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Rev. 04/2022

Filing Fee: \$25.00

DEC 27 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources
Eastern Region

NOTICE OF PROTEST

This form may be used to file a protest under Sections 42-203A, 42-203C, 42-211, 42-222 or 42-240, Idaho Code. The Department will also accept a timely protest completed in a different format if it contains the same information requested on this form. Each protestant must provide a separate \$25 filing fee for each application protested. The Department's Rules of Procedure (IDAPA 37.01.01) require the protestant to send a copy of the protest to the applicant.

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☒ Transfer ☐ Exchange

No. 75-13715-87242 in the name of Sadie Barrett

2. Protestant's Name: Tri-West Leasing, Inc.

Address: 516 Main Street, #377, Salmon, ID 83467

Telephone: (949) 244-0736 Email: grksa13@gmail.com

3. Protestant's Representative: Gilbert R. Kort, President

Address: 37 Canyon View Road, Salmon, ID 83467

Telephone: (949) 244-0736 Email: grksa13@gmail.com

4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria. See Instructions for Filing a Notice of Protest for the relevant review criteria.
Please see attached Statement of Protest.

(Additional pages may be attached to describe the basis of your protest.)

Identify any review criteria that are not a basis for your protest:

5. ☒ Check here if Protestant and Representative will accept service of documents by email at the email address(es) listed under Item #2 and #3 above.

I acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter, of which I have been properly notified, the Department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.


Protestant's or Representative's Signature

Gilbert R. Kort, President
Printed Name and Title (if applicable)

12/19/2022
Date

\$25.00 fee receipted by

FOR DEPARTMENT USE ONLY

Receipt # E048817

Date 12/27/22

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STATEMENT OF PROTEST

The following facts shall set forth the objections to the approval of the Application of Sadie Barrett for the Transfer of Water Right 75-13715:

1. Protester is the owner of the property on which Lake Creek Spring and its Collection Cistern are located.
2. Applicant is claiming her point of divergence, as show on the map provide by the IDWR, attached as Exhibit "A", is incorrect. However, this matter was settled in the United States District Court, for The District of Idaho in Case No. 88-1393, Brown vs. First Federal Savings and Loan Association, in 1990, a copy of the Affidavit of Record and the Substitute Affidavit of Record is attached as Exhibit "B" and "C" respectively. Applicant present point of divergence, as show on Exhibit "A", is correct and should not be modified.
3. Protester has been using the Lake Creek Spring for both domestic and irrigation for the past six years. Tri-West Leasing and Jason Roylance, who purchased the property in 2010, were told and believed by Applicant that her point of divergence was the Lake Creek Spring, and that she had the oldest water right on the Lake Creek Spring. Therefore, she was able to be included in an easement to Protester's property. Changing her point of divergence would jeopardize Protesters legal rights to modify said agreement to the detriment of Protester.
4. During month of June 2022 Protester intermittently lost their domestic water. During July Protester was out of town. During the months of August, September, and beginning of October Protester had no domestic water. In August Protester approached all users of the Lake Creek Spring and advised them that Protester had no domestic water, and asked them to please curtail the use of water for irrigation purposes. Some of those users readily agreed. However, Applicant continued to irrigate a large garden and lawn during the entire time, claiming she had the right to irrigate. It was after the fact that Protester discovered that Applicate had no water rights to the land she was irrigating. The IDWR should determine is Applicant is in violation of expanding her water rights, in violation of Idaho Water Right Laws, and take the appropriate action.

Thank you for your consideration of our Protest.

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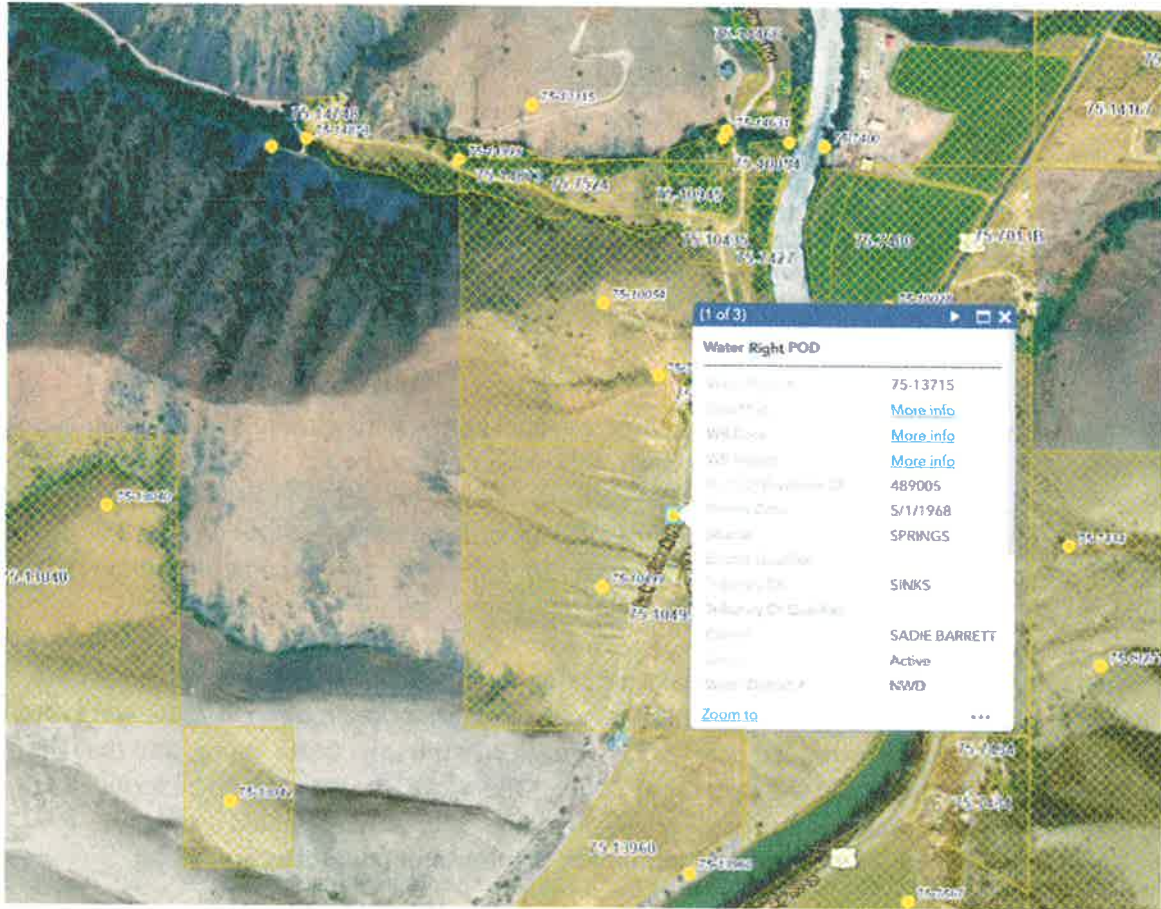


EXHIBIT "A"

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DEC 29 2022

C. TOM ARKOOSH
RODEN & ARKOOSH
Attorneys at Law
802 West Barnock, Suite 900
P.O. Box 2110
Boise, Idaho 83701
Telephone: 208-336-7930

ATTORNEYS FOR PLAINTIFF

RANDALL C. BUDGE
RACINE, OLSON, NYE, COOPER
& BUDGE, CHARTERED
P.O. Box 1391/Center Plaza
Pocatello, Idaho 83204
Telephone: 208-232-6101

ATTORNEYS FOR DEFENDANT

State of Idaho
County of Lambi

207594

This instrument was filed for record at
the request of Randall C. Budge
at 1:15 o'clock P.M. on 8-22 1990
and duly filmed and indexed in the
Records of Lambi County

Alberta Wiederrick

Ex-Officio Recorder

By J. Lewis J. Martin Deputy
Filed 12:00 P.M.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ALBERT WILLIAM BROWN and DIANE)
E. BROWN, husband and wife,)

Plaintiff:)

vs.)

FIRST FEDERAL SAVINGS AND LOAN)
ASSOCIATION of Logan, a Utah)
corporation, and DOES I)
through X,)

Defendants.)

Case No. 88-1393

AFFIDAVIT OF RECORD

COME NOW Albert William Brown, a married individual and
resident of the State of California, and Brian Chadaz, as vice-
president of an on behalf of First Federal Savings and Loan
Association of Logan, a Utah corporation, whose address is 198 N.
Main, Logan, Utah 84321, and on their oath and by their personal

AFFIDAVIT OF RECORD

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knowledge, depose and say:

1. That both parties hereto own real property in the First Addition to Lake Creek Subdivision No. 1, Lemhi County, Idaho, and have entered a stipulation and agreement in Brown v. First Federal Savings and Loan Association, et al., Case No. 88-1393, in the United States District Court for the District of Idaho, which is set forth in Paragraph 7 hereof, and is binding upon the parties heirs, successors, and assigns.

2. That the parties acknowledge and agree that a spring arises upon Block 8, Lot 13, of the First Addition to Lake Creek Subdivision No. 1, which property is owned by First Federal Savings and Loan Association of Logan, and is collected thereon in a cement collection box and septic tank. The water therefrom flows into a distribution line which runs in an easterly direction along Riverside Drive and supplies water for culinary purposes to seven existing users including Albert William Brown's residence located on Lot 1, Block 5 of the First Addition to Lake Creek Subdivision No. 1, and an outlet in the area in said addition known as the golf course area which is owned by First Federal Savings and Loan Association of Logan. The parties acknowledge and agree that they each shall have a continuing right, but not any obligation, to operate, maintain, service and repair the existing water system to provide water to their respective properties. This agreement is without prejudice to and shall have no effect on the parties existing or future water rights or claims in said spring. Further both parties agree that either party may install a separate li

AFFIDAVIT OF RECORD

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from the spring to their place of use should they desire to do so.
Said line may be either adjacent and parallel to the existing line
or across the property of the installing party, or a combination of
both.

Albert William Brown
ALBERT WILLIAM BROWN

FIRST FEDERAL SAVINGS AND
LOAN ASSOCIATION OF LOGAN,
a Utah corporation

By: Brian Chadaz
BRIAN CHADAZ
Vice-President

STATE OF CALIFORNIA)
County of Orange) ss.

On this 4th day of August, 1993, before me,
a Notary Public in and for said state, personally appeared ALBERT
WILLIAM BROWN, 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 hereto affixed the day
and year first above written.



Naomi A. Brownell
Notary Public for California
Residing at:
My Commission Expires: May 4, 1994

AFFIDAVIT OF RECORD

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STATE OF)
) ss.
County of)

On this 17th day of August, 1990, before me,
a Notary Public in and for said State, personally appeared BRIAN
CHADAZ, known or identified to me to be the vice-president of the
corporation that executed the instrument on behalf of said
corporation, and acknowledge to me that he executed the same.

Witness my hand and official seal hereto affixed the day
and year first above written.



Therese A. Elwood
Notary Public for:
Residing at: Provo, Utah
My Commission Expires: 3-31-94

AFFIDAVIT OF RECORD

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EXHIBIT "B"

SCANNED
DEC 29 2022

C. TOM ARKOOSH
RODEN & ARKOOSH
Attorneys at Law
802 West Bannock, Suite 900
P.O. Box 2110
Boise, Idaho 83701
Telephone: 208-336-7930

ATTORNEYS FOR PLAINTIFF

RANDALL C. BUDGE
RACINE, OLSON, NYE, COOPER
& BUDGE, CHARTERED
P.O. Box 1391/Center Plaza
Pocatello, Idaho 83204
Telephone: 208-232-6101

ATTORNEYS FOR DEFENDANT

State of Idaho)
County of Blaine) ss. No. 209652
This instrument was filed for record at
the request of *Rodent & Arkosh*
at *11:00* o'clock *P.M.* on *January 14, 1971*
and duly timed and indexed in the
records of Blaine County
Liberta Wilschick
County Clerk
By *Liberta Wilschick* Deputy
Filed *12:00*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ALBERT WILLIAM BROWN and DIANE E. BROWN, husband and wife,) Plaintiffs,) vs.) FIRST FEDERAL SAVINGS AND LOAN) ASSOCIATION of Logan, a Utah) corporation, and DOES 1) through X,) Defendants.)	Case No. 88-1393 SUBSTITUTE AFFIDAVIT OF RECORD
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COME NOW Albert William Brown, a married individual and
resident of the State of California, and Brian Chadaz, as vice-
president of an on behalf of First Federal Savings and Loan
Association of Logan, a Utah corporation, whose address is 198 N.
Main, Logan, Utah 84321, and on their oath and by their personal

AFFIDAVIT OF RECORD

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knowledge, depose and say:

1. That both parties hereto own real property in Lake Creek No. Subdivision 1, Lemhi County, Idaho, and have entered a stipulation and agreement in Brown v. First Federal Savings and Loan Association, et al., Case No. 88-1393, in the United States District Court for the District of Idaho, which is set forth in Paragraph 2 hereof, and is binding upon the parties heirs, successors, and assigns.

2. That the parties acknowledge and agree that a spring arises upon Block 8, Lot 13, of First Addition to Lake Creek Subdivision No. 1, which property is owned by First Federal Savings and Loan Association of Logan, and is collected thereon in a cement collection box and septic tank. The water therefrom flows into a distribution line which runs in an easterly direction along Riverside Drive and supplies water for culinary purposes to seven existing users including Albert William Brown's residence located on Lot 1, Block 5 of Lake Creek Subdivision No. 1, and an outlet in the area in said subdivision known as the golf course area which is owned by First Federal Savings and Loan Association of Logan. The parties acknowledge and agree that they each shall have a continuing right, but not any obligation, to operate, maintain, service and repair the existing water system to provide water to their respective properties. This agreement is without prejudice to and shall have no effect on the parties existing or future water rights or claims in said spring. Further, both parties agree that either party may install a separate line from the spring to their place of use

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should they desire to do so. Said line may be either adjacent and parallel to the existing line or across the property of the installing party, or a combination of both.

Albert William Brown
ALBERT WILLIAM BROWN

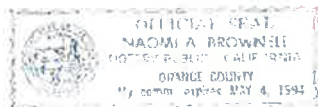
FIRST FEDERAL SAVINGS AND
LOAN ASSOCIATION OF LOGAN,
a Utah corporation

By: Brian Chadaz
BRIAN CHADAZ
Vice President

STATE OF CALIFORNIA)
) ss.
County of Orange)

On this 28th day of January, 1991, before me,
a Notary Public in and for said State, personally appeared ALBERT
WILLIAM BROWN, 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 hereto affixed the day
and year first above written.



Naomi A. Brownlee
Notary Public for California
Residing at: FOUR
My Commission Expires: 5/4/94

AFFIDAVIT OF RECORD

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STATE OF UTAH)
) ss.
County of CLATSOP)

On this 22nd day of August, 1922, before me,
a Notary Public in and for said State, personally appeared BRIAN
CHADAZ, known or identified to me to be the vice-president of the
corporation that executed the instrument on behalf of said
corporation, and acknowledge to me that he executed the same.

Witness my hand and official seal hereto affixed the day
and year first above written.



Notary Public for: _____
Residing at: _____
My Commission Expires: _____

AFFIDAVIT OF RECORD

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EXHIBIT "C"

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