fully so what records are available are unknown.

INTERROGATORY NO. 5: Please state your interest in each claimed place of use and claimed point of diversion. Please also include how you acquired such interest and any supporting evidence to prove such interest, which you intend to present at the hearing in this matter.

ANSWER: Applicant owns the property at the point of diversion and place of use. The property at the place of use was acquired from Applicant's parents. The property at the upper-most point of diversion was acquired from Mike Olsen. Ownership interest was acquired by Warranty Deed. At the hearing Applicant will present copies of the Warranty Deeds and current tax notice as evidence of ownership. See Applicant's Exhibit 17.

REQUEST FOR PRODUCTION NO. 2: Please produce copies of any document or other writing in your possession, including written notes, memoranda or statements which you intend to present at the hearing in this matter to prove such interest referenced in Interrogatory No. 5 above.

RESPONSE: See Applicant's Exhibit List No. 17.

INTERROGATORY NO. 6: Please identify all documents that you intend to introduce as exhibits at the hearing of this matter.

ANSWER: See Applicant's Exhibit List as amended. Applicant reserves the right to identify additional documents prior to the hearing.

REQUEST FOR ADMISSION NO. 1: Admit that Samaria Water and Irrigation Company has an interest in Rosebud Creek with a priority date of 1893.

RESPONSE: Admit that Samaria Water & Irrigation Company has filed statutory claims under Idaho Code §§42-243, numbers 15-4066, 15-4067 and 15-4068 of record with the Idaho Department of Water Resources with respect to which Applicant filed a Notice of Exception objecting to the claimed place of use to the extent that it did not include Applicant's property. Applicant believes Samaria Water & Irrigation Company has established water rights by diversion and application to beneficial use under Idaho law, although such rights have never been lawfully established by any permit, license or Court Decree. Further, that Applicant has a lawful right to use water from these sources based upon his 11-1/8 shares of water stock in Samaria Water & Irrigation Company.

INTERROGATORY NO. 7: If you deny that Samaria Water and Irrigation Company has an interest in Rosebud Creek, please state the basis for your denial. In addition, please provide the name of any and all witnesses who will testify in support of your denial.

ANSWER: See Response to Request for Admission No. 1.

REQUEST FOR ADMISSION NO. 2: Admit that Samaria Water and Irrigation Company has an interest in Thomas Davis Creek with a priority date of 1893.

RESPONSE: See Response to Request for Admission No. 1.

INTERROGATORY NO. 8: If you deny that Samaria Water and Irrigation Company has an interest in Thomas Davis Creek, please state the basis for your denial. In addition, please provide the name of any and all witnesses who will testify in support of your denial.

ANSWER: See Response to Request for Admission No. 1.

REQUEST FOR ADMISSION NO. 3: Admit that Samaria Water and Irrigation Company has an interest in Dry Pine Creek with a priority date of 1893.

RESPONSE: See Response to Request for Admission No. 1.

INTERROGATORY NO. 9: If you deny that Samaria Water and Irrigation Company has an interest in Dry Pine Creek, please state the basis for your denial. In addition, please provide the name of any and all witnesses who will testify in support of your denial.

ANSWER: See Response to Request for Admission No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce copies of any document or other writing in your possession, including written notes, memoranda or statements which you intend to present at the hearing in this matter which support your stance pertaining to Interrogatory No. 7 above.

RESPONSE: See Applicant's Exhibit List, number 4, number 6.

INTERROGATORY NO. 10: In the event Permit Nos. 15-7273, 15-7274, and 15-7275 are issued to you, please state why you believe such permits would not reduce the quantity of water under the existing water rights of Samaria Water and Irrigation Company Nos. 15-466, 15-467 and 15-4068.

ANSWER: Because such permits would have a priority date later than all Company rights and would be subject to call, except in times any call would be futile, all in accordance

with Idaho law.

DATED this 16th day of August, 2006.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of August, 2006, I served a copy of the foregoing APPLICANT'S ANSWERS TO PROTESTANT'S FIRST INTERROGATORIES, REQUESTS FOR ADMISSION AND REQUESTS FOR PRODUCTION OF DOCUMENTS upon the following by U.S. Mail, postage prepaid:

Roger D. Ling
Michael P. Tribe
Ling, Robinson & Walker
P.O. Box 396
Rupert, Idaho 83350

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Willard J. And Kay Higley
Samaria Recreation District & Cemetery
4010 S. Samaria Road
Malad, Idaho 83252

Randall C. Budge
RANDALL C. BUDGE

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274 and 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**APPLICANT'S WITNESS LIST**

In compliance with the Hearing Officer's May 4, 2006 Order Authorizing Discovery, Prehearing Order and Notice of Hearing, the Applicant M.J. Davis Memorial Limited Partnership hereby serves on all other parties this Witness list:

1. Jeff Davis; anesthesiologist. Mr. Davis is expected to testify concerning all matters relevant to the pending Applications, including but not limited to his knowledge and ownership of the property and the historic flows and use of water from Dry Pine, Rosebud and Thomas Davis, Samaria Water & Irrigation Company shares and water use, plat maps, stock certificates, and documents and records produced in response to discovery requests. Further, that there is adequate water for the proposed uses set forth in the Applications for Permit and said use will not impair any other water rights having earlier priority dates.

2. Emma Louise Chambers, retired. Mrs. Chambers is expected to testify regarding the subject property and the historic use of water.

3. Jackie Olson, Franklin County Public Health Nurse. Jackie Olson is expected to testify regarding the historic use of the property and water.

4. Luke Waldron, Water Master. Mr. Waldron is expected to testify concerning the

water available and historic use of water from Dry Pine, Rosebud, Thomas David Canyons and the Samaria Irrigation system, together with delivery to shareholders.

5. Russ Sortor, retired. Mr. Sortor is expected to testify regarding use of water near the town of Samaria on his property and flow available from mountain streams.

6. Rick Higley, farmer. Mr. Higley is expected to testify regarding water available from Thomas Davis, Dry Pine and Rosebud Canyons and the historic diversion and use of the same by him and others.

7. John Roderick, retired. Mr. Roderick is expected to testify regarding historic use of the water while he was an officer and board member of Samaria Water & Irrigation Company. Also his responses to the Company's "Affidavit Questions" wherein he identified in answer to question number 6 certain shareholders who had historically used mountain shares in that area.

8. President, Secretary and Board Members of Samaria Water & Irrigation Company. Expected to testify concerning records of the company, shareholders, water rights, delivery of water rights and all related matters relevant to the pending applications.

9. Spencer Atkinson, retired. Mr. Atkinson may testify concerning the use and sale of water shares known as Mountain Shares and answers given in response to his "Affidavit Questions" submitted by the company.

DATED this 16 day of ~~June~~ August, 2006.

RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of August, 2006, I mailed a true and complete copy of the foregoing document, postage prepaid, to each of the following:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Roger Ling
Ling Robinson
Samaria Water and Irrigation Company
P.O. Box 396
Rupert, Idaho 83350

Randall C. Budge
RANDALL C. BUDGE

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
rcb@racinelaw.net

Attorney for M.J. Davis Memorial Limited Partnership

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274 and 15-7275 IN THE NAME OF M.J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**FIRST AMENDED APPLICANT'S EXHIBIT LIST**

In compliance with the Hearing Officer's May 4, 2006 Order Authorizing Discovery, Prehearing Order and Notice of Hearing, the Applicant M.J. Davis Memorial Limited Partnership hereby serves on all other parties copies of Exhibits that may be offered at the hearing:

1. Application for Permit No. 15-7273, 15-7274 and 15-7275 in the name of M.J. Davis Memorial Limited Partnership.
2. Water Right License No. 15-07032.
3. Samaria Water & Irrigation Company Stock Certificate Nos. 517, 588, 539, 536, 599.
4. Samaria Water & Irrigation Co. Statutory Claim Nos. 15-4066, 15-4067, 15-4068.
5. Articles of Incorporation and By Laws of Samaria Water & Irrigation Co.
6. Notice of Exception filed 12/16/05.
7. Warranty Deed dated October 9, 1928: Martin to Campbell.
8. Warranty Deed dated August 23, 1946: Thomas to Fredrickson.
9. Warranty Deed dated April 19, 1930: Jones to Davis.
10. Minutes of Samaria Water & Irrigation Co.

11. Affidavit questions - Samaria Water & Irrigation Co.

12. Bargain and Sale Deed (Indenture) between The Samaria and Southwest Mountain Water Irrigation Company and Samaria Water & Irrigation Co., dated July 3, 1893. (Part of documents produced by Protestant Samaria with discovery responses dated July 20, 2006.)

13. Protestant's Response to Applicant's Discovery Requests. (Requested and past due, but not yet received.)

14. Application for Preliminary Permit Project No. P-12653-000, Samaria Water & Irrigation Co. to Federal Energy Regulatory Commission re Samaria Hydro.

15. Motion to Intervene and Protest FERC Application for Preliminary Permit.

16. Instructions to the Water Master of the Samaria Water & Irrigation Company, for the year 1942.

17. Applicant's Warranty Deeds and Tax Notices evidencing ownership of the property at the point of diversion and place of use.

18. Notice of Water Right of James Thomas et al in Rose Brush Canyon dated July 3, 1893.

19. Samaria Water & Irrigation Company Records of Delivery of Water to Shareholders (requested, not yet produced.)

20. Multiple photos depicting the points of diversion, places of use and headgate installation and diversions recently constructed by Samaria Water & Irrigation Company.

21. Maps and plats depicting the mountain streams, points of diversion and places of use.

22. Original patent plat map.

23. May 10, 2006 letter from Applicant's counsel to counsel for Samaria Water & Irrigation Company.

DATED this 16th day of August, 2006.

RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED

By Randall C. Budge

RANDALL C. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of August, 2006, I mailed a true and complete copy of the foregoing document, postage prepaid, to each of the following:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Roger Ling
Ling Robinson
Samaria Water and Irrigation Company
P.O. Box 396
Rupert, Idaho 83350

Randall C. Budge
RANDALL C. BUDGE

EXHIBIT 12

PLEASE PLACE BEHIND TAB 12 ON
APPLICANT'S EXHIBIT LIST

No. 401½.—BARGAIN AND SALE DEED. Printed and for sale by the [illegible] JOB PRINTING CO. SALT LAKE.

This Indenture, *Made the* 31st *day of* July *in the year of our Lord, one thousand eight hundred and ninety-* three

Between The Samaria and South West Mountain Water and Irrigating Co., of Samaria, Oneida County, Idaho, party of the first part and The Samaria Water and Irrigating Company of the same place

the party of the second part,

Witnesseth, *that the said party of the first part, for and in consideration of the sum of* Fifty ——— *DOLLARS, lawful money of the United States of America, to* it *in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, and to its heirs and assigns forever, all* those certain streams of water in Oneida known as "Dry Creek" "Rose Bush" and "Thomas Davis" Canyons, near Samaria in Oneida County, Idaho, being the same water duly located by said grantor company herein on the 3rd day of July, 1893 and filed for record in the office of the County Recorder of said county, on said date.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said part ..... of the first part, of, in or to the said premises, and every part and parcel there of, with the appurtenances.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the said part y of the second part, and its heirs and assigns forever.

In Witness Whereof, *the said part y of the first part has hereunto set its hand and seal the day and year first above written.*

Signed, Sealed and Delivered in the Presence of

+ Daniel J. Williams

D-d J. Davis

Richard Mordl [SEAL]

Heber Thorn [SEAL]

Daniel E. Price [SEAL]

David Bowen [SEAL]

Trustees of said

~~United States of America.~~

State of Idaho
~~Territory of Utah,~~
County of Oneida } ss.

On this 31st day of July A. D. one thousand eight hundred and ninety Nine before me, a Justice of the Peace ~~a Notary Public~~ in and for ~~said~~ Samaria Precinct Oneida County, duly commissioned and qualified, personally appeared the within named Richard Morse, Jas. Thomas, Daniel E. Price, David Ramsey & Jeremiah H. Williams, Directors of said company named therein whose name S are subscribed to the foregoing Deed of Conveyance as grantor therein, personally known to me to be the identical person mentioned in and who executed the same, and duly acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto set my hand ~~and affixed my official seal~~, the day and year in this Certificate first above written.

David T. Davis
~~Notary Public.~~
Justice of the Peace,
Samaria Precinct,
Oneida Co., Idaho.

Deed.

S & S.M.W & J.C.

TO

S.W. & J.C.

Dated July 31, 1893

RECORDED AT THE REQUEST OF

Stone and Evans

October 27th A. D. 1893

at 30 min. past 3

P M., in book 3 record of

Deeds, page 380

C. T. Hanson

Recorder Oneida County.

The S. & S. W. M. W. & I. Co
To
The S. W. and I. Co
} SS.

This Indenture, Made the 31st day of July in the year of our Lord one thousand eight hundred and ninety three Between, The Samaria and South West Mountain Water and Irrigating Company party of the first part and The Samaria Water and Irrigating Company of the same place the party of the second part, Witnesseth, that the said party of the first part, for and in consideration of the sum of Fifty dollars, lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed and confirmed and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part and to its heirs and assigns forever, all those certain streams of water in what is known as dry pine, Rose Bush, and Thomas Davis Canyons near Samaria, in Oneida County, Idaho, being the same water duly located by said grantor Company herein on the 3rd day of July 1893 and filed for record in the office of the County Recorder of said County on said date.

Together with all and singular the tenements hereditaments and appurtenances thereto belonging or in anywise appertaining, and the rents issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said part of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

To have and to hold, all and singular, the said premises, together with the appurtenances, unto the said party of the second part, and its heirs and assigns forever.

In Witness Whereof, the said party of the first part has hereunto set its hand and seal the day and year first above written,

Signed, Sealed and Delivered in the Presence of
Daniel J. Williams
M. F.

Richard Morse.
James Thomas
Daniel E. Price

Seal
Seal
Seal

1st Grant.

State of Idaho } SS.
County of Oneida }

On this 31st day of July A.D. one thousand eight hundred and ninety three before me a Justice of the Peace in and for Samaria Precinct Oneida County duly commissioned and qualified, personally appeared the within named Richard Mosser, Jas Thomas, Daniel C Price, David Bowen and Jeremiah A Williams, Directors of said Company named therein whose names are subscribed to the foregoing Deed of Conveyance as grantor therein, personally known to me to be the identical person mentioned in and who executed the same, and duly acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto set my hand the day and year in this certificate first above written.

David T. Davis
Justice of the Peace
Samaria Precinct, Oneida County, Idaho.

Recorded at the request of Stone and Evans
October 29th A.D. 1893 at 3 P.M.

C. T. Moore
Recorder of Oneida Co

16

Instructions to the watermaster of the Samaria Water and Irrigation Co., For the Year 1942.

-* 1 -*

Number of inches per stream 100 inches

-* 2 -*

Number of hours per share 6 hours

-* 3 -*

Unless the above are changed by the board

-* 4-*

Water turns running out during the night may be adjusted to give or take in order to make daylight turns, necessary adjustment to be made on the following turn.

-* 5 *-

Not permissable to carry over shares from one turn to another, (only for garden purposes)

-* 6 -*

Shareholders must be given 24 hours notice of water turn by the WATERMASTER

-* 7 -*

Leaks in boxes causing loss of water to the Company, to be charged to the person using the box at the time of the loss

-* 8 -*

When shares are rented notice must be given the Watermaster before the water turn is started, so the same may be charged to the shareholder rented from, Therefore preventing the same from being used more than once during the turn or the season.

-* 9 -*

The mountain water to be divided according to the best judgement of the waternaster in order that all above the ditch may receive the same amount according to their shares.

-* 10 -*

Shares rented from shareholders south of the Warm springs cannot be used from the upper ditch unless there is water available without making the turns farther apart than the turns south of the Warm springs.

-* 11 -*

It is your duty to report to the Board parti
taking water out of their turns -*- Or in an
taking water from the Canals of the Company mo
than they are entitled to.

-* 12 -*

You will measure the streams of the Compan
the first and fifteenth of each month, and k
a correct record of the same in your recor
to be furnished to you.

-* 13 -*

You are to follow the ditch once each week
from one end to the other

17

18

Notice of Water Right of James Thomas et al } Rose Brush Canyon

To whom these presents may come greeting:

Be it known that James Thomas, Daniel J. Williams, Jeremiah L. William Richard Morse, Daniel E. Price, John E. Price, William R. Thomas, William Jones and David Bowen, of Samaria, Oneida County, Idaho, &c. - hereby publish and declare, as legal notice to all the world.

1st. That they have a legal right to the use, possession and control of and claim fifty inches of the waters of Rose Brush Canyon, 3 miles South West of Samaria in said County and State measured under a four inch pressure and flowing at the point of diversion, which point of diversion is described as follows: At a point at the mouth of said Canyon where a ditch from Dry Pine Canyon intersects the same.

2nd. That the special purpose for which said water is to be used, is to irrigate the lands of the appropriators herein and for domestic and culinary purposes.

That the place of intended use, is on the lands of the appropriators herein, situated North and North East from said point of diversion and situated along the ditch conducting the water mentioned herein.

3rd. That we intend to divert it from said Rose Brush Canyon by means of a ditch of the following dimensions and carries or conducts fifty inches of water from said Canyon, a ditch one foot wide and one ft deep.

Witness our hands at Samaria, Idaho, July 3 1893.

James Thomas
Richard Morse
Daniel E Price
John E Price
William R. Thomas
Daniel J Williams
Jeremiah L. Williams
William Jones
David Bowen

State of Idaho, County of Oneida } ss.

Richard Morse being first duly sworn deposes and says that he is of lawful age and one of the appropriators and claimants of the water and water right mentione in the foregoing notice of appropriation and claim, and the persons whose names are su scribed thereto as appropriators and claimants he knows, and also knows the contents of said instrument and that the same is true and correct. Richard Morse.

Subscribed and sworn to before me this 3rd day of July, 1893.

Seal C. H. Stone, Ex. Officio Circuit Court Commissioner.

State of Idaho, County of Oneida } ss.

Daniel E Price being duly sworn deposes and says that he is one of the appropr ators named herein and that the foregoing is a full true and correct copy of the notice posted at place designated herein on the 3rd day of July 1893. Daniel E Price.

Subscribed and sworn to before me this 3rd day of July 1893. C. H. Evans Notary Public

Seal Recorded at the request of Stone and Evans July 5th 1893 at 15 minutes past 10 A.M. C. T. Moore Recorder of Oneida Co

19

Notice of Water Right

State of Idaho } SS
County of Oneida }

James Thomas et al } Dry Pine Canyon.

To all whom these presents may concern:

Be it known, That James Thomas, Richard Morse, David E Price John E Price Wm R. Thomas, Dan'l J. Williams Jeremiah A. Williams Wm Jones David Bowen of Samaria in said County and State, do hereby publish and declare, as a legal notice to all the world. 1st That we have a legal right to the use, possession and control of and claim One hundred inches of the waters of Dry Creek Canyon 8 miles S.W. of Samaria in said County and State, measured under a four inch pressure, and flowing at the point of diversion, which point of diversion is described as follows: at a point 40 rods below the mouth of said Canyon on the East side of said Canyon and conducted into Rose Brush Canyon. 2nd That the special purpose for which said water is intended to be used, is to irrigate the lands of the appriators herein and for domestic and culinary purposes. That the place of intended use, is on the lands of the appropriators herein situated North and N. East from said point of diversion and situated along the ditch conducting the water herein. 3rd That we intend to divert it from said Dry creek Canyon by means of a ditch of the following descriptions, Two feet wide and one foot deep in size and carries or conducts 100 inches of water from said Canyon.

Witness our hands at Samaria, Idaho, this 3rd day of July 1893.

Locators: James Thomas, Richard Morse, David E Price, John E Price.

Wm R Thomas, Dan'l J Williams, Jeremiah A Williams, William Jones, David Bowen

State of Idaho, County of Oneida } SS

Richard Morse having been first duly sworn deposes and says that he is of lawful age and one of the appropriators and claimants of the water and water rights mentioned in the foregoing Notice and Statement of appropriation and claim and the persons whose names are subscribed thereto as the appropriators and claimants that he knows the contents of said notice and statement foregoing and that the matters and things therein stated are true. Richard Morse.

Seal

Subscribed and sworn to before me this 3rd day of July 1893.

C. F. Stone U.S. Circuit Court Commissioner.

State of Idaho, County of Oneida } SS.

Daniel E Price being duly sworn says that he is one of the appropriators herein and that the foregoing instrument is a full true and correct copy of a notice by him posted at place designated therein on the 3rd day of July 1893. Daniel E Price.

Seal

Subscribed and sworn to before me this 3rd day of July 1893.

A. R Evans Notary Public.

State of Idaho, County of Oneida } SS.

I hereby certify that this instrument was filed for record at request of Stone & Evans at 20 minutes past 10 o'clock A.M. this 5th day of July A.D. 1893. at my office

C. T. Toone
Recorder of Oneida Co

20

Notice of Water Right } Thomas Davis
of James Thomas } Canyon

To all whom these presents may come greeting:

Be it known that James Thomas, Richard Morse, Daniel E Price John E Price, William R. Thomas, Daniel J. Williams, Jeremiah A. Williams, William Jones, & David Bowen, of Samaria, Oneida County, Idaho, do hereby publish and declare, as legal Notice to all the world,

I. That they have a legal right to the use, possession and control of and claim one hundred and fifty inches of water of Thomas Davis Canyon 2½ miles South West of Samaria in said County and State, measured under a four inch pressure and flowing at the point of diversion, which point of diversion is described as follows: at a point on the East side of said Canyon about one fourth mile below the mouth of said canyon.

II. That the special purpose for which said water is to be used, is to irrigate the lands of the appropriators herein and for domestic and culinary purposes. That the place of intended use, is on the lands of the appropriators herein, situated North and North East from said point of diversion and situated along the ditch conducting the water mentioned herein.

III. That we intend to divert it from said Thomas Davis Canyon by means of a ditch of the following dimensions and carries or conducts _____ inches of water from said canyon a ditch 2 feet wide and 1½ feet deep.

Witness our hands at Samaria, Idaho, July 3rd 1893.

James Thomas	William R Thomas
Richard Morse	Daniel J. Williams
Locators Daniel E Price	Jeremiah A. Williams
John E Price	William Jones
	David Bowen

State of Idaho } ss
County of Oneida }

Richard Morse being first duly sworn deposes and says that he is of lawful age and one of the appropriators and claimants of the water and water right mentioned in the foregoing notice of appropriation and claim and the persons whose names are subscribed thereto as appropriators and claimants he knows, and also knows the contents of said instrument and that the same is true and correct.

Richard Morse.

Seal

Subscribed and sworn to before me this 3rd day of July 1893.

C. F. Stone
U.S. Circuit Court Commissioner.

State of Idaho } ss.
County of Oneida }

Daniel E Price being duly sworn says that he is one of the appropriators named herein, that the foregoing is a true copy of the notice posted at point designated therein on the 3rd day of July 1893.

Daniel E Price.

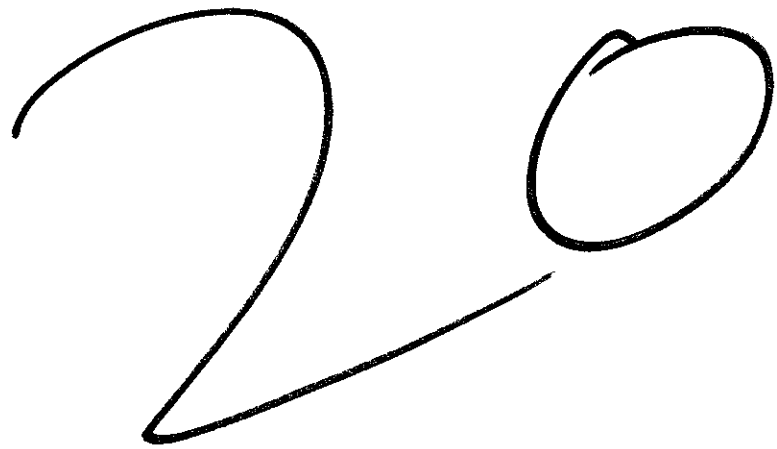
Subscribed and sworn to before me this the 3rd day of July 1893.

Seal

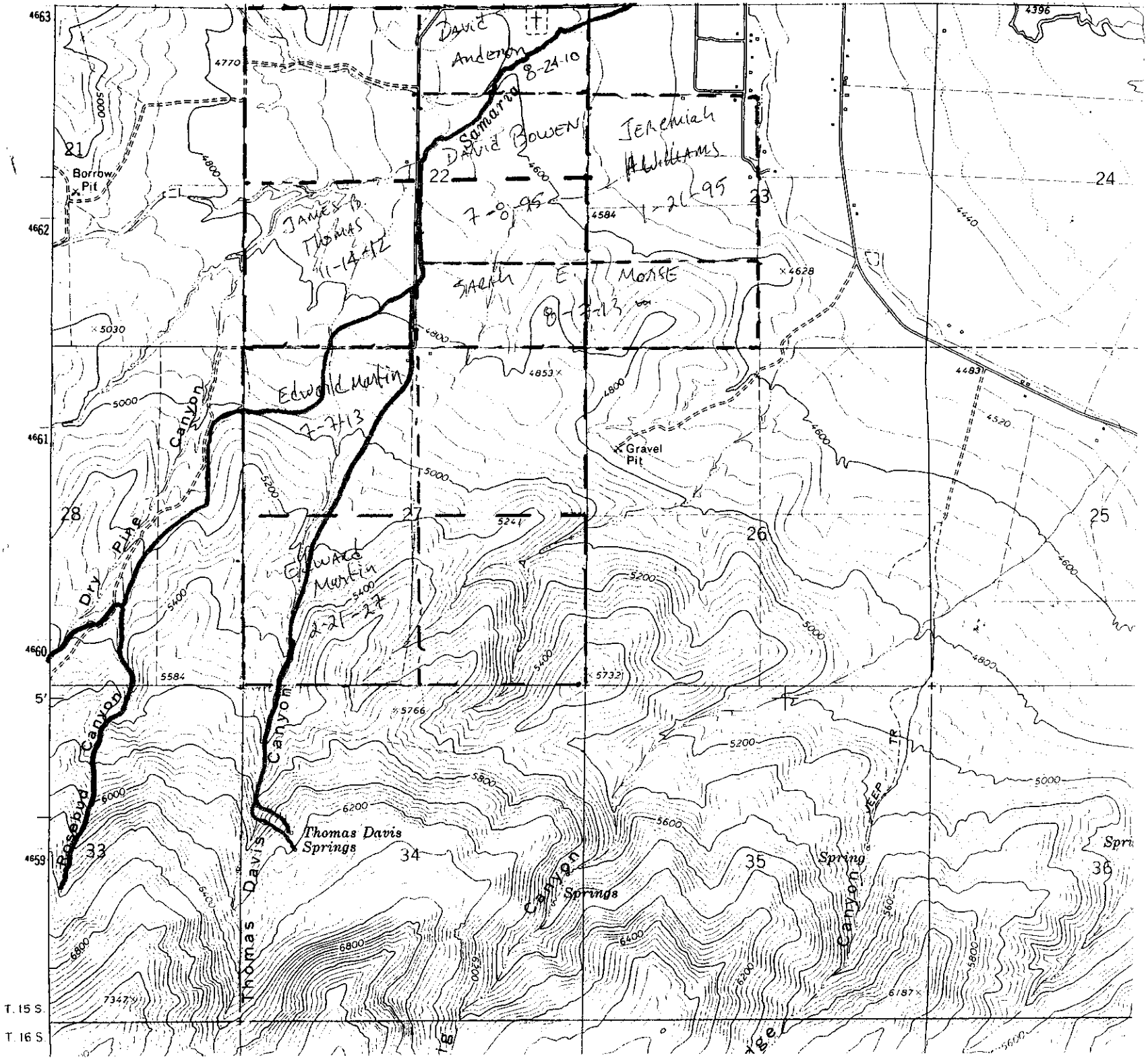
L. R. Evans, Notary Public

Recorded at the request of Stone & Evans
July 5th 1893 at 25 minutes past 10 A.M.
[illegible] Recorder of Oneida Co.

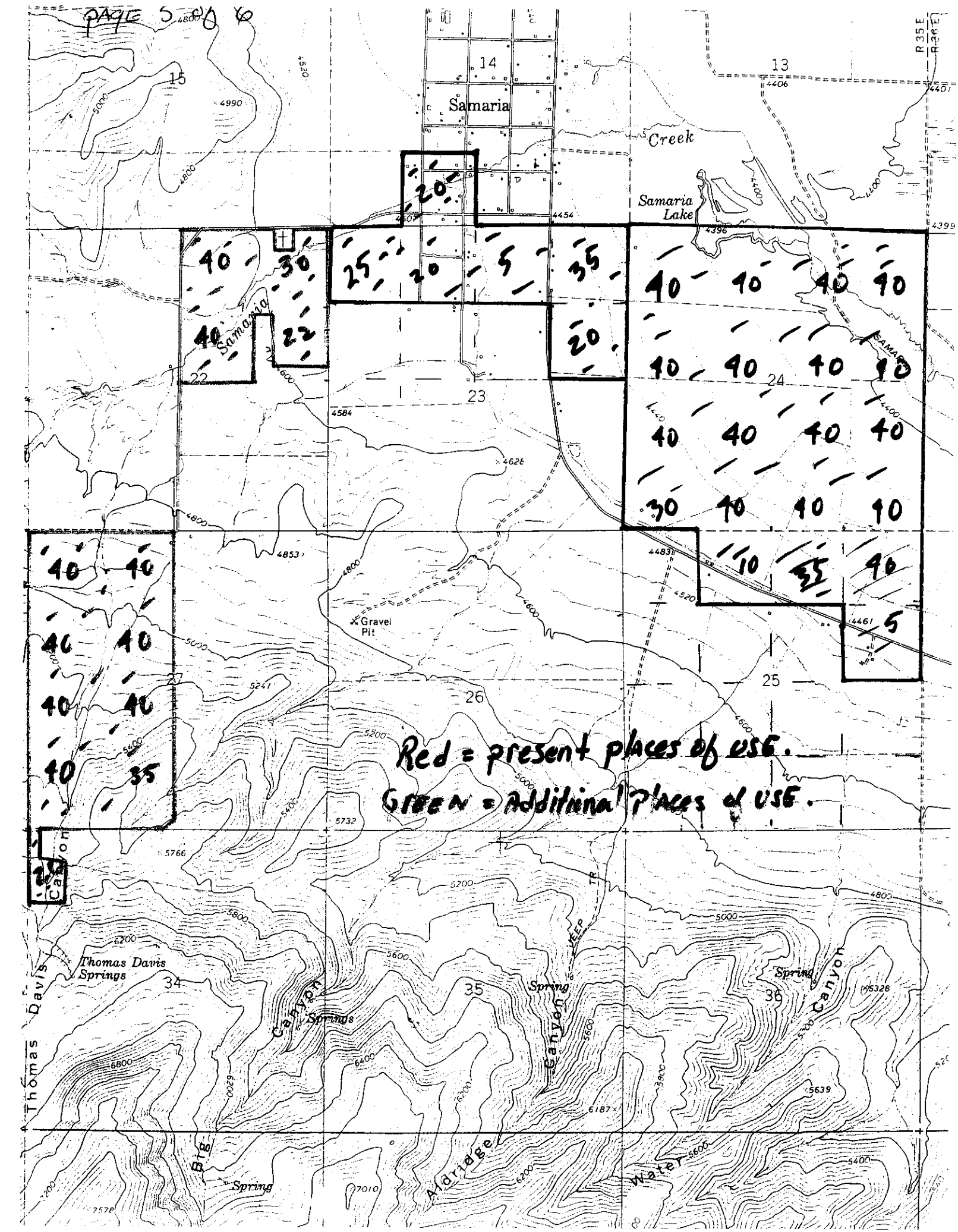
19



21



ATTN: Randy Rudge


Samaria
Creek
Samaria Lake
Gravel Pit
Thomas Davis Springs
Canyon
Spring
Big
Aldridge
Water
R35E
R36E
Red = present places of use.
Green = Additional Places of use.


Dry Fork

22

Township No. 15 South Range No. 35 E. D. Mer.

Thomas

	Thorpe. Pat. 4-2-20.	Alva.	Chas. E. Thomas. Pat. 10-8-15.	Chas. R. Thomas.	Chas. R. Thomas. 1-23-11	Wm. P. Carroll 4-24-10.	Isaac Brant. 3-12-30.	John. O. Thorpe.	J. O. Thorpe. 9-7-58.	Joseph. Thorpe. Pat. 7-22-94.	
Evan.	W. Smith Pats. 7-17-17.			R. Thomas Pat.			John. E. Price. Jr.	Pat. 5-12-90.			
Morse.		Jesse F. Huntsman Pat. 6-9-13.	Chas. Alma. Wright. Pat. 2-5-17.	Pat. 1144-93.	Wm. E. Morse. Pat. 11-2-96.	Pat.	12-29-85.	Wm. Roderick Pats. 3-7-98.	Emalina Waldron 4-20-86.	Sam'l. O. Davis. Pat. 4-9-91.	
-16.	Lewis	Williams. Pat. 4-5-16.			Wm. Roderick. Pat.	Wm. Morse	Sam'l. R. Williams	Wm.	Jos.	Benja. Waldron	John. Pat. E. Jon. 8-3-? -
0-13-15.		John.	John.		Thos. Nisbet. 12-5-92.	Pat. 1144-89	Pat.	Morse	Morse	John. P. Jenson	Geo. Willia
H. Pat.	Williams. 3-2 3-17.		Roderick	8-22-00	Thos. L. Nicholls 4-14-21.	John. Martin. Pat. 12-21-89	Pat. 2-28-82.	Pat. 2-2381.	Pat. 6-8-82.	Pat. 11-15-83.	Pat. 56-80. Richard. Put.
		A. C. Bybee 3-21-89.	Pat. 3-23-17.								
		10 3-11	12 11	Evan. Martin Pat. 8-4-15.	Evan. Martin. Pat. 7-5-05.			John. Price.	Jerry Williams	Thomas. Thorpe.	
		54	47	John.		Wm. O.	Wm. E. Price. 2-54.	Pat.	Pat. 4-2783	Pat. 4-13-82.	
		19		Morse.		Price. Pat. 8-31-91.		617-82.	Mary D. Davis	Davis. Evan.	
			J. F. Fredrickson 1-26-92	Pat. 4-28-22.		Wm. J. Morse.		Pat.	7-9-81.	Pat. 6-4-8	
			Henry J. Thomas	Richard. Williams. Pat. 7-2-14.	David. Anderson. Pat. 8-24-10.	David. Bowen.	Pat. 13-8-98.	Pat. Sam'l. 3-3-88.	James. Pat.	Thomas. 1-22-7	
							Jeremiah. H. Williams		Thos. R. Pat.	Robert 5-29-8	
			Pat.	James. B. Thomas.	Pat. 7-8-95.	Pat.	1-21-95.		Lewis	David. W. Pat. 9-	
		Albert	12-25-13.	Pat. 11-14-12.	Sarah. E. Pat.	Morse. 8-7-13.			Huyhes. Pat. 8-1-86.	Talies Hughes	
	Thomas. Pats 10-16-18.	W. R. Thomas Jr		Edward. Martin. Pat. 7-7-13.	David. P. Thomas. Pat.	Daniel. Hughes. Pat. 4-19-21.		Davis. Hughes.	Pat. 3-27-11.	Pat. 3-19-8. Wm. E.	
W.	Ed. Vaughan 7-2-25	D. E. Waldron 12-2-40	David.	Pat.	Edward. Martin.	David. P. Thomas.			John. L. Tungate.	Hawk Pat. 4-	
Sen	Henderson			7-11-15.	Pat. 2-24-27.				Pat. 2-16-15.	Asa D. S Pat. 4-	
	David. Henderson	Pat. 12-23-26.	11675		1-22-37.				Rowland. Hughes		

AHN: Randy Rudge

23

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**ALSO MEMBER UT BAR
†ALSO MEMBER D. C. BAR
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May 10, 2006

Kent Foster
Holden, Kidwell, Hahn & Crapo
P.O. Box 50130
Idaho Falls, Idaho 83405-0130

Re: Samaria Water & Irrigation Company - Jeff Davis Water Rights

Dear Kent:

This will follow up on the voice mail message left you last Friday afternoon.

I elected to cancel the deposition of John Roderick scheduled for last Friday, May 5, at 1:00 p.m. at his home. Upon arriving a few minutes early to meet Mr. Roderick and explain the deposition, I met with him, his daughter Patsy Bybee and her husband Andrew and learned that his health and memory were deteriorated following what apparently was a minor stroke a couple of weeks ago. This caused his doctor to express concern and recommend he not be further bothered to avoid adversely affecting his health. Under the circumstances, I did not comfortable or that it was appropriate to proceed and cancelled the deposition. I advised company representatives, John Evans and Dale Price and the court reporter Paul Buchanan that had arrived.

Enclosed please find Applicant's additional discovery requests seeking from Samaria Water & Irrigation Co. minor additional information primarily relating to its recently-circulated "Affidavit Questionnaire".

After reviewing the Company's Application for Preliminary Permit to FERC, I can't help but think the real reason Samaria is so adamantly opposed to Jeff Davis's Applications is that the issuance of his permits would have priority over any hydro rights the company might obtain. In any case, it will be necessary for Davis to petition for intervention and protest both the FERC

Application and the IDWR Application for a Hydropower Water Right, which I understand you are in the process of filing. Please provide me with a copy of that application once it's filed.

Following the cancellation of the deposition, I took the opportunity to inspect the Davis property and the Samaria Creek drainage and visit with some of the water users. Several points jumped out which to share with you.

First, while there is a fair amount of water flowing in the upper reaches, nothing was making it to the townsite. Information received indicated that only in good water years does any water ever make it down Samaria Creek to the townsite. What does make it down is used by shareholders, as a result of which there is little if any contribution ever made from Samaria Creek to the Samaria Canal or "big ditch". In the last 7 or 8 years of drought, water has only made it to the townsite perhaps three times and that small amount was fully used by users along Samaria Creek. Furthermore, whatever mountain water makes it to the townsite occurs only very early in the season with significantly diminished amounts after June, requiring rotation by the couple of shareholders that use it. All of that indicates there would be sufficient water available to satisfy Davis's proposed new permits very early in the season and later when any call by the senior rights of Samaria Water & Irrigation Co. would be futile.

Second, from observing the ditches from Thomas Davis, Dry Pine and Rosebud Creeks which follow the contours of the land, as well as the land immediately below the ditches that would be susceptible to flood irrigation, it certainly appears that the ditches were most likely constructed to facilitate providing water to those lands below the ditch now owned by Davis. The fact that Samaria Water & Irrigation Co., purchased on or about July 13, 1893 "The Samaria and Southwest Mountain Water Irrigation Co." to acquire the mountain water and take in the mountain shareholders is further evidence that water from those streams was historically used to irrigate in that area. Otherwise Davis's predecessors in interest would not have received water shares in the company appurtenant to those lands, which shares were subsequently transferred to Davis.

Third, if Davis was allowed to use his Samaria shares in the mountain areas as he desires, his reliance upon the Samaria Canal water would be reduced, making more water there for other shareholders.

Fourth, unauthorized work done by the Company on Davis's property is surprising, disturbing and has created problems that need to be rectified. It is my understanding that as long as the ditches have been in existence, probably upwards of 100 years, all of the water from Thomas Davis and Rosebud and Dry Pine have been diverted into the ditches on a year-round basis and the natural channel completely dried up. At least since 1998 when Davis acquired the property from his parents, there has been no mechanical ditch maintenance at all on his property and apparently there was little need for it. Various individuals who use Samaria shares above the "big ditch" would occasionally do minor cleaning with shovels which caused little erosive or esthetic impact. For reasons unknown, other than perhaps to facilitate the Company's new-found interest in cleaning the

ditches in Davis's property, the Company turned the water back into the natural channel sometime last fall. That required that they install a headgate and cut the water out of the ditch back into the natural channel. Davis did give the Company the okay to go onto his property to do this at the point where the ditch comes out of Thomas Davis Creek. Rather than making it the installation at this location, for unknown reasons, the Company apparently went in with a backhoe and did excavation and installed culverts and headgates downstream a distance of perhaps 100 to 200 feet. As a result, water goes over a steep embankment dropping perhaps 10 to 15 feet into the natural steam causing considerable erosion which is continuing. They did the same thing in Dry Pine some 1-200 yards down stream from the point the ditch diverts the natural stream causing the water to flow down a steep embankment causing considerable erosion over an even great distance. Presumable the same occurred at Rose Bud Creek. I understand these locations were definitely not approved by Terry Blau, IDWR's stream channel protection person who had instructed the diversions be at the natural channel location. Within the Davis property on Thomas Davis Creek it is requested that the Company repair the damage and move the diversion upstream to where the ditch diverts from the natural channel. Jeff Davis want to be present to over see the work to insure further damage does not occur and arrangements can be made directly with him to set a time and provide access.

Fifth, we also observed that the Company had cut Davis's fence (which was still unrepaired) to access Davis's property and clean the contour ditch coming from Dry Pine and Rosebud Creeks, all without notice, permission or prior arrangement. To make sure we didn't run into this type of problem and to make sure that any cleaning work was authorized in advance and that Jeff would have an opportunity to observe and supervise, he specifically told the Company water master, Luke Waldron, that the Company was not to go on his property without prior arrangements in order to maintain the status quo. Jeff did so at my advice to maintain the status quo and avoid confrontation and escalation of some of the already highly elevated feelings certain shareholders have. I believe you and I also discussed this previously. If there was some urgent need for maintenance, it certainly is not apparent. Nor is there evidence of any cleaning or maintenance anywhere outside of Davis's property. Certainly, Jeff Davis deserves common courtesies and his private properties are entitled to the same respect and protection that other shareholders would expect for their own.

Quite frankly, I see no reason to expect that the Department will not issue the permits Davis applied for. Since such permits would be issued subject to all prior rights and inasmuch as Davis fully acknowledges that he would be subject to and called out by the senior rights of the Company. Delivery of Davis' rights would be available only early season and later during times of futile call. It would seem that the Company's forcing Davis through a contested hearing would only serve to run up the legal expense of both parties and escalate bad feelings that exist. Whether it be the hydro plant or something else, it is quite obvious other motivations exist as common courtesies and reaons are lacking.

The issuance of Davis's proposed new Permits will not solve the question concerning the place of use of the Company's shares on Davis's property in the Thomas Davis area, nor resolve Davis's pending protests to the Company's FERC Application and Hydropower Water Right

Application. Notwithstanding, I am firmly convinced that reasonable minds, common sense and a bit of compromise can and should give rise to practical solutions. Solutions would avoid extensive legal costs, provide certainty and moves towards restoring good neighborly relations. To that end, we would propose a meeting between the Company, Davis and counsel prior to the hearing. Please advise.

Sincerely,

RANDALL C. BUDGE

RCB:rr
Enclosues
cc: M.J. Davis Memorial Limited Partnership/Jeff Davis
Roger Warner/IDWR

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*ALSO MEMBER WY & IL BARS
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††ALSO MEMBER MO BAR
†††ALSO MEMBER IL BAR
‡ALSO MEMBER CA BAR

RECEIVED
AUG 29 2006
DEPARTMENT OF
WATER RESOURCES

August 16, 2006

Roger Ling
Michael P. Tribe
Ling Robinson
P.O. Box 396
Rupert, Idaho 83350

Re: M. J. Davis Memorial Limited Partnership - Samaria Water & Irrigation Application for Permit Nos. 15-7273, 15-7274, 15-7275

Dear Roger and Michael:

1. DISCOVERY RESPONSES:

Enclosed with this letter you will find Applicant Jeff Davis's Answers to Protestant Samaria Water & Irrigation Company's ("Company") Interrogatories, Requests for Admission and Requests for Production of Documents, together with Applicant's Witness List and Amended Exhibit List. We have attempted to be as complete and forthright as possible in providing all available information in response to your discovery requests.

To date we have only received Samaria's responses to our Second Interrogatories and Requests for Production dated May 9, 2006, which consisted only of Interrogatory No. 11 and Request for Production Nos. 4 and 5. We have received no responses to our First Interrogatories and Requests for Production dated April 17, 2006, which consisted of Interrogatories numbered 1 through 10 and Requests for Production numbered 1 through 3. With the hearing September 6 and 7 fast approaching, we would request that you promptly respond to all of these discovery requests. If the requested information is not provided, we will have no choice but to object to any evidence presented by the Company not fully disclosed.

2. DIVERSION STRUCTURE AND FENCE REPAIRS:

Additionally, we haven't received any response from the Company with respect to the issues raised in my May 10, 2006 letter to Kent Foster. Of ongoing concern is our item "Fourth" and "Fifth" set forth on pages 2 and 3 of that letter, regarding the unauthorized work done by the company on the Davis property in constructing new diversions in the wrong locations, the erosion is continuing and becoming a significant problem. Additionally, because the diversion headgate was not properly located or compacted, water is leaking under the structure and continuing to erode and run back into the stream channel at the Thomas Davis Creek location on the Davis property.

Jeff Davis provided a key to water master Luke Waldrom and allowed access at the time of the original installation with the understanding that it would be properly located in accordance with Terry Blau's instructions. The company abused the privilege by opening a new diversion further downstream on the ditch itself which caused a significant erosion problem when water was cut back into the natural channel. At the end of the irrigation season Davis requests the Company to properly relocate the structure at the natural channel location identified and approved by Terry Blau, IDWR's Stream Channel Protection person. The Company needs to make arrangements for an independent contractor to do the repair work and make the corrections at the end of the irrigation season. The contractor must be approved by Davis and he must be present when the work is done to make sure it's done correctly this time. As a part of the work, the improper diversion area and erosion it caused needs to be completely repaired, restored and reseeded, which needs to be handled as a part of the same job or in the same manner.

With respect to Davis's fence that the Company cut, since they failed to repair it, Davis has gone ahead and done so at his own expense.

Under the circumstances and given the Company's blatant disregard of Davis's property rights and the clear directions given by IDWR, please make it clear to the company that they are not to go on Davis's property for any purpose without his advance approval and presence. Such arrangements should be made through you and me as counsel so there is no misunderstanding.

3. PLACE OF USE OF COMPANY SHARES:

Beginning in 2005, the Company began disallowing Davis's use of water in the mountain areas based upon his shares in the Company. The Company contended and represented to IDWR that water had never been used in the mountain areas and that there was no right to do so. As you know, the Company's water rights have never been permitted, licensed or decreed. The place of use has only been identified by a "Statutory Claim" under I.C. §42-248. Davis filed an Exception to that with IDWR and those documents speak for themselves with respect to the place of use.

After the Company's complaint to IDWR, Davis voluntarily discontinued diversion and use of water on his property in the mountain areas even though he believes he was lawfully entitled to

use his water on his mountain property based on his shares and the historic practices. This was in an effort to act in good faith and to avoid further ill will in hopes that a basis could be established to address and resolve all of these issues in a reasonable and neighborly-like fashion. The discovery conducted in this case now clearly indicates that Company's water historically was over a long period of time diverted and used in the mountain areas on Jeff Davis's property by him, his parents and their predecessors in interest since at least 1893. Let me briefly discuss some of the documents that evidence this:

1. Exhibit 18: These are three Notices of Water Rights pertaining to each of these three mountain streams which were dated July 3, 1893, and signed by the same nine claimants. These Notices each reflect that water was diverted and used in the mountain area by the claimants.

2. Exhibit 22: This plat map obtained from the County Record's records shows the land originally patented to some of the above claimants which is in the mountain area, some of which is now the Davis property. If you'll look at Exhibit 21, the second map has handwritten on it the location of the property owned by the claimants under the Notice of Water Right, Exhibit 18, as identified based upon the patent plat map, Exhibit 22.

3. Exhibit 12: Bargain and Sale Deed (Indenture) dated July 31, 1893. Pursuant to this instrument, Samaria and Southwest Mountain Water & Irrigation Company sold to Samaria Water & Irrigation Company all of its water rights in Dry Pine, Rosebud and Thomas Davis Canyons. This further evidences that water was previously diverted and used by the Samaria & Southwest Mountain Water & Irrigation Company in the mountain area where Davis's property is.

4. Exhibits 7 and 8: These Warranty Deeds in 1928 and in 1946 reflect that when portions of the Davis property were transferred by predecessors in interest, they included shares of stock in Samaria Water & Irrigation Company as being appurtenant to that same land Davis now owns in the mountain area.

5. Exhibit 16: Instructions to the Water Master of Samaria Water & Irrigation Company for the Year 1942. Note Instruction No. 9 which states:

-* 9*-

> The mountain water to be divided according to the best judgment of the watermaster in order that all above ditch may receive the same amount according to their shares. (Emphasis added.)

This instruction to the watermaster clearly indicates that in 1942 the Company was instructing its own watermaster to deliver the mountain water to the shareholders in that area above the ditch. This flies in the face of the Company's present contention (and prior representations to IDWR) that the purpose and historic use of the Samaria Creek water was to supplement the "big ditch" water and

not to supply water to shareholders in the mountain area.

Furthermore, the company's use of Samaria Creek water as a dilution source for the big ditch results in Samaria Creek water being used outside the places of use designated by the Company in its -248 Claim. Examples of this which are not all inclusive included the following:

(A) None of the land in the SW quarter and SE quarter of the SE quarter of section 14 is within the claimed places of use. John Evans (Board Member) uses water from Samaria Creek to irrigate land in these areas.

(B) In the NW 1/4 NE 1/4 of Section 23, only 5 acres of the 40 total acres are places of use. The bulk of these 40 acres are owned by John Evans (Board Member) and David Reel (Company President) and are all irrigated with water from Samaria Creek.

(C) None of the land in the SW 1/4 NE 1/4 of Section 23 is an authorized place of use for Samaria Creek water. Yet many of these acres are irrigated with water from Samaria Creek. Specifically, land owned by Daryl Hughes and land owned by Neil and Mike Hughes and operated by Shawn Anderson (Board Member).

(D) In the NW 1/4 SW 1/ 4of Section 23, no lands are authorized places of use. Yet land owned by Dees, Inc., also a protestant of Davis's Application for Permit, is irrigated with water from Samaria Creek.

(E) In the NE 1/4 SE 1/4 SW 1/4 of Section 23 no lands are authorized places of use. Yet land owned by the Morgan Family is irrigated with water from Samaria Creek.

Obviously, the Company's claimed place of use is inaccurate and incomplete with respect to the property of Davis, the Board Members discussed above and perhaps other shareholders. If the Company is going to continue to single out Davis for unfair and discriminatory treatment, then the place of use claimed must be applied equally and strictly followed for all shareholders. Of course, this is silly and the entire problem can be solved easily by the Company amending its Notice of Claim to reflect the proper place of beneficial use based upon historic practices.

6. Exhibit 5: The Articles of Incorporation and By Laws of the Company. Nothing in the Articles of By Laws defines the place of use or restricts the place of use, with the exception of By Law Article VI, Section 4. Section 4 only restricts sales of stock for use "above Pleasantview Hot Springs."

The foregoing documents and records of the Company clearly indicate that the water from these mountain streams were historically diverted and applied to beneficial use in that area above the big ditch. Further, that Davis's property where he wants to continue to utilize water available

from the Company based upon his shares is well within the lawful place of use based upon the historic diversion and application to use practices. This use forms the very basis of the Company's Claim to waters arising in those mountain streams.

4. RESUMPTION OF USE BY DAVIS:

The Company's objection to Davis's diversion and use of water on his property has wrongfully and unlawfully deprived him of his share of available water based upon his shares. In order to mitigate his damages and lawfully access his water rights, Davis is now going to resume use of water based upon his shares. Presently that will involve restoring water to the existing drip system used to irrigate trees along the riparian areas in Section 27 and pasture in Section 22, an area of approximately 25 acres.

The use of water under Davis's shares of stock in the Company is unrelated and irrelevant to the pending Applications for Permit No. 15-7273, 7274 and 7275, which the Company protested and is coming to hearing. Since Davis voluntarily discontinued use in 2005, we felt it was appropriate to give this advance notice that use of the water is now going to be resumed based on the shares.

CONCLUSION

The Company's water rights have never been lawfully established by permit, license or Court Decree. Instead, they exist as an unadjudicated beneficial use claim with the place of use otherwise undetermined. Litigation will be necessary to resolve the dispute over the proper place of use unless the parties can work out a reasonable resolution among themselves. The evidence of the historic use of water upon Davis's property in the mountain area clearly and convincingly establishes that it has been and should now be within the Company's authorized place of use. Furthermore, if the Company is going to strictly apply the place of use to the shareholders based upon its Beneficial Use Claim, then the same place of use must be strictly applied to all shareholders. This would mean the current delivery practices would have to be changed to eliminate the current use of Samaria Creek water upon the lands outside the place of use described in the Company's Beneficial Use Claim. This would make no reasonable or rational sense and be contrary to Idaho's policies of maximizing beneficial use and full economic development.

The entire matter can and should be resolved in a fair and reasonable manner consistent with historic diversion and use practices which would bring an end to an unnecessary and costly litigation and establish a framework for ending hostilities and restoring neighborly relationships. This has always been Davis's preferred approach, one that has been "stonewalled" by emotion-charged agendas advocated by a few hostile Board Members.

The Water Right Claims filed by Davis became necessary to protect his interests after the Board obstructed and interfered with the lawful use of his water based upon his shares in the mountain area of his property, a use that could not injure any other shareholders. To the contrary, other shareholders would be benefitted as he would be taking less water from the Big Ditch to the extent his shares were being satisfied from the mountain streams. The place of use should simply be corrected by filing an Amended Beneficial Use Claim to include the property of Davis and others who can prove that their historic use is different than stated in the Claim.

We both have now had an opportunity to better familiarize ourselves with this matter and review the relevant documents and records and it appears appropriate and timely to discuss the issues and prospects of a resolution prior to hearing.

Since IDWR has been previously involved in the dispute over the proper place of use of the Company's water rights and various correspondence has been copied to Roger Warner, I am advising him and the Department of the foregoing by copies of this letter and the enclosures. Additionally, since board member John Evans threatened in his affidavit to file criminal charges against Jeff Davis if he resumed use in the Samaria Creek mountain area of the water he is entitled to under his shares, we are also advising the county prosecuting attorney of the foregoing by copy of this letter and the enclosures, as quite obviously there is simply no factual or legal basis that would support any such criminal complaint.

Sincerely,

RANDALL C. BUDGE

RCB:rr
Enclosures
cc: Roger Warner/IDWR (w/encls.)
Terry Blau/IDWR (w/encls.)
Dustin Smith/Oneida County Prosecutor (w/encls.)
Jeff Davis (w/encls.)

RECEIVED
AUG 02 2006
DEPARTMENT OF WATER RESOURCES

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP

NOTICE OF SERVICE OF DISCOVERY

COMES NOW the Protestant, Samaria Water and Irrigation Company, by and through its attorney of record, Roger D. Ling of the firm Ling, Robinson & Walker, and pursuant to the Idaho Rules of Civil Procedure hereby notifies the Court and all parties that on the date below stated, the undersigned served a copy of *Protestant's First Interrogatories and Requests for Production* on M. J. Davis Memorial Limited Partnership, by and through its attorney, Randall C. Budge, Esq. of the firm of Racine, Olson, Nye, Budge & Bailey, Chtd., P. O. Box 1391, Pocatello, Idaho 83204-1391 with copies to all parties.

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

DATED this 31st day of July, 2006.

LING, ROBINSON & WALKER

By: _____
Michael P. Tribe, Attorney for
Samaria Water and Irrigation Company

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of July, 2006, I served copies of the foregoing NOTICE OF SERVICE OF DISCOVERY upon:

Randall C. Budge
RACINE, OLSON, NYE, BUDGE & BAILEY, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Willard J. and Kay Higley
Samaria Recreation District & Cemetery
4010 S. Samaria Road
Malad, Idaho 83252

by depositing said copies in the United States mail, postage prepaid, in envelopes addressed to said parties/entities at the foregoing addresses.

_____
Michael P. Tribe

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

Karl

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
615 "H" STREET
P O BOX 396
RUPERT IDAHO 83350-0396

BRENT T. ROBINSON
JASON D. WALKER

KELLY ARTHUR ANTHON
MICHBAEL P. TRIBE

ROGER D LING, OF COUNSEL

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

RECEIVED
AUG
DEPARTMENT OF

July 31, 2006

Karl J. Dreher, Director
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RE: **In the Matter of Applications for Permit Nos. 15-7273, 15-7274, and 15-7275 in the name of M. J. Davis Memorial Limited Partnership**

Dear Mr. Dreher:

Enclosed is a *Notice of Service of Discovery* for filing in the above-referenced matter on behalf of our client Samaria Water and Irrigation Company, Protestant. Thank you.

Very truly yours,

Michael P. Tribe

Michael P. Tribe

enc

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**NOTICE OF SERVICE OF DISCOVERY**

COMES NOW the Protestant, Samaria Water and Irrigation Company, by and through its attorney of record, Roger D. Ling of the firm Ling, Robinson & Walker, and pursuant to the Idaho Rules of Civil Procedure hereby notifies the Court and all parties that on the date below stated, the undersigned served a copy of *Protestant's First Interrogatories and Requests for Production* on M. J. Davis Memorial Limited Partnership, by and through its attorney, Randall C. Budge, Esq. of the firm of Racine, Olson, Nye, Budge & Bailey, Chtd., P. O. Box 1391, Pocatello, Idaho 83204-1391 with copies to all parties.

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

DATED this 31st day of July, 2006.

LING, ROBINSON & WALKER

By: _____
Michael P. Tribe, Attorney for
Samaria Water and Irrigation Company

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of July, 2006, I served copies of the foregoing NOTICE OF SERVICE OF DISCOVERY upon:

Randall C. Budge
RACINE, OLSON, NYE, BUDGE & BAILEY, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Willard J. and Kay Higley
Samaria Recreation District & Cemetery
4010 S. Samaria Road
Malad, Idaho 83252

by depositing said copies in the United States mail, postage prepaid, in envelopes addressed to said parties/entities at the foregoing addresses.

_____
Michael P. Tribe

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

RECEIVED
JUL 2 1 2006
DEPARTMENT OF
WATER RESOURCES

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
615 "H" STREET
P. O. BOX 396
RUPERT, IDAHO 83350-0396

BRENT T. ROBINSON
JASON D. WALKER

KELLY ARTHUR ANTHON
MICHBAEL P. TRIBE

ROGER D. LING, OF COUNSEL

AREA CODE 208
TELEPHONE 436-0258
FAX 436-6804

July 20, 2006

Karl J. Dreher, Director
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

RE: **In the Matter of Applications for Permit Nos. 15-7273, 15-7274, and 15-7275 in the name of M. J. Davis Memorial Limited Partnership**

Dear Mr. Dreher:

Enclosed is a *Notice of Service of Discovery* for filing in the above-referenced matter on behalf of our client Samaria Water and Irrigation Company, Protestant. Thank you.

Very truly yours,

Michael P. Tribe

enc

RECEIVED
JUL
DEPARTMENT OF
WATER RESOURCES

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)
PERMIT NOS. 15-7273, 15-7274, AND)
15-7275 IN THE NAME OF M. J. DAVIS)
MEMORIAL LIMITED PARTNERSHIP)

NOTICE OF SERVICE OF DISCOVERY

COMES NOW the Protestant, Samaria Water and Irrigation Company, by and through its attorney of record, Roger D. Ling of the firm Ling, Robinson & Walker, and pursuant to the Idaho Rules of Civil Procedure hereby notifies the Court and all parties that on the date below stated, the undersigned served the original *Answers to Applicant's Second Interrogatories and Responses to Requests for Production* on M. J. Davis Memorial Limited Partnership, by and through its attorney, Randall C. Budge, Esq. of the firm of Racine, Olson, Nye, Budge & Bailey, Chtd., P. O. Box 1391, Pocatello, Idaho 83204-1391 with copies to all parties.

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

DATED this 20th day of July, 2006.

LING, ROBINSON & WALKER

By: _____
Michael P. Tribe, Attorney for
Samaria Water and Irrigation Company

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of July, 2006, I served copiesof the foregoing NOTICE OF SERVICE OF DISCOVERY upon:

Randall C. Budge
RACINE, OLSON, NYE, BUDGE & BAILEY, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Willard J. and Kay Higley
Samaria Recreation District & Cemetery
4010 S. Samaria Road
Malad, Idaho 83252

by depositing said copies in the United States mail, postage prepaid, in envelopes addressed to said parties/entities at the foregoing addresses.

_____
Michael P. Tribe

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

RECEIVED
JUL 21 2006
DEPARTMENT OF
WATER RESOURCES

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)
PERMIT NOS. 15-7273, 15-7274, AND)
15-7275 IN THE NAME OF M. J. DAVIS)
MEMORIAL LIMITED PARTNERSHIP)

NOTICE OF SERVICE OF DISCOVERY

COMES NOW the Protestant, Samaria Water and Irrigation Company, by and through its attorney of record, Roger D. Ling of the firm Ling, Robinson & Walker, and pursuant to the Idaho Rules of Civil Procedure hereby notifies the Court and all parties that on the date below stated, the undersigned served the original *Answers to Applicant's Second Interrogatories and Responses to Requests for Production* on M. J. Davis Memorial Limited Partnership, by and through its attorney, Randall C. Budge, Esq. of the firm of Racine, Olson, Nye, Budge & Bailey, Chtd., P. O. Box 1391, Pocatello, Idaho 83204-1391 with copies to all parties.

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

DATED this 20th day of July, 2006.

LING, ROBINSON & WALKER

By: _____
Michael P. Tribe, Attorney for
Samaria Water and Irrigation Company

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of July, 2006, I served copiesof the foregoing NOTICE OF SERVICE OF DISCOVERY upon:

Randall C. Budge
RACINE, OLSON, NYE, BUDGE & BAILEY, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Willard J. and Kay Higley
Samaria Recreation District & Cemetery
4010 S. Samaria Road
Malad, Idaho 83252

by depositing said copies in the United States mail, postage prepaid, in envelopes addressed to said parties/entities at the foregoing addresses.

_____
Michael P. Tribe

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

RECEIVED
JUL 21 2006
DEPARTMENT OF
WATER RESOURCES

Roger D. Ling, ISB No. 1018
Michael P. Tribe, ISB No. 6816
LING, ROBINSON & WALKER
Attorneys at Law
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Protestant,
Samaria Water and Irrigation Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 15-7273, 15-7274, AND 15-7275 IN THE NAME OF M. J. DAVIS MEMORIAL LIMITED PARTNERSHIP	**ANSWERS TO APPLICANT'S SECOND INTERROGATORIES AND RESPONSES TO REQUESTS FOR PRODUCTION**

COMES NOW the Protestant, Samaria Water and Irrigation Company, by and through its attorney of record, Roger D. Ling of the firm Ling, Robinson & Walker, and pursuant to Rule 33 of the Idaho Rules of Civil Procedure, answers *Applicant's Second Interrogatories and Requests for Production of Documents to Protestant Samaria Water & Irrigation Co.* served upon it by applicant M. J. Davis Memorial Limited Partnership, as follows:

INTERROGATORY NO. 11: With regard to the Samaria Water & Irrigation Co. "Affidavit Questions", copy of which is attached, please indicate who prepared this questionnaire and the names, addresses and phone numbers of each person to whom the questionnaire was provided, indicating who responded and who did not.

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

ANSWER TO INTERROGATORY NO. 11: John Evans wrote down the questions during a board meeting of Samaria Water and Irrigation Company where the board members discussed the questions that should appear in the affidavit questionnaire. After a draft was created, the board of directors made changes along with certain edits by the Protestant's counsel at that time, Kent Foster. The board then approved the questionnaire before it was distributed.

The questionnaire was handed out to members of Samaria Water and Irrigation Company. The following individuals returned the questionnaire:

Shawn Anderson
4599 W. 4900 S.
Malad, ID 83252
208-766-2670

Farrell Atkinson
738 W. Hwy 38
Malad, ID 83252
208-766-4065

Keith Atkinson
1 Bannock
Malad, ID 83252
208-339-2674

Spenser Atkinson
4696 W. 4700 S.
Malad, ID 83252
208-766-2624

Joseph D. Barnes
2165 W. 1500 N.
Malad, ID 83252
208-766-2457

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

Lynn R. Davis
1906 Serenity Dr.
St. George, Utah 84770
435-634-0335
435-946-3482 (June - September)

Parley Davis
5550 W. 300 N
Malad, ID 83252
208-766-4900

John Evans
5071 S. 4600 W
Samaria, Idaho 83252
208-766-2758

Dave Higley
3188 W. Samaria Rd.
Malad, ID 83252
208-766-2569

Clarence Hughes
3141 West Samaria Rd
Malad, ID 83252
208-766-4368

Darhl Hughes
5196 S. 4400 West
Malad, ID 83252
208-766-4093

Mark Ipsen
2710 W. 500 S.
Malad, ID 83252208-766-4252

Eldon John
62 S. Main St.
Malad, ID 83252
208-766-2629

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

John J. Roderick
No address

David Reel
5176 S. 4400 W.
Malad City, ID 83252
(208) 766-2808

Seth Seamons
2223 S. 5400 W.
Malad, ID 83252
208-766-4890

Russell Sorter
5016 S. 4600 W.
Malad, ID 83252
208-766-2690

Doug Thorpe
785 S. 5400 W.
Malad, ID 83252
208-766-2446

Luke Waldron
4450 W. 4500 S.
Samaria, ID 83252
208-766-4139

Rex Waldron
1121 Rasco Dameron Rd.
Burlington, North Carolina 27217
336-421-6257

Thomas Williams
2643 W. Samaria Rd.
Malad, ID 83252
208-766-2682

The following individuals did not return the questionnaire:

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

Gaylen Jones

David Edwards

Mike John

Mike Hughes

Dale Price

Merrill Price

Platt Price

Dee Tolman

Carl Willie

Cordell Windward

Doyle Waldron

REQUEST FOR PRODUCTION NO. 4: Please produce a list of all persons or entities to which the attached "Affidavit Questions" were disseminated and produce copies of all responses and answers provided.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: See Answer to Interrogatory No. 11 above and attached Affidavit Questionnaires. This request for production will be supplemented as additional information and questionnaires become available.

REQUEST FOR PRODUCTION NO. 5: Please produce copies of the Purchase and Sale Agreement, Minutes and all other records relating to the purchase of "The Samaria and Southwest Mountain Water Irrigation Company" by Samaria Water & Irrigation Co., which occurred on or about July 3, 1893.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: See attached Indenture and three (3) Notices of Water Right.

Protestants are currently unaware if any Minutes or other records relating to the purchase of The Samaria and Southwest Mountain Water Irrigation Company by Samaria Water & Irrigation Company exist. If and when those documents are discovered they will immediately be produced to Claimant through its attorney of record.

DATED this 20th day of July, 2006.

LING, ROBINSON & WALKER

By: Michael P. Tribe
Michael P. Tribe
Attorneys for Protestant,
Samaria Water and Irrigation Company

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

STATE OF IDAHO)
) ss.
County of Oneida)

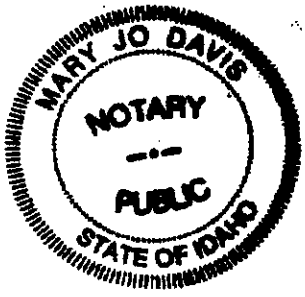
David Reel, being first duly sworn on his oath, deposes and states:

That he is the President of Samaria Water and Irrigation Company, protestant in the above entitled action, that he has read the above and foregoing ***Answers to Applicant's Second Interrogatories and Responses to Requests for Production***, knows the contents thereof, and the facts stated he believes to be true.

David Reel
David Reel

SUBSCRIBED AND SWORN to before me this 20 day of July, 2006.

(SEAL)



Mary Jo Davis
Notary Public for Idaho
Residing at: Malad ID
My Commission expires: 09/26/2011

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of July, 2006, I served the original *Answers to Applicant's Second Interrogatories and Responses to Requests for Production* upon:

Randall C. Budge
RACINE, OLSON, NYE, BUDGE & BAILEY, Chtd.
P. O. Box 1391
Pocatello, Idaho 83204-1391

with true and correct copies served upon:

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Michael W. Olson, President
Brent Clark
Dee's Incorporated
777 E. 2100 S.
Salt Lake City, Utah 84106

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Willard J. and Kay Higley
Samaria Recreation District & Cemetery
4010 S. Samaria Road
Malad, Idaho 83252

by depositing said document in the U.S. Mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.

Michael P. Tribe

RESPONSE TO REQUEST FOR PRODUCTION NO. 4

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Shawn Anderson

   Address: 4599 W. 4900 S

   Phone No.: 766-2670

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 7

3. What has your association's been? (Share holder, Rental water user, Board member,) Water Master, Land owner through which a company ditch runs or other _____

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. YES Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   Alvin Williams

   Farrell Atkinson

   Russ Sorensen

   John Evans

Was there authorized use of water any where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? not that I know of.

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? YES Jeff Deurse filling ponds running a pipe system to trees and watering horses pasture

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

YES

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

all used in the township.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? Don't Know

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

No

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? YES

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

NO

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

I thought we owned all the water and Ferrell and Alva somehow had pivot turnes

Page 4 Affidavit Questions

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? No just what he stold

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company from land owners next to him

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? YES Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

YES locked gates

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? yes

Please describe such conditions. he has tryed to keep us out mostly by telling us laws that don't apply or other deseption

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? yes

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? No
Describe the situation:

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? yes

Describe the out come if you were personally involved in such as you remember it.

We are still working on it

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

not after 2005 Season

22. Did you remove any dams or other obstructions from the company ditch on his property? No

Further was this done more than one time? If so when? Year?

Page 6 Affidavit Question

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? YES

RULA J. THOMAS
STATE OF IDAHO
NOTARY --- PUBLIC

5-1-06

State of IDAHO)
) ss
County of ONEIDA

On this _1st_____day of ___May_____, 2006, before me, a Notary Public of said State, personally appeared ____Shawn Anderson_____ known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Notary Public for the State of Idaho
Residing at ___Malad, Idaho_____
My Commission Expires: __11-08-2011_____

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

Name: Farrell Atkinson

Address: 738 W Hwy 38, MALAD, ID 83252

Phone No.: 208 766 4065

cell 801 391 7769

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 65

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other MY FAMILY HAVE RIGHTS TO THE SAMARIA MOUNTAIN WATER; SHARE HOLDER; LAND OWNER THROUGH WHICH ditch RUNS THROUGH.

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

My recollection of the Samaria Mtn. Stream comes to me, when as a little boy my dad used the mountain water on a weekly basis. He would take the water every Sunday morning at 6:00 A.M. to water his little garden, and alfalfa and fruit trees. At 12:00 Noon our neighbor Mary Williams (and later on Alvin Williams) would take the water for his place and use it for the remainder of the afternoon

As I got older (in my teens) I went up to the head-gate directly behind our place and turned the water to us each week. I also cleaned the ditch many times from the springs to our field so we would get a better flow.

Others using the water, as I recall, were Evan Martin, Carl Evans, Melvin Davis, Andrew Atkinson, William Atkinson, Emilynn Richa Alfred Atkinson, and my Grandpa and Grandma Atkinson. I am not sure what kind of schedule these guys had.

In more recent times I have continued to use the water on my Alfalfa. I have discontinued the Sunday morning schedule, because all the old timers have passed on and there didn't

seem to be any need for such a schedule. Certain years there has not been enough water to make it to my field. I have always assumed this was because some winters we have had less moisture than other winters But from what I have been hearing, it could have been caused by un-authorized use of the water by someone.

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

NO PERSONAL KNOWLEDGE

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use?

I HAVE HEARD THAT JEFF DAVIS HAS HIS OWN IDEAS ABOUT THE WATER, BUT NO PERSONAL KNOWLEDGE.

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

N/A

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

MY UNDERSTANDING IS THAT THE MOUNTAIN STREAM WAS

FOR THE USE OF THOSE ABOVE THE SAMARIA CANEL, SO THEY TOO COULD HAVE WATER. I HAVE NOT READ ANY WRITTEN AGREEMENT BETWEEN THE MEMBERS, BUT I AM SURE THERE ARE SUCH AGREEMENTS SOMEWHERE.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? AS STATED IN #9 ABOVE.

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

NO. THERE HAS NEVER BEEN ANYONE ABLE TO MOVE SHARES OF WATER BELOW THE CANEL TO ABOVE THE CANEL.

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria?

WITHOUT FURTHER REVIEW, I RESERVE COMMENT ON THIS

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

—

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

I DO KNOW THAT WHEN LESTER ATKINSO PURCHESED THE HAMBLIN PLACE CERTAIN WATER RIGHTS WERE PASSED WITH IT. I HAVE NEVER READ THES RIGHTS

Additional Questions for past and present Board members. Water Masters. or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? I AM NOT PERSONALLY AWARE OF SUCH USE.

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? —

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? NO Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take.

NO

Page 5 Affidavit Questions

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? _____

Please describe such conditions. NO... JUST WHAT I HAVE BEEN TOLD

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: N/A

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

N/A

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

N/A

22. Did you remove any dams or other obstructions from the company ditch on his property? NO

Further was this done more than one time? If so when? Year? _____

Page 6 Affidavit Question

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

N/A

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? YES

Farrell Atkinson

Farrell Atkinson personally appeared before me on 4-28-06.

SANDY FACER
Notary Public
State of Idaho

Sandy Facer
Ex- 11-03-09

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Keith Atkinson

   Address: 1 Bannock Malad, Idaho

   Phone No.: 208 339-2674

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 25 years

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Share holder + Board Member

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

Mary Williams South of cementary their was a divider gate

Lester Atkinson

Mable Davis

Joe Martin

Emma Lee Richards

Alfred L Atkinson

Mary Jane Mansfield

Alfred H Atkinson

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

Don't know

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use?

Joe Davis, he kept saying his cows tromped the ditch out so it was watering his hay.

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

Yes Had Ted Loomis took a backhoe up and dug out the ditch. I was threatened by Joe Davis if on the property, he would shoot me.

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

Yes

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? Above the Big Ditch

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

No

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria?

If extra water was available & the extra could be mixed

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

N / A

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

No

Page 4 Affidavit Questions

Special Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? Yes

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company: I was a Board member and was ~~assumed~~ assigned to be over the mountain stream

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? N A Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

Page 5 Affidavit Questions

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. N A

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? N A

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? Yes

Describe the out come if you were personally involved in such as you remember it.

That was when I was threatened by Joe Davis

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

N A

22. Did you remove any dams or other obstructions from the company ditch on his property? Yes

Further was this done more than one time? If so when? Year? No

Page 6 Affidavit Question

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? No

Details if any you would like to have noted. The water was never to be taken above the cement junction box

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? Yes

Keith N Atkinson

Subscribed & sworn to before me this 28th day of April 2006.

E L Scott Notary Public Residing at Malad City Id.

E. L. SCOTT
STATE OF IDAHO
NOTARY --- PUBLIC

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Spencer Atkinson

   Address: 4696 West 4700 South, Malad

   Phone No.: 766-2624

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 50 years

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Land owner, Board Member, and Share holder

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

Edith Atkinson (Andrew) place; Lester & Isabelle Atkinson; Alfred & Rachael Atkinsm; Alfreed Henry Atkinsm; Alvin & Blanche Williams; Melvin & Mabel Davis; MAX Williams; Carl & Edith Evans Joe Martin; Sam Mansfield (Vern Hulse place Raymond, Son in recent history) Bill Price (Lloyd Sorter) property William & Pearl Atkinson.

William & Pearl had 16 shares and took 1 share over to the corner of ~~5000~~ 4700 South 5000 West to water a vegetable garden.

6. Was there authorized use of water any where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? NO

7. Do you have personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? NO

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

NO

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements, method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users.

Whatever water was there on a particular

year was divided equally and fairly to all the four mentioned users.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? there was never any difference. If you had a share, you could use it anywhere you needed it.

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

Yes

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? yes

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

No, I believe they say what they mean

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained? Lester Atkinson had 6 hours and Alven Williams had seven. They came with the place. Dont Know of the shares owned by any others.

Special Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? I do not have any knowledge that would help.

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company doesn't apply to the knowledge I can remember.

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? NO Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

Didn't have any.

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? No

Please describe such conditions. _____

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? dont know

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: dont know

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? No

Describe the out come if you were personally involved in such as you remember it.

doesnt apply

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

no, I have been disabled as of Dec 2001 and have not be actively engaged in farming or irrigating. Therefore I haven't been informed of the workings on the Mountain Streams

22. Did you remove any dams or other obstructions from the company ditch on his property? No

Further was this done more than one time? If so when? Year? doesnt apply

Page 6 Affidavit Quesnon:

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch: Yes

I did with Lou Waldron. He owned the ditcher. I was hired to ride the one side of the ditcher. Keith Atkinson was the degger to go through the top of the ditch in Dry Pine. This was done before my LDS mission in 1963 to 1965.

As far as I can remeber, the things I have written on this affidavit are true and reliable.

Signed _____

Date April 28, 2006

Leah R Hunt

my Commissan ex: 11-03-09

LEAH R. HUNT
Notary Public
State of Idaho

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Joe Barnes Joseph D. Barnes

   Address: 2165 W 1500 N

   Phone No.: 766-2457

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? _____

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other _____

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

Was there authorized use of water any where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?_____

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? _____

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why?

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria?

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Page 4 Affidavit Questions

Special Questions for past and present Board members. Water Masters. or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? NO.

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? _____Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. _____

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

22. Did you remove any dams or other obstructions from the company ditch on his property? _____

Further was this done more than one time? If so when? Year? _____

Page 6 Affidavit Question

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? _____

Joseph D. Barnes

Joseph D. Barnes

STATE OF IDAHO
SS.
COUNTY OF ONEIDA

On this 24th day of April, in the year 2006, before me a Notary Public in and for said State, personally appeared Joseph D. Barnes, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

LORI BRIGGS NOTARY PUBLIC STATE OF IDAHO

WITNESS my hand and official seal.

NOTARY PUBLIC FOR IDAHO
Residing at Malad City, Idaho
My Commission expires: 12/7/2009

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

Name: Lynn R. Davis

Address: 1906 Serenity Dr St. George, UT 84770

Phone No.: 435-634-0335 - (435-896-3482) June-Sept

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 20yrs

3. What has your association's been? Share holder, Rental water user, Board member, Water Master; Land owner through which a company ditch runs or other Share Holder, land owner where ditch Runs

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes ~~no~~ Please
5. answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

My Father owned Shares, Then my Mother, When The land was probated Shares were divided + I became owner.

I do not recall # of Shares other people had. I do not remember any one below The ditch using or Secretary Shares

In My recolleotion No use of family water was used in The mountain area - The water flowed Thru The properties but I know of No use of family water on The mountain area

6. Was there authorized use of water any where above the township lines of Samaria, which is also the line of usage as listed by the IDWR Platt? If so who and on what property and how many shares?

Do not know

7. Do you personal knowledge of any unauthorized use of water shares above the fore mentioned lines being used and can you give details of such use?

I do not Recall

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

N/A

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements, method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users?

I remember shares of water were allocated for precise watering Times. People knew Times, how much, It was generally known the rules of using the water. I remember a little but not much

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why?

Not below the ditch. Times were known where water was allocated.

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

No.

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria?

Yes,

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

Clarify if Necessary

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

NO

Special Questions for past and present Board members, Water Masters, or landowners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs?

NOT / Applicable

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company?

N/a

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above-mentioned property? Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take?

N/a

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. _____

Not Aware

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

Not Aware of request

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it. _____

Not Involved

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

Not Aware

22. Did you remove any dams or other obstructions from the company ditch on his property? No

Further was this done more than one time? If so when? Year? _____

23. When dams were remove to allow the water to pass through his land was there a sufficient stream of water to reach other users down stream? Yes

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? Yes

Use this area for additional comments and for signing and the notary witness stamp etc..

Lynn R Davis 4/23/06

In all the years some 50 or 60, I remember that the water coming from the Three Streams above from the ditch was designated for the shareholders, and that any use of the water above the ditch was prohibited unless you owned shares. I remember being told that water was not to be diverted from flowing to the weir above the big ditch in Samaria.

Lynn Davis

State of Utah
County of Cache
Subscribed and sworn to before me, a notary, on 5-16-06 by Lynn R. Davis, who proved his identity to me with satisfactory evidence.
[signature] NOTARY

RHONDA PITCHER
Notary Public
State of Utah
My Comm. Expires Aug 16, 2008
7161 S Campus View Dr West Jordan UT 84084

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Parley Davis

   Address: 5550 W 300 ~~N~~ N MAAD, IDAHO

   Phone No.: 208-766-4900

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? _____

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other All of Above

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   Lester Atkinson had a Right to 6 or 12 hrs on Sunday

   Alvin Williams had a Right to 6 or 12 hrs on Sunday

   Martin Water Lawn

   Ray Williams " "

   Mabel Davis " "

   Edith Evans " "

Was there authorized use of water any where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

None

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? None

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements, method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users.

Yes They were Agreed to by Use of my memory

Serves me Right They Had The Stream For A Short Period of Time.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? Never AWARE OF Any SHARES Been TRADed OR Knowledge OF SHARES other THAN Hester & Alvin, Don't Know How garden STREAM ORIGINATED

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

NO

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? Yes

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

Yes

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Just WHAT is in The Comp Any Minutes

Page 4 Affidavit Questions

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? ~~NO~~ YES

JUST WHAT I'D FOUND OUT LAST YEAR WHEN I WAS ON THE BOARD.

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company

USE OF THE WATER WAS UNAUTHORIZED

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? _____ Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

NOT AWARE OF LAST 10 YEARS I ASSUMED ~~IT~~ THE DITCH WAS MAINTAINED, I THOUGHT WATER WAS STILL COMING TO CANAL

18 YRS AGO I ~~WAS~~ WAS AWARE OF WATER BEING BROUGHT TO CANAL AND DITCHS CLEANED AND MAINTAINED FROM MOUNTAIN, ON DOWN TO SAMARIA

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. ND

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? ND

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? WAS UP TO WHERE WATER WAS

Describe the out come if you were personally involved in such as you remember it. Being USed

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

22. Did you remove any dams or other obstructions from the company ditch on his property? _____

Further was this done more than one time? If so when? Year? 10 OBSTRUCTIONS WERE Removed And WATER Allowed TO FLOW Thorough The PROPERTY UNOBSTRUCTED When I WAS Water master

Page 6 Affidavit Question

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? Yes

Details if any you would like to have noted. There was A good STREAM The FIRST PART OF The IRRIGATION SEASON, The LATER PART OF SEASON WATER DECREASED I Believe The One YEAR I WAS WATER MASTER WATER CAME DOWN TO CANAL ALL DURING The SEASON

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch: Yes

Parley Davis

State of Idaho
County of Bear Lake
On April 25, 2006
Personally appeared Parley Davis

Crystal Kidd

Commission Expires 3-18-2010

CRYSTAL KIDD NOTARY PUBLIC STATE OF IDAHO

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: John J Evans

   Address: 5071 South 4600 West, Samaria, Idaho 83252

   Phone No.: 208-766-2758

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 50 plus years

3. What has your association's) been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Now as a Board member and in the past as a land owner, stock holder and as the renter/operator/ worker on or of my parents farm continually except for a couple years for education and a mission since childhood.

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. N/A Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rose Bud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   From south to north the users I remember as a child and through my teenage years were.

Max Williams later Alvin Williams who had an Independent right to use the water on Sundays As did Lester Atkinson now Delon Atkinson who each had 12 hours of water weekly. John M. Price and later his son William (Bill) Price which later sold off his all shares of water below the ditch separate from his land I think he had a half share usage. Mrs. Evan Martin later her daughter Ruth Lewis who later sold her land and water to me John J Evans and which I now still use on the acreage this is a half share. Samuel Williams widow who later left her land and water to Carl A Evans which is my father and who was married to her daughter who died. I Now have this water and the land it was used on. One share was used early on but then a half share was move below the canal. Rachel Williams now land owned by Jeff Davis who replaced his use of the water with a well some years ago and moved the water below the canal. As I remember she had a half share. Melvin Davis used his in laws water which he later inherited I understand and is now owned by his son Lynn Ray Davis and used by Russ Sorter on the lot he rents from Lynn Davis. He has a full share. Joe Martin later Raymond Martin then to Keith Atkinson and now to Dee Tolman who owns the land and still has and uses the water. As I remember he used a half share. Andrew Atkinson then to the Peterson family and now their daughter Tony Jones who still uses the water. I think one share. Sam Mansfield then to Rex Waldron then to Vernon Hulse who replaced his use of the water with a well and sold the water below the canal. Alfred Atkinson Later Keith Atkinson and Later Spencer Atkinson who moved the water to below the canal. Leonard Mansfield later a niece who sold the water to below the canal. There were two others who used the water by way of flumes across the canal when I

was a child and later after their leaving their homes because of old age and moving in with family the water company took down the flumes and that practice of crossing the canal was ended. They were Emma Price and Hanna Atkinson. Emma Price I understood was able to do so and had since her husband had been one of the men who had originally filed on the water in 1893 and brought it to Samaria. She had one share. Why Hannah Atkinson had a flume I never knew. Many of the old timers who used the water when I was a child and teenager were up in years and my father was the Bishop of the LDS ward here so when I very young I went with him to turn their water and /or water their lot and gardens for them. Later I was sent alone to do so therefore personally knew of each and every person who used the stream and where their ditches were. I have forgotten how many shares some had as that was not so important in those earlier times for me to remember. In those days the water master simply notified each person as to when they were to take the water and it was their job to take the water from the person before them at the assigned time. The water master only turned in water below the canal for people. Mountain water was used by one or more people at a time depending on the stream size and was counted as a 50 inch stream being used. If no one was to use the water all water not being used during the irrigation season was let go to the canal for mixing with the warm water.

6. Was there authorized use of water any where above the township lines of Samaria, which is also the line of usage as listed by the IDWR Plat? If so who and on what property and how many shares? There was not any authorized use above the town to my knowledge.

7. Do you from personal knowledge know of any unauthorized use of water shares above the fore mentioned lines being used and can you give details of such use? The only unauthorized use I am aware of personally has been the last few years when Jeff Davis has either taken or required his renter to use the water on his property without the permission of the water master or board. This usage was witnessed on several occasions a few years ago when I and Alvin Williams were ask to clean and monitor the Mountain Water ditch because the water was not down to the town to use. When we went up to clean the ditch we found dams in the ditch turning the full stream out on to Jeff Davis's field south of the cemetery and we removed the dam and cleaned the ditch the next day the water was gone again and we went back up and again removed the dams this time the water was running split in each of the two ditches through his property which go to different users locations. Alvin was on the board at the time so he said he would handle it with the board. I was not on the board just a user. Several time after that the water again disappeared and one of us would go up and take out the dam(s) as did Gaylen Jones and Russ Sorter when the water quit during there turns. Another time when I was a teenager I witnessed two users of the water Lester and Andrew Atkinson come to my father as Bishop and ask him to go try to get Melvin Davis to stop stealing their water at night in town and they at the time also mentioned that he had taken the water during Lester's water turn out of the ditch up on his place against the mountains and the water board had been notified but he kept on doing it and they thought dad, as bishop, may have some influence to get him to stop.

8. Was such unauthorized used of the water reported to a board member, Water Master and what if any action was taken in the matter? As I mentioned above Alvin Williams was with me when we took out dams on a couple of occasion and he was on the board at the time. He said he had taken it up with the board but it continued. I do not know what the board did about it at the time.

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water shares. Namely hours per share, share measurement, method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users? The water was used as a 50 inch stream even if it was a little over or even very small at times. If it was early in the year and large enough it was split between 2 or 3 users years ago. If it was 20 inches or less at times it was given for 24 hours rather than 12 hour at least one year I remember. Every one took their turn as set by the water master until the last few years when the water did not get down at all and Jeff Davis

refused to let anyone into his property to clean the ditch. We later found he was diverting all the water and not letting any one in to clean or inspect the ditch was a cover so no one would know there was water available. On one or more occasions I and others ask him if there was water up there to be used and he would say no! The water company took his word as being honest until it was witnessed by cattlemen there was a lot of water going in to Jeffs Place and none coming out.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? Share used as mountain water have always been reserved just for mountain water with the original lots that used them except when they were sold off below the canal or moved permanently below because of a well replacing them. The exception to this is it has been understood as far back as I can remember, 50+ years if there was not mountain water available later in the season of dry years and the user if he had land below the canal could use canal water for that share and then bring the share back above the following year when water was available, No one however could use more than their mountain share base amount above the canal. In the 1971 when the new by-laws were approve it was understood by all there at the meeting, that no additional shares could be moved above the canal. I was at that meeting and voted my parents shares to that understanding. No one as I remember specified any difference between the so called upper ditch water and Mountain water just the words used was cold water which applied to both streams could not be used or shares bought below the warm springs could not be transferred or used above the warm springs. It was understood by all that meant also the (big ditch) as the canal was then known and the carrier of all warm spring water and to the south.

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

As I mentioned above the answer is definitely NO!

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Is you understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? Yes in the meeting where this was voted in, it was generally understood that it meant the full canal system below the Warm springs also. I know there has been requests to move water above the ditch before and to my knowledge the have all been refused by the board based on this understanding. As I mentioned above it was the general understanding at the meeting as no difference was drawn to specific two streams of cold water available just that warm water shares held at that time could not be move above the (big ditch) which is the warm springs drainage during the irrigation season. It was not questioned as that had always been the way the mountain water had been and now it also applied to the upper ditch water.

13. Based on your understanding of the above do you feel the bylaws should be revised to more clearly spell out the movement of historically used Hot Water Spring water shares movement with in the company area?

Yes I feel the by-laws could be much better worded so that younger or new people to the area would have no question as to the meaning that was meant and understood in the past.

14. Are you aware of any history relating to the mountain water rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained? I was not until recently. Because of Mr. Davis' demands, the board members have searched all the old records of the company to verify all the company rights, and located the original claims for the three mountain streams which join and come down and also a contract of sale where the water company purchase the claims and ditches in 1893. We have also in going through the old records located notations where independent water right for the Max

Williams family and the Hamblin family later passed on to his son-in-law Lester Atkinson each had 12 hours of the entire stream of mountain water on Sundays each week during the season. In the water companies books there is not notations as to why or how these were obtained or if separate claims were filed rather it states they were granted out of the water company water. These families have since before my memory to the present used the water accordingly when it is available.

Special Questions for past and present Board members, Water Masters, or landowners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? Yes I explained this in above answers. Davis' have used water without permission of the water company and even after they were told to stop. In questioning other past and present land owners available they all denied any use or rights to use the water above the town by them or anyone they knew of. The only exception is the watering of livestock along the ditches and the pumping of water to the top of dry pine canyon and around on top of the mountain in on agreement between the water company and cattle association board in the 60's for livestock water.

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? This use is unauthorized and we became aware of it by first cattlemen and land owner employees in the area who said in riding for cattle they noticed water we had previously been told did not exist going in but not out of Davis' property. Later hikers verified this and the water company sent the water master to verify the situation which he did. Mr. Davis at the time refused to allow anyone onto his property to examine the ditches or maintain them.

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above-mentioned property? Yes Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take?

I have helped clean the ditch many times both with a tractor where possible and otherwise by hand. Since 1999 or 2000 approximately I have cleaned the ditch twice with a tractor and ditcher as well as assisted with backhoe cleaning and repair of the ditch from diversion points to the town. Also I have walked the entire ditch several times this season and done shovel repair. Prior to the 2000 season there had been some years I have been hired to ditch the mountain ditch also. However since Alvin Williams and I cleaned it thru Jeff's field behind the cemetery the year before Alvin died no one has been allowed to enter Jeff's property with his knowledge but I

know others have gone in and cleaned it with shovels, as listed above and removing his dams, in order to obtain their water. During the last 6 or 7 years Jeff has attempted to enforce limiting anyone going on or near his property by fencing off the county road going to his place, which the county made him take down, and also he has told the water company they could not clean the ditches through his place and he has maintained locks on his gates and warned all to keep off his property.

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? Yes see above answer.

Please describe such conditions. As listed above he has refused entrance and threatened us with legal action however on September 14, 2005 Mr. Terry Blau from the IDWR office in Twin Falls was brought to the Davis property at Mr. Davis' request with the intent to prove to the water company that we could no longer clean or maintain the ditches through his property as the ditches he felt had now become the natural channel for the water. Mr Blau in front of Parley Davis, Shawn Anderson and myself, explained that the water company ditches are ditches and that the water although not done for some years because of the old wooden head gates having rotted out should be diverted back in to the natural stream beds in the off season and new diversions should be put in as soon as possible. He said that the state law allows for cleaning of all ditches and canals. He also stated that access to do so was require and that Mr. Davis had to allow the work to be done. Mr. Davis agreed to furnish the water Master a key and did a few days later. However after a diversion was installed on his property he took the key back and refused further entrance to his property for work on the ditches.

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? Not to my knowledge. He has however since filed with the IDWR to take the water for his own use from the company.

If so was the request granted with or without restrictions as allowed in the Water Company by-laws? Describe the situation: I do understand he requested use of water via a pipe he had illegally placed in the company ditch to use his "domestic rights to water" to irrigate trees he had planted. My understanding is that was not granted. As a board member for the last several years I know of no time he has requested use of water other than wanting to have an exception to the company by-laws and move all his water shares up to water his land there by taking part or all of the mountain water for himself. This has not been approved by the board of directors based on a general consensus of the stockholders in discussions during and since the annual water meeting the board feel almost the entire stockholders would not accept such a move

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? Yes as above. Describe the out come if you were personally involved in such as you remember it. See answers above and since I have been on the board, the board has unanimously been working to discontinue this problem. Currently the board has notified the county attorney of the problem and will if any further unauthorized use takes place file charges against Mr. Davis.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

In the past years Yes. However we have since learned from the county attorney we could not file charges on any violations over 12 months old so are watching for new violations that may take place.

22. Did you remove any dams or other obstructions from the company ditch on his property? Yes several years ago and one last fall a dam on the property behind the cemetery.

Further was this done more than one time? If so when? Year? Yes see answers to questions above

23. When dams were remove to allow the water to pass through his land was there a sufficient stream of water to reach other users down stream? Yes as described above the water was able to be used by the rightful users and at times dams were reinstalled by him or his renter while people were using their turns. This was also during times I had water turns.

Details if any you would like to have noted. Yes I might note most of the share holders with whom I have discussed this matter feel as I had, that no one wanted to cause any upset with Mr. Davis and therefore were willing to just let it all slide under the carpet so to say. Now he has shown himself to both have lied about the water being available in the past, as well as admitted to taking it without rights or permission, there-by denying others there rightful shares of usage. Now they are very unwilling to consider giving up their rights without a fight.

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? Yes see above details



June 8, 2006

John J Evans

STATE OF IDAHO)
):ss.
COUNTY OF ONEIDA)

On this 8 day of June, 2006, before me a Notary Public in and for said State, personally appeared John J. Evans, known or identified to me to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

Kay Buttars
NOTARY PUBLIC FOR IDAHO
Residing at Malad, Idaho
My Commission expires: 10/25/11

KAY BUTTARS NOTARY PUBLIC STATE OF IDAHO

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Dave Higley

   Address: 3188 W. Samaria Rd.

   Phone No.: 766-2569

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 33 yrs.

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Share holder, Rental water user. Board member President Vice President, Landowner through which a company ditch runs through

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

I know Lester Atkinson and Alvin Williams used water from the mountain stream. Ernest Waldron was the water master and kept track of how many shares they used so I dont have any first hand knowledge of this. When we cleaned the ditch from dry pine we filled up all the water we could all the way down

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? Alvin Williams and Lester Atkinson and Andrew Atkinson

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? no

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements, method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users. The watermaster kept track of this and it should be in the books unless they have been destroyed

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? The shares were used by those who had right then the rest went into the big ditch to be mixed with Samaria Irrigation Water

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

no

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? yes

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

no They don't need to change the bylaws, just abide by them

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

no they were filed on by the irrigation Co.

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? no

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? no Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

The gate was locked and no trespassing signs were put up.

Page 5 Affidavit Quesuon:

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. no, this has happened since I served on the board

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? no

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

22. Did you remove any dams or other obstructions from the company ditch on his property? _____

Further was this done more than one time? If so when? Year? _____

Page 6 Affidavit Questions

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? yes

Spencer Atkinson + Devel John and myself cleaned the mountain ditch many times. The gate was not locked at this time.

May 1, 2006

Dave Higley

STATE OF IDAHO)
):ss.
COUNTY OF ONEIDA)

On this 1 day of May, 2006, before me a Notary Public in and for said State, personally appeared Dave Higley, known or identified to me to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

KAY BUTTARS NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Malad, Idaho
My Commission expires: 10/25/11

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Clarence Hughes

   Address: 3141 West Samaria Rd Malad, Idaho 83252

   Phone No.: 208-766-4368

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 67

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Family Shareholder/Land Owner

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   Max Williams and Lester Atkinson had a day a week on the Mountain in the town site - No one used Mountain Water above the townsite. The Mountain water was put into the Big Ditch which was very important to use water users below 2nd street South in Samaria and South. The water was, at times, the only fresh water mix we sometimes got during the Season as well as maintaing water in the ditch to help keep the ditch wet to be able to take less upstream water for 100" Shares.

   Mr Randy Budge has been the Ralph Hughes' as

well as the Ralph Hughes Estate Attorney since 1997 and is presently doing work for the family. This Mountain Water has a direct relationship to our water shares. I see a possible conflict of interest

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? NO except Stock water only

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? NO

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?
Water was promptly put back in the ditch and reprimand made to party concerned

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do vou feel the rules were known and agreed to by all mountain water users.
See #5

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? NO

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

NO

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? yes

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

No — changes might cause bigger issues

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Yes record Keep by Water Board

Page 4 Affidavit Questions

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? NO

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? Water meeting

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? No Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

Gates are always locked

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? Yes

Please describe such conditions. Report of Watermaster

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? No

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? NO
Describe the situation:

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

22. Did you remove any dams or other obstructions from the company ditch on his property? _____

Further was this done more than one time? If so when? Year?

Page 6 Affidavit Quesuon:

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? Yes before 1970

X 28 April 2006
Date

X Clarence R. Hughes
Clarence R. Hughes

STATE OF IDAHO)
COUNTY OF ONEIDA) ss.

On this 28th day of April, in the year 2006, before me a Notary Public in and for said State, personally appeared Clarence R. Hughes, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

ROBERT G. CROWTHER NOTARY PUBLIC STATE OF IDAHO

Robert G Crowther
Notary Public for Idaho
Residing at Malad City
My commission expires: 9-9-11

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Darhl Hughes

   Address: 5196 South 4400 West

   Phone No.: 208-766-4093

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? _____

3. What has your association's been? (Share holder), Rental water user, (Board member), Water Master, (Land owner) through which a company ditch runs or other _____

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   Alvin Williams

   Delon Atkinson

   Joe Davis

   Atkinson

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? Don't Know.

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? No

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

Don't Know

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

Don't Know.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? Don't Know

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

No

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? yes

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

No.

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

No

Page 4 Affidavit Questions

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? No

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? Don't Know

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? No Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

No.

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? No.

Please describe such conditions. _____

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? yes

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? without.
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? No

Describe the out come if you were personally involved in such as you remember it.

_____

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

_____

22. Did you remove any dams or other obstructions from the company ditch on his property? No

Further was this done more than one time? If so when? Year? _____

Page 6 Affidavit Questions

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? Don't Know.

Details if any you would like to have noted.

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? Yes

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Mark Ipsen

   Address: 2710 W 500 S Malad Id 83252

   Phone No.: 208- 766- 4252

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 20 years.

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Share holder, Rental user, Board Member Land owner. I am a board member. I have Pleasant View Warm Springs

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes. Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

All I know of is since I've been on the board for 2 years. I understand that Alvin Williams and Lester Atkinson, both deceased had a right to use the water for something like 12 hours each once a week.
I also understand that Jeff Davis has been illegally diverting water higher up in the canyon but I haven't been past the cemetery for many years so I have no first hand knowledge.

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

I dont think so.

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? I have been told in board meetings that Jeff Davis filled a pond & put in a pipe line to water some areas.

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

The only action I know of is discussions with Jeff Davis to try and get things straightened out.

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do vou feel the rules were known and agreed to by all mountain water users.

I dont know.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? I would interpret the use to be limited to the established rights

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel? No. An ammendment to the by laws was instituted many years ago so that the canal would have as much fresh water in it as possible

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? That is my understanding of the rule.

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

Yes

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

No

Page 4 Affidavit Questions

Special Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? Just as answered in #5 & #7

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? I was told of it in a board meeting and the use is unauthorized in my opinion

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? No Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

I understand the gates from the MJ Davis property have been kept locked. I also was told the the company was allowed in in 2015 for an inspection but I didn't personally go.

Page 5 Affidavit Questions

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? Yes

Please describe such conditions. What I had been told in Board meetings.

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? Yes.

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: Request not Granted

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____
That's how I learned of it ison The board.
Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

I understand use continued.

22. Did you remove any dams or other obstructions from the company ditch on his property? No

Further was this done more than one time? If so when? Year? _____

Page 6 Affidavit Quesuon:

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? I dont Know.

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch: No

State of Idaho
County of Oneida:
Subscribed and Sworn before me this 2nd day of May, 2006

SUSAN J. WITTMAN NOTARY PUBLIC STATE OF IDAHO

Susan J Wittman
expires 2-9-2012

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Eldon John

   Address: 62 South Main St.; Malad, Idaho 83252

   Phone No.: (208) 766-2629

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 20 years

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Share Holder, Rental water user; Land owner through which a company ditch runs

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   Andrew Atkinson

   Joe Martin + his brother

   Joe Williams

   Alvin Williams

   Lester Atkinson

   Melvin Davis

Was there authorized use of water any where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? NO

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? No

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of? No

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

I knew and understood The use for water according to shares owned

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? It would be used above & below The channel.

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

No

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? Yes. The water cannot be Transferred back up stream! I do not believe the Board needs to update or change the section of the by-laws to reflect my opinion of the interpretation of this!

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

No

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Yes, in the history of the bylaws

Special Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? I was informed of the use of the Mountain Water being used for his own use by Jeff Davis above his Samaria town property for private use

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? I was lately aware of this use as unauthorized by my ownership of shares of Samaria Water + Irrigation Company

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? No Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

I was not aware of any water Through his private property for irrigation or any private usage.

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? Yes

Please describe such conditions. He only has water for irrigation use below the ditch

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? No

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? No
Describe the situation: I am not aware that he met with the Water Board for use of the Mountain Water for irrigation or any other use of the water

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? No

Describe the out come if you were personally involved in such as you remember it.
None

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

Yes

22. Did you remove any dams or other obstructions from the company ditch on his property? No

Further was this done more than one time? If so when? Year? Not done at any time

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? I don't know how much water he used, or how much was left for other users down stream.
Details if any you would like to have noted.

How much did he take from the Irrigation Stream used for farming for his own private use not used for irrigation; And what rights did he have to use Mountain Water for other uses than Irrigation

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? yes

May 1, 2006

Eldon John

STATE OF IDAHO)
):ss.
COUNTY OF ONEIDA)

On this 1 day of May, 2006, before me a Notary Public in and for said State, personally appeared Eldon John, known or identified to me to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

KAY BUTTARS NOTARY PUBLIC STATE OF IDAHO

Kay Buttars
NOTARY PUBLIC FOR IDAHO
Residing at Malad, Idaho
My Commission expires: 10/25/11

Below are my comments to the affidavit questions for Samaria Water and Irrigation

1. David Reel
   5176 South 4400 West
   Malad City, Idaho 83252
   (208) 766-2808

2. Since 1997

3. Share holder since November of 1997, Rental of water for the last 4 years, a board member going on the 5th year, land owner which the canal runs through since November of 1997

4. Yes

5. N/A

6. About three years ago Jeff came to my home and asked if he could use water on his mountain ground. He stated that there was very little water coming out of the mountain spring and would like to use the water on his mountain property. That he only needed a little water (70 gallons a minute for a short time, a couple of times a week) for a short time, just a few years, enough to get some trees started and that after they were established he would not need the mountain water after that. The canal company believed that the springs had dried up since water was not coming down to the township as it had in year's prior. Jeff and I discussed it and agreed that the water master was to be informed when Jeff was going to take water and that when the canal wanted to bring the water down that it be brought down since it belonged to the canal. He did not mentioned wanting to transfer any of his water out of the normal usage area. At the end of our conversation, I stated that the water belonged to the canal and is to be used below. That it would need to come down if the springs started flowing high again. Jeff said we would cross that bridge when we have to.

7. Yes The water master informed us that Jeff was using water on his mountain property in the spring of 2005 and that there was a lot of water coming out of the springs. Jeff in the last three years had not been back to mention using the mountain water to the water master, any member or myself on the board that he was using water on the mountain. We were always assessing Jeff the shares that he owns and uses out of the canal. With no knowledge or forth coming of Jeff mentioning the usage of mountain water.

8. The canal with held water from Jeff on the mountain. Later in the year Jeff and the canal board members had several meetings. It was mentioned at one time we would allow the use of the 2000 gallons a day. After that Jeff stated how he needed more water and did not understand why he could not transfer all of his shares up to the mountain. He would not accept our answer that the water had not been used up there and the water was to be used in the township

or added to the canal and used below. The board mentioned that the president did not have the authority to grant water usage outside of the normal water district.

9. All the waters of the canal company are to be delivered to the canals main ditch for usage and delivered in the known water district; the canal company and state have a map of the water district. The ground on the mountain was not in the water district until Jeff filed an exception. There are no known water certificates for the mountain water or known independent water rights out of the mountain water. There is mention (hear say) of Alvin Williams having a right but I have not found or seen the necessary documentation. All water shares in the canal are equal. One share equals 324,000 gallons or 100 miners' inches for 6 hours or 50 miners inches for 12 hours. Flood water is to be measured through a standard weir and measured with a special ruler/scale. Sprinkler usage is to be measured through a flow meter or calculated by measuring the pressure at the rain bird; the size of the rain bird and the number of rain birds running. This method is accurate for measuring flow rate.

10. N/A

11. No Before I sign stock certificates I ask the board for their approval. This ensures that more than one individual evaluates the transfer to be made. This utilizes the historic knowledge of the other board members on the canal for approve.

12. Water cannot be transferred above the Warm Springs, north or uphill.

13. Yes The bylaws need to be updated for area of use clarification as well as other matters that are not clear.

14. No I have heard from Shaw Anderson that it is believed Alvin Williams and several others had water rights. It is unclear to me if these were independent water rights or if they were using their water shares within the Samaria township. It is known that the water district is one or two block west of the canal at the south end of the Samaria Township.

15. The first I learned of Jeff using water was the spring of 2005. After our visit he never came back to state when, how much or if he was taking water.

16. Unauthorized The water master mentioned that the water was not making it though the Davis property, that the ditch was non-existing. 1) That there was a 2-inch pipe upstream that delivered water into a pipe system. 2) That the rest of the water that went past the pipe was running out on the grassland on the mountain. Jeff did not mentioned the use of mountain water and the gate was locked from others to be able to access the springs.

17. No The 2005 irrigation season the water master tried to go up and examine the springs and ditch. The gate was locked. The water master made his discovery by going around on other property.

18. When the canal asked for a key it took until the fall when an officer from the IWRD came out to examine the ditch. Jeff gave us a key at that time. Now this spring as we are trying to maintain and repair the ditch that delivers water to the canal, the lock has been changed to a combination type lock.

19. Yes With the restriction and understanding that when the canal requested the water be delivered to the canal that the water would be turned down. Being new to the canal the discussion should have just been no that water cannot be used outside of the district.

20. It was reported to us and we had the mountain water turned down to try and make it down to the canal.

21. N/A

22. When the watermaster mentioned that irrigation dams where in the ditch on the property Jeff owns near the Samaria Cemetery, the canal board had the water master remove the dam.

23. I did not see the water and the dam kept getting installed in the ditch.

24. No I did read in the water company minutes that the ditch was cleaned and the water delivered to the township and canal.

In 1998 when I just moved here, I had a neighbor I was working with and he said he had to go move his water. I asked him how he got water above the canal he said it came from the mountain water. He said that some years the water would be higher and last longer. This was before Jeff became active in Samaria. At the time I was not knowledgeable or involved in the canal. Later I have learned many things about the canal and became involved.

It is unfortunate that Jeff never made it clear what he wanted or intended. If Jeff would of stated that he was after 2000 gallons a day instead of 70 gallons a minute for an unanswered time frame things may have turned out differently. All of the meetings with the canal board and Jeff were a no win discussion. The board did agree to allow 2000 gallon a day to Jeff after we understood that this would meet his needs, at this time I believe Jeff was not getting the answer he wanted and kept asking for more after this.

Before we (Samaria Water & Irrigation Co.) contacted a lawyer we called the IDWR Department to verify if Jeff Davis has a legal filing on the water that he was diverting. The reply from them was he had no known legal filing on the water in question. Then we contacted BLM to verify if he had a permit or other legal document

allowing him to divert water from the BLM property. We learned that Jeff had been issued a request from BLM to remove the diversion that he has on BLM property. This was during the summer of 2004 and it was to be removed in August of 2004. As of today the diversion still exists on what is believed to be BLM property. BLM is in the process of sending a field officer out to verify the exact location of the diversion.

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: John Roderick

   Address: _____

   Phone No.: _____

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? Since 1929 Many years on Board + Pres.

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Since 1929 Many years on Pres, board, stock holder, Water Master 1934

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

Max Williams

Bill Moss Sen. Went to Alvin Williams

Louis Hamblin later Delon Atkinson

Evan Martin

~~John Price~~

Carl A. Evans

Joe Williams / Ray Williams / Jeff Davis

Melvin Davis

Joe Martin / Raymond Martin / Deatelman

John Richards / Vernon Hulse

Alfred Atkinson JR & Heber Mansfield / Lenard Mansfield

ALL Atkinsons

Page 2 Affidavit Questions (no. 5 cont.

John Price Jr.

Emma Price By Plum

Was there authorized use of water any where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

D P Thomas + J P M Thomas Sold Water to John Fredrickson + Moved Below Cassel + Sold elsewhere since

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use?

No

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

On Low Water year they were To use equally To keep Gardens + Trees Alive other wise By Shares

Page 3 Affidavit Questions

Based on Hours No Water quantity

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why?

Only Able to Be used on Original Land

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

No one Ever Tried it was Understood it should'nt Be

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? When The Company Was Organized All the Water only was used in Samaria Then Some Sold water Above Springs So it was Stopped By By Laws Change. So No More Sales or Shares were to Be Moved Above the Canrel

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

Okay to Do if people will Live with it Honestly

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Yes Bill Moss son Had it and Sold to Alvin William Also Louis Hamblin Sold to Lester Atkinson

Page 4 Affidavit Questions

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? No Shares I Was Aware Ever had

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company:

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? Yes Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take No We Could Always Go where we Needed to

Page 5 Affidavit Questions

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. No Knowledge.

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

No Knowledge

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

No Knowledge

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

No Knowledge

22. Did you remove any dams or other obstructions from the company ditch on his property? _____

Further was this done more than one time? If so when? Year? No

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

In 1934 The Water was The Lowest ever otherwise it Came Down & Was Shared Around according To Those Above Ditch

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? Yes

John J Koderick 4-20-06

State of Idaho
County of Oneida
On this date of April 20, 2006 I, Rula J Thomas, a notary for the State of Idaho acknowledge that I personally know John J. Koderick and notarize his signature.

RULA J. THOMAS
STATE OF IDAHO
NOTARY PUBLIC

Rula J Thomas
a Notary for State of Idaho
Residing at Malad, Idaho
My Commission expires 11-08-2011

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Seth Seamons

   Address: 22235 5400 W. Malad, Idaho

   Phone No.: 208-766-4890

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 13

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other shareholder, Rental water user, board member, landowner

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. YES Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   I have no knowledge of water being used anywhere but to mix with shareholders on the end.

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? none

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? yes, Jeff Davis has been using water unauthorized out of said springs

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do vou feel the rules were known and agreed to by all mountain water users.

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why?

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

No

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? yes

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

yes, people cannot transfer any mixed water for straight fresh water

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Page 4 Affidavit Questions

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs?

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? No Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

I heard that Jeff Davis locked the gate and wouldn't let anyone in.

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. _____

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? _____

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

22. Did you remove any dams or other obstructions from the company ditch on his property? _____

Further was this done more than one time? If so when? Year? _____

Page 6 Affidavit Questions

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? _____

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? _____

Jack N Simmons 5-2-06

Wendy C. Rufi
Residing: Malad ID
Exp: 2-28-2011

WENDY C. RUFI
NOTARY
PUBLIC
STATE OF IDAHO

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Russell Sorton

   Address: 5065 4600W

   Phone No.: 766-2690

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 9 years

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other

   Rental water user

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   None

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

Don't know

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? yes

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

yes

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users.

don't know

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? don't know

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel? don't know

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? don't know

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area? don't know

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained? no

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? don't know

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? yes Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

NO

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? no

Please describe such conditions.

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? don't know

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? don't know
Describe the situation:

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? yes

Describe the out come if you were personally involved in such as you remember it.

When working for the Cold Water Ranch I observed work on Davis property of 3 to 4 in. black plastic pipe in the Thomas Davis spring water being diverted into the Davis property there were many siphon pipes for small trees

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

no

22. Did you remove any dams or other obstructions from the company ditch on his property? no

Further was this done more than one time? If so when? Year?

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? yes

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? yes

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Doug Thorpe

   Address: 785 S 5400 W Malad

   Phone No.: 208 766 2446

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 35 years

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Share holding, Rental water user Board Member, Water Master, President of the Board

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. Yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   Alvin Williams This I Remember

   Melvin Jon Davis

   Liston Atkinson

   Andrew Atkinson

   Jon Martin

   Ralph Martin

   Joe Williams

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares?

NOT while I was on The Board

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? No

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

NOT while I was on The Board

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

They used The whole STream if it was little or Big.

THERE WAS NO MEASUREMENTS
EVERYONE KNOW THE RULES OF THE MTSTREAM
+ SO DID all THE SHARE HOLDERS

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why?

MOUNTAIN SHARES WAS USED ABOVE CANNEL ONLY

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

NO

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? YES

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

YES - PEOPLE MOVE IN + THINK THEY CAN DO ANYTHING

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

Special Questions for past and present Board members. Water Masters. or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs?

WHEN I SOT OFF THE Board THE MOUTAIN WATER Had NOT made IT TO Samaria

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? By Board Member & a Share Holder

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? YES Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

THE YEAR'S I WAS ON THE Board WE had a Backhoe Clean MT STream DITCH a Number of Times ALVIN AWM'S & I Had RUSSell WRIGHT Take His 400 Below Wire Pine SPRINS & Clean & STRAIGHTING DITCH THE BANKS Had Washed OUT PUT MATA BACK IN DITCH. Samaria IRRIGATION CO. Paid For all R. Rainson

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. NO. M. J. Davis LET US Clean + Repair Ditch with No Problems

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? NO

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? NO

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

NO

22. Did you remove any dams or other obstructions from the company ditch on his property? YES

Further was this done more than one time? If so when? Year? IT WAS IN THE Early 80's IT WAS Cleaning DITCH TO GET WATER DOWN DITCH

Page 6 Affidavit Questions

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? Yes

Details if any you would like to have noted. _____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch?

We Had Backhoe clean at Springs's
we Had Dozer clean at Springs
& some of Ditch.
We Had Backhoe Clean in spots
all way Down the Ditch all
the way Town.
No Problems with Property
owners Dwight Hunt

Leah R. Hunt
my Commission ex: 11-03-09

LEAH R. HUNT
Notary Public
State of Idaho

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Luke Waldron

   Address: 4450 W. 4500 S. Samaria, Idaho

   Phone No.: (208) 766-4139

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 14 months

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other Water Master

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. yes Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel (canal) and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   I do not have much knowledge in this area. I do remember that in the 1980's seeing Alvin Williams, Lester Atkinson, Raymond Martin, and John Evans irrigating with the mountain water stream.

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? Do not know

7. Do you have personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? NO, no

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

n/a

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements. method of calculating. etc. Further do you feel the rules were known and agreed to by all mountain water users.

n/a

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? Do not know.

11. Historically have shares of water from below the cannel been able to be moved for use above the canal?

Do not know.

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire canal from the Hot Springs to the end of the canal below Samaria? Do not know.

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

Do not have an opinion on this matter.

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

No

Page 4 Affidavit Questions

Special Questions for past and present Board members. Water Masters. or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? Yes, last year in April I observed a 2-3" plastic pipe inserted in the Thomas Davis spring taking water to fill a pond located on the Davis property.

Also, when walking the ditch to see where the water was being held up I discovered the entire stream was being diverted on to Davis property just above the Samaria Cemetary

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company I became aware of the pipe in the springs when I went to examine the ditch & water flow. I also became aware of the stream being diverted as I examined the ditch.

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? yes Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take — what else where is the end of give

Yes, last year as I began to clean the ditch I was told by Jeff Davis that the ditch was considered a natural stream bed and that if I even used a shovel I would be in violation of the law. While this matter was being sorted out with the Idaho Department of water resources I did have to use a shovel to repair bank erosion along the ditch and clean out weed dams that were keeping the water from flowing properly.

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? yes

Please describe such conditions. In March of 2005 I asked Jeff for a key so I could have access to monitor the stream. He at first said I did not need to have access that I could just measure the water down at the road. Later, after a board meeting I recieved a key. On April 23, 2006 I attempted to examine the Thomas Davis spring but a new lock was on the gate.

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? yes
↳ and I called Jeff Davis for the combination for the lock but as of today April 26TH, I have not heard from him.

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____

Describe the situation: I turned this matter over to the Samaria Water & Irrigation Board of Directors.

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? yes

Describe the out come if you were personally involved in such as you remember it.

I reported it but was not personally involved in the outcome.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

No

22. Did you remove any dams or other obstructions from the company ditch on his property? yes

Further was this done more than one time? If so when? Year? Only done once, around the end of April 2005 - No further dams after this

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? yes, Rick Higley they said they were just using it before it went on to our About a 50" stream

Details if any you would like to have noted.

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch? yes, as noted on #17

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Rex P. Waldron

   Address:__1211 Rasco Dameron Rd.__Burlington N.C. 27217

   Phone No.:_336-421-6257

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? _60

3. What has your association's been? Share holder, Rental water user, Board member, Water Master; Land owner through which a company ditch runs or other __Share Holder ,Rental Water User Land Owner

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. __Yes_____ Please
5. answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   _Lester Atkinson, Max Williams, Evan Martin, Carl Evans, Sam Williams, Joe Williams Melvin Davis Joe Martin, Andrew Atkinson, Alfred Atkinson, Sie Anderson, John Price, Mary Jane Mansfield, George Mansfeild ,

   I don't remember how many shares each had.

6. Was there authorized use of water any where above the township lines of Samaria, which is also the line of usage as listed by the IDWR Platt? If so who and on what property and how many shares?_____

___Melvin Davis Used some at mount pleasant but there was never a consent from the company to My knowledge. There was always contention over it but he would use it anyway_____

7. Do you personal knowledge of any unauthorized use of water shares above the fore mentioned lines being used and can you give details of such use? ___I hate to be the one to say this but the water always seemed to disappear during the night and it always seemed to be on Melvins place just above the road going to the Squirrel town farm_____

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of? I know that it was talked about but to My knowledge they never wanted to get in a legal battle over it.

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements, method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users? As for as I remember it was counted as a 50 Inch stream some times the advantage went one way some times the other that meant 12 hr. Per share

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the canal or in just one area and if so when and why?_____As I remember you could use your shares of mountain water below big ditch but not fresh water above the ditch you're your shares below .Do to water quality and if you could take your shares above the ditch the normal users wouldn't be able to have enough to use there shares

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

_____ No I requested to use some on a year when the stream was up and we had plenty of mountain water but was denied because it would set a precedent and give me and others some claim to do so all the time.

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July, 1971, mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire canal from the Hot Springs to the end of the canal below Samaria?

__That Has been the agreement as long as I can remember but some of the board members were the abusers.

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

Yes

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

As long as I can rember the Max Williams and Lester Atkinson property had a s weekend permit for so many hr. I think it was 12 hr. on Sunday between them but I am not sure of the time or amount for sure. There was some contention as to where they got the right but always seemed to stand.

Page 4 Affidavit Questions

Special Questions for past and present Board members, Water Masters, or landowners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs?
As I stated above only on the small part above the lane and below the ditch. And that was always disputed Dad and then my self owned the property around the cemetery and to the south west and none was ever used There. That was where I requested to use some one fall and was denied.

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? ____I used to own the house that Vern Hulse now owns and I would have to go close the gaps on the Melvin Davis place to get My water they always seemed to develop leaks.

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above-mentioned property? _Not in the last ten years_____Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take?

_____In the last ten years I had no reason to check.

Page 5 Affidavit Questions.

18. Are you aware of his refusal to allow such inspections, water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law?_____

Please describe such conditions. _____I know of none first hand. But have been told of some.

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? _____

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? _____
Describe the situation: _____Not to My knowledge

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? __Yes but before 1969_____

Describe the out come if you were personally involved in such as you remember it. _____

_____There was nothing done except talk to him.

_____

_____

_____

_____

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

_____Yes_____

_____

_____

22. Did you remove any dams or other obstructions from the company ditch on his property? _Yes before 1969_____

Further was this done more than one time? If so when? Year? _____1953 to 1969_____

_____

_____

_____

_____

Page 6 Affidavit Questions

23. When dams were remove to allow the water to pass through his land was there a sufficient stream of water to reach other users down stream?

_____Yes_____

Details if any you would like to have noted. _____Jeff Davis came to my house and ask me if I had ever used any water on the property that He now owens. He tried hard to convince Me to state that I did._____

_____

_____

_____

_____

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch?
____Yes_____

Use this area for additional comments and for signing and the notary witness stamp etc..

List of those to obtain Affidavits from

1. John J Roderick
2. Platt Price
3. Mike John
4. Parley Davis
5. Doug Thorpe
6. Cordell Windward
7. Luke Waldron
8. David Edwards
9. Kelly Edwards

10. Dave Higley
11. Spencer Atkinson
12. John Evans
13. Blanche Williams
14. Farrell Atkinson
15. Delon Atkinson
16. Merrill Price
17. Dale Price
18. Gaylen Jones
19. Toad Bohn
20. Tom Williams
21. David Reel
22. Dee Tolman
23. Keith Atkinson
24. Vernon Hulse
25. Russ Sorter
26. Shawn Anderson
27. Carl Willie
28. Seth Seamons
29. Rex Waldron
30. Mark Ipsen
31. Rick Higley
32. Clarence Hughes
33. Darhl Hughes
34. Mike Hughes
35. Lynn R Davis
36. Doyle Waldron
38. _____
39. _____
40. _____
41. _____
42. _____
43. _____

Instructions for Affidavit.

<u>Please type or print neatly all your answers</u>

ESPECIALLY PLEASE NOTE ON QUESTION NO. 12
THE BOARD OF DIRECTORS ARE CONSIDERING UPDATING THIS SECTION OF THE BYLAWS TO REFLECT YOUR OPINION OF INTERPATATION OF THIS. WE FEEL THE WAY THE SECTION IS WRITTEN THAT IT APPLIES TO ALL OF THE SYSTEM INCLUDING THE CANEL TO ITS END.

____Yes_____

Use this area for additional comments and for signing and the notary witness stamp etc..

Roy G. Waldron
Signed before me on 4-24-06

Notary
Danny L. Tate
My commission exp. Dec 17, 2007

List of those to obtain Affidavits from

1. John J Roderick
2. Platt Price
3. Mike John
4. Parley Davis
5. Doug Thorpe
6. Cordell Windward
7. Luke Waldron
8. David Edwards
9. Kelly Edwards
10. Dave Higley
11. Spencer Atkinson
12. John Evans
13. Blanche Williams

Affidavit Questions

Samaria Water and Irrigation Company

1. State your Name, Address and Phone Number.

   Name: Thomas Williams

   Address: 2643 W. Samaria Rd.

   Phone No.: (208) 766-2682

2. How many years have you been in any way associated with the Samaria Water and Irrigation Company, hereafter called the water company, in any way? 33 YEARS

3. What has your association's been? Share holder, Rental water user, Board member, Water Master, Land owner through which a company ditch runs or other SHARE HOLDER, BOARD MEMBER

4. May we (I) have you permission to record your answers to the questions, in writing or on tape, for the purpose of an affidavit to be produced and presented to you for your signature before a notary, as true and honest and to the best of your personal knowledge. YES Please answer all questions you can and you may make any other statements you feel which you deem valid relating to the questions ask.

5. In your listed relationship with the water company and relating to the so historically called mountain water stream which is derived from the Thomas Davis, Rosebud, and Dry Pine canyon springs. Please list all water users of that stream which used water above the warm springs cannel and the sources that you can remember from the past. Further on any of those listed by you if you have personal first hand knowledge of how many shares of water they owned or regularly used and on what locations please tell us that also.

   I DON'T KNOW OF ANY - I THINK THE WATER WAS TO BE ADDED TO THE CANNEL AND TREATED AS JUST CANNEL WATER.

Was there authorized use of water anv where above the township lines of Samaria which is also the line of usage as listed by the IDWR Platt. If so who and on what property and how many shares? I Don't Know OF ANY

7. Do you personal knowledge of any unauthorized use of water shares above the for mentioned lines being used and can you give details of such use? No!

8. Was such unauthorized used of the water reported to a board member or Water Master and what if any action was taken in the matter that you are personally aware of?

No!

9. What to your knowledge and understanding or the rules, written or unwritten but that you feel are universally understood by users regulating the use of the mountain water stream. Namely hours per share, share measurements, method of calculating, etc. Further do you feel the rules were known and agreed to by all mountain water users.

YES!

10. Was the use and /or sale of water shares known as Mountain shares able to be used above and below the cannel or in just one area and if so when and why? I DON'T KNOW. BUT I THINK IT WAS TO JUST BE ADDED TO THE CANNEL AND BE TREATED AS CANNEL WATER.

11. Historically have shares of water from below the cannel been able to be moved for use above the cannel?

NO

12. More specifically section 4 of Article VI of the company bylaws, adopted 16 July. 1971. mentions that no water shares from below the Pleasant View Hot Springs can be transferred to lands lying above the Pleasant View Warm Springs. States "It is the intent of this restrictions that as much clean and clear water as possible be available for the mixing with the water from the Hot Springs and used by persons below. No stock shall be transferred on the books of the company where it can be shown that such transfer would result in the use of water contrary to this provision." Does your understanding of this provision apply to the entire cannel from the Hot Springs to the end of the cannel below Samaria? YES

13. Based on your understanding of the above, do you feel the bylaws should be revised to more clearly spell out the movement of shares historically used below the "Hot Water Springs" with in the company area?

YES

14. Are you aware of any history relating to the mountain water stream rights as to where they were obtained or when and any retained rights or "independent rights" and where proof of such can be obtained?

NO

Additional Questions for past and present Board members, Water Masters, or land owners of land along the Mountain Water ditch to Samaria:

15. Prior to today are you aware of any Mountain Water being used by M. J Davis Trust and/or Jeff Davis, trust owner, or prior owners of their property west of the Samaria Township line and through which the water companies Mountain Stream ditch runs? No!

16. How did you become aware of this use and was the use authorize or unauthorized as per your position relating to the water company? All water was to be owned by the Canal Company

17. In the 10 past years in your position with the water company have you inspected and/or cleaned the ditch through the above mentioned property? No. Have you been or are you aware of any restrictions in which were put in place which restricted the Water Master, board members or company hired workers from maintaining the ditch through said property? Further what form did those restrictions take

No!

Page 5 Affidavit Questions

18. Are you aware of his refusal to allow such inspections. water control and/or maintenance through his property as authorized by the Water Company bylaws and the IWRC under state law? No!

Please describe such conditions. _____

19. Did Jeff at any time request use of water from the company ditch for irrigation of his property? No!

If so was the request granted with or without restrictions as allowed in the Water Company bylaws? No!
Describe the situation: _____

20. Did you at any time of noting unauthorized use of the Mountain Water report it to the Board? No!

Describe the out come if you were personally involved in such as you remember it.

21. Did you note multiple or ongoing use following notice being given to discontinue such use of the water?

No!

22. Did you remove any dams or other obstructions from the company ditch on his property? No!

Further was this done more than one time? If so when? Year? _____

23. When dams were remove to allow the water to pass through his land was there sufficient stream of water to reach other users down stream? I DON'T KNOW

Details if any you would like to have noted.

24. Have you at any time cleaned or other wise worked on the Mountain Water ditch: YES BUT LONG AGO! AT THAT TIME ALL WATER WAS TO FLOW TO THE CANAL.

May 1, 2006

Thomas Williams

STATE OF IDAHO)
):ss.
COUNTY OF ONEIDA)

On this 1 day of May, 2006, before me a Notary Public in and for said State, personally appeared Thomas Williams, known or identified to me to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

KAY BUTTARS NOTARY PUBLIC STATE OF IDAHO

Kay Buttars
NOTARY PUBLIC FOR IDAHO
Residing at Malad, Idaho
My Commission expires: 10/25/11

RESPONSE TO REQUEST FOR PRODUCTION NO. 5

No. 404.—BARGAIN AND SALE DEED. Printed and for sale by the TRIBUNE JOB PRINTING CO. SALT LAKE.

This Indenture, *Made the* 31st *day of* July *in the year of our Lord, one thousand eight hundred and ninety-*Three

Between The Samaria and South West Mountain Water and Irrigating Co., of Samaria, Oneida County, Idaho, party of the first part and The Samaria Water and Irrigating Company of the same place

the party of the second part,

Witnesseth, *that the said party of the first part, for and in consideration of the sum of* Fifty ——— *DOLLARS, lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, and to its heirs and assigns forever, all* those certain streams of water in Oneida County, Idaho, known as "Dry Creek" "Rose Bush" and "Thomas Davis" Canyons, near Samaria, in Oneida County, Idaho, being the same water duly located by said grantor company herein on the 3rd day of July, 1893, and filed for record in the office of the County Recorder of said county, on said date.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the rents, issues and profits thereoff; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said part ..... of the first part, of, in or to the said premises, and every part and parcel there of, with the appurtenances.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the said part y of the second part, and its heirs and assigns forever.

In Witness Whereof, *the said part y of the first part ha S hereunto set its hand and seal the day and year first above written.*

Signed, Sealed and Delivered in the Presence of

+ Daniel J McCarthy

D-d J Davis

Richard Mordl [SEAL]

Abner Harris [SEAL]

Daniel E. Price [SEAL]

David Bowen [SEAL]

Jeremiah H. Williams [SEAL]

Directors of said Company

~~United States of America.~~

State of Idaho
~~Territory of Utah,~~
County of Oneida } ss.

On this 31st day of July A. D. one thousand eight hundred and ninety Three before me, a Justice of the Peace ~~a Notary Public~~ in and for ~~said~~ Samaria Precinct, Oneida County, duly commissioned and qualified, personally appeared the within named Richard Morse, Jas. Thomas, Daniel E. Price, David Rammy & Jeremiah H. Williams, Directors of said company named therein whose name S are subscribed to the foregoing Deed of Conveyance as grantor therein, personally known to me to be the identical person mentioned in and who executed the same, and duly acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto set my hand ~~and affixed my official seal~~, the day and year in this Certificate first above written.

David T. Davis
~~Notary Public.~~
Justice of the Peace,
Samaria Precinct,
Oneida Co., Idaho.

Deed.

S. E. & S. M. W. E. & C.,

TO

S. W. E. & C.,

Dated July 31, 1893

RECORDED AT THE REQUEST OF

Stone and Evans

October 27th A. D. 1893

at 30 min. past 3

P. M., in book J record of

Deeds, page 380

C. T. Kaus

Recorder Oneida County.

The S. & S. W. M. W. & I. Co
To
The S. W. and I. Co
} SS.

This Indenture, Made the 31st day of July in the year of our Lord one thousand eight hundred and ninety three Between, The Samaria and South West Mountain Water and Irrigating Company party of the first part and The Samasia Water and Irrigating Company of the same place the party of the second part, Witnesseth, that the said party of the first part, for and in consideration of the sum of Fifty dollars, lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed and confirmed and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part and to its heirs and assigns forever, all those certain streams of water in what is known as dry pine, Rose Bush, and Thomas Davis Canyons near Samasia, in Oneida County, Idaho, being the same water duly located by said grantor Company herein on the 3rd day of July 1893 and filed for record in the office of the County Recorder of said County on said date.

Together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and the rents issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said part of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

To have and to hold, all and singular, the said premises, together with the appurtenances, unto the said party of the second part, and its heirs and assigns forever.

In Witness Whereof, the said party of the first part has hereunto set its hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of
Daniel J. Williams
W. F. Fo

Richard Morse
James Thomas
Daniel E Price
W. D.

Seal
Seal
Seal

As Pres. and Secy.

State of Idaho } SS.
County of Oneida }

On this 31st day of July A.D. one thousand eight hundred and ninety three before me a Justice of the Peace in and for Samaria Precinct Oneida County duly commissioned and qualified, personally appeared the within named Richard Morse, Jas Thomas, Daniel E. Price, David Bowen and Jeremiah A Williams, Directors of said Company named therein whose names are subscribed to the foregoing Deed of Conveyance as grantor therein, personally known to me to be the identical person mentioned in and who executed the same, and duly acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto set my hand the day and year in this certificate first above written.

David T. Davis
Justice of the Peace
Samaria Precinct, Oneida County, Idaho.

Recorded at the request of Stone and Evans
October 27th A.D. 1893 at 3 P.M.

C. T. Evans
Recorder of Oneida Co

Notice of Water Right of James Thomas et al } Rose Brush Canyon

To whom these presents may come greeting:

Be it known that James Thomas, Daniel J. Williams, Jeremiah A. Williams, Richard Morse, Daniel E. Price, John E. Price, William R. Thomas, William Jones and David Bowen, of Samaria, Oneida County, Idaho, do hereby publish and declare, as legal notice to all the world.

1st. That they have a legal right to the use, possession and control of and claim fifty inches of the waters of Rose Brush Canyon, 3 miles South West of Samaria in said County and State measured under a four inch pressure and flowing at the point of diversion, which point of diversion is described as follows: At a point at the mouth of said Canyon where a ditch from Dry Pine Canyon intersects the same.

2nd. That the special purpose for which said water is to be used, is to irrigate the lands of the appropriators herein and for domestic and culinary purposes.

That the place of intended use, is on the lands of the appropriators herein, situated North and North East from said point of diversion and situated along the ditch conducting the water mentioned herein.

3rd. That we intend to divert it from said Rose Brush Canyon by means of a ditch of the following dimensions and carries or conducts fifty inches of water from said Canyon, a ditch one foot wide and one ft deep.

Witness our hands at Samaria, Idaho, July 3 1893.

James Thomas
Richard Morse
Daniel E Price
John E Price
William R. Thomas
Daniel J Williams
Jeremiah A Williams
William Jones
David Bowen

State of Idaho, County of Oneida } SS.

Richard Morse being first duly sworn deposes and says that he is of lawful age and one of the appropriators and claimants of the water and water right mentioned in the foregoing notice of appropreation and claim, and the persons whose names are subscribed thereto as appropriators and claimants he knows, and also knows the contents of said instrument and that the same is true and correct. Richard Morse.

Subscribed and sworn to before me this 3rd day of July, 1893.

Seal

C. A. Stone, U.S. Circuit Court Commissioner.

State of Idaho, County of Oneida } SS.

Daniel E Price being duly sworn deposes and says that he is one of the appropriators named herein and that the foregoing is a full true and correct copy of the notice posted at place designated herein on the 3rd day of July 1893. Daniel E Price.

Subscribed and sworn to before me this 3rd day of July 1893. E. Evans Notary Public

Seal

Recorded at the request of Stone and Evans July 5th 1893 at 15 minutes past 10 A.M.

C. Moons Recorder of Oneida Co

19

State of Idaho } Notice of Water Right
County of Oneida } SS James Thomas et al } Dry Pine Canyon.

To all whom these presents may concern;

Be it known, That James Thomas, Richard Morse, David E Price, John E Price Wm R. Thomas, Dan'l J. Williams Jeremiah A. Williams Wm Jones & David Bowen of Samaria in said County and State, do hereby publish and declare, as a legal notice to all the world. 1st That we have a legal right to the use, possession and control of and claim One hundred inches of the waters of Dry Creek Canyon 3 miles S. W. of Samaria in said County and State, measured under a four inch pressure, and flowing at the point of diversion, which point of diversion is described as follows: at a point 40 rods below the mouth of said Canyon on the East side of said Canyon and conducted into Rose Brush Canyon; 2nd That the special purpose for which said water is intended to be used, is to irrigate the lands of the appriators herein and for domestic and culinary purposes. That the place of intended use, is on the lands of the appropriators herein situated North and N. East from said point of diversion and situated along the ditch conducting the water herein. 3rd That we intend to divert it from said Dry Creek Canyon by means of a ditch of the following descriptions, Two feet wide and one foot deep in size and carries or conducts 100 inches of water from said Canyon.

Witness our hands at Samaria, Idaho, this 3rd day of July 1893.

Locators: James Thomas, Richard Morse, David E Price, John E Price.

Wm R Thomas
Dan'l J Williams
Jeremiah A Williams
William Jones
David Bowen

State of Idaho, County of Oneida } SS.

Richard Morse having been first duly sworn deposes and says that he is of lawful age and one of the appropriators and claimants of the water and water right mentioned in the foregoing Notice and Statement of appropriation and claim and the persons whose names are subscribed thereto as the appropriators and claimants that he knows the contents of said notice and statement foregoing and that the matters and things therein stated are true. Richard Morse.

Seal

Subscribed and sworn to before me this 3rd day of July 1893.
C F Stone U.S. Circuit Court Commissioner.

State of Idaho, County of Oneida } SS.

Daniel E Price being duly sworn says that he is one of the appropriators herein and that the foregoing instrument is a full true and correct copy of a notice by him posted at place designated therein on the 3rd day of July 1893. Daniel E Price.

Seal

Subscribed and sworn to before me this 3rd day of July 1893.
A R Evans Notary Public.

State of Idaho, County of Oneida } SS.

I hereby certify that this instrument was filed for record at request of Stone & Evans at 20 minutes past 10 o'clock AM, this 5th day of July A.D. 1893. at my office

C. T. Toone
Recorder of Oneida Co

2⁰

Notice of Water Right of James Thomas } Thomas Davis Canyon

To all whom these presents may come greeting:

Be it known that James Thomas, Richard Morse, Daniel E Price John E Price, William R. Thomas, Daniel J. Williams, Jeremiah A. Williams, William Jones, & David Bowen, of Samaria, Oneida County, Idaho. do hereby publish and declare, as legal Notice to all the world.

I. That they have a legal right to the use, possession and control of and claim one hundred and fifty inches of water of Thomas Davis Canyon 2½ miles South West of Samaria in said County and State, measured under a four inch pressure and flowing at the point of diversion, which point of diversion is described as follows: at a point on the East side of said canyon about one fourth mile below the mouth of said canyon

II. That the special purpose for which said water is to be used, is to irrigate the lands of the appropriators herein and for domestic and culinary purposes. That the place of intended use, is on the lands of the appropriators herein, situated North and North East from said point of diversion and situated along the ditch conducting the water mentioned herein.

III. That we intend to divert it from said Thomas Davis Canyon by means of a ditch of the following dimensions and carries or conducts _____ inches of water from said canyon a ditch 2 feet wide and 1½ feet deep.

Witness our hands at Samaria, Idaho, July 3rd 1893.

Locators: James Thomas, Richard Morse, Daniel E Price, John E Price

William R Thomas
Daniel J. Williams
Jeremiah A. Williams
William Jones
David Bowen

State of Idaho } ss
County of Oneida }

Richard Morse being first duly sworn deposes and says that he is of lawful age and one of the appropriators and claimants of the water and water right mentioned in the foregoing notice of appropriation and claim and the persons whose names are subscribed thereto as appropriators and claimants he knows, and also knows the contents of said instrument and that the same is true and correct.

Richard Morse.

Seal

Subscribed and sworn to before me this 3rd day of July 1893.

G. Stone
U.S. Circuit Court Commissioner.

State of Idaho } ss.
County of Oneida }

Daniel E Price being duly sworn says that he is one of the appropriators named herein, that the foregoing is a true copy of the notice posted at point designated therein on the 3rd day of July 1893.

Daniel E Price.

Subscribed and sworn to before me this the 3rd day of July 1893.

Seal

L. R. Evans Notary Public

Recorded at the request of Stone & Evans
July 5th 1893 at 25 minutes past 10 AM
[illegible] Records of Oneida Co