

Evans, Lynne

From: Bryce Farris <bryce@sawtoothlaw.com>
Sent: Monday, February 24, 2025 3:12 PM
To: Chris Bromley; IDWR File; NSemanko@parsonsbehle.com; 'Michael P. Lawrence'
Cc: Baxter, Garrick; Candice McHugh; Miller, Nick
Subject: RE: In re Permit Nos. 61-12090, 61-12096, 63-32499, and 63-35473
Attachments: 2025.2.24.Notice of Appearance and Initial Response.pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

All:
Please see the attached Notice of Appearance and Initial Response for filing in the above-referenced matter.

Please contact me should you have any questions.

Thanks,

S. Bryce Farris
Attorney at Law
SAWTOOTH LAW OFFICES, PLLC
1101 W. River St., Ste. 110
Boise, ID 83702
Tel: (208) 629-7447
Fax: (208) 629-7559
bryce@sawtoothlaw.com

From: Chris Bromley
Sent: Monday, February 10, 2025 4:36 PM
To: Idaho Department of Water Resources Filing ; NSemanko@parsonsbehle.com; 'Michael P. Lawrence' ; Bryce Farris
Cc: garrick.baxter@idwr.idaho.gov; Candice McHugh ; Miller, Nick
Subject: In re Permit Nos. 61-12090, 61-12096, 63-32499, and 63-35473

Hello,

Please see attached for filing a Petition to Cancel and Void Permit Nos. 61-12090, 61-12096, 63-32499, and 63-35473, supported by the Declaration of Mike Eisenman. Hard copies have been mailed to the address of record with IDWR, as indicated in the certificate of service.

Thank you,

Chris M. Bromley
McHugh Bromley, PLLC

S. Bryce Farris, ISB No. 5636
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
Boise, Idaho 83702
T (208) 629-7447
F (208) 629-7559
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Attorneys for Patagonia Lakes Development, LLC, Wood Properties, LLC and Richland Properties, LLC.

RECEIVED

Feb 24, 2025

DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 61-12090 (NEVID LLC);
APPLICATION FOR PERMIT NO. 61-12096
(NEVID LLC); APPLICATION FOR
PERMIT NO. 63-32499 (MAYFIELD
TOWNSITE); AND APPLICATION FOR
PERMIT NO. 63-35473 (MAYFIELD
RANCH LLC)

NOTICE OF APPEARANCE; AND INITIAL
RESPONSE TO PETITION TO CANCEL AND
VOID PERMIT NOS. 61-12090, 61-12096, 63-
32499 & 63-35473

A. Notice of Appearance

COMES NOW Patagonia Lakes Development, LLC, Wood Properties, LLC and Richland Properties, LLC, (hereinafter "*Nevid's Successors*") by and through their attorneys, S. Bryce Farris of Sawtooth Law Offices, PLLC, and hereby gives notice of appearance in said cause and controversy by said firm, and requests that all documents and pleadings filed herein be duly and regularly served upon said attorneys at the email address noticed above. The Nevid Successors acquired the property owned by Nevid, LLC and attached hereto as Exhibit A is the Warranty Deed recorded in Elmore County, Idaho on January 31, 2025. The Nevid Successors are under contract to purchase the remainder of the property owned by Nevid, LLC described in the place of use for Permit Nos. 61-12090 and 61-12096. Upon closing, the appropriate Notice of Change of

SUPPORT DATA

**NOTICE OF APPEARANCE; AND INITIAL RESPONSE TO PETITION TO CANCEL AND VOID
PERMIT NOS. 61-12090, 61-12096, 63-32499 & 63-35473 – Page 1**

IN FILE # 61-12090

Ownership and/or Assignment of Permit for Permit Nos. 61-12090 and 61-12096 will be filed with the Idaho Department of Water Resources (“*IDWR*”) and the Nevid Successors will be the owners of Permit Nos. 61-12090 and 61-12096. Accordingly, the Nevid Successors are appearing on behalf of Nevid, LLC with respect to Permit Nos. 61-12090¹ and 61-12096.

B. Initial Response to Petition to Cancel and Void Permits.

Juniper Station Farms, LLC (hereinafter “*Juniper Station*”) filed a *Petition to Cancel and Void Permit Nos. 61-12090, 61-12096, 63-32499 & 63-35473 pursuant to Idaho Code § 42-301, et seq.* (hereinafter “*Petition*”). In a footnote, Juniper Station stated that if IDWR believes the Petition is considered a “motion” then the document is filed pursuant to IDAPA 37.01.01.220, which would require a response to be filed within fourteen (14) days. Accordingly, the Nevid Successors are filing this Notice of Appearance and Initial Response to the extent it is considered a motion pursuant to IDAPA 37.01.01.220. The Nevid Successors specifically reserve the right to respond to the Petition with appropriate briefing and/or at a hearing once and if IDWR determines how to proceed. In other words, the Nevid Successors are responding to the Petition more as to the Notice of Appearance for future filings, notices and hearings than as to the merits to the Petition because it is premature at this point to respond to the Petition. The Petition itself suggests that IDWR is to issue a notice pursuant to Idaho Code § 42-303 and the matter is then set for a hearing allowing the permit holders to respond. Indeed, the Nevid Successors are not aware that a hearing office has been appointed by IDWR or a hearing has been set. The Nevid Successors request that IDWR set the matter for a status conference to determine next steps, how to best proceed, whether a hearing is necessary, and if so, when it may be scheduled.

¹ The Nevid Successors do not dispute that Permit No. 61-12090 has lapsed.

With respect to responding to the Petition, again the Nevid Successors reserve the right to respond to the Petition when and if a hearing is set and/or when and if IDWR holds a status conference and establishes a time for responses. The Nevid Successors contend that it is premature to require a response until and after a status conference is set to determine and establish next steps. To the extent that IDWR or Juniper Station believe/contend that a response is necessary at this time, then the Nevid Successors are submitting this “initial” Response in opposition to the Petition. The Nevid Successors contend that the permits cannot and should not be cancelled while there is still time remaining to submit proof of beneficial use and/or while there may be statutory rights to seek further extensions of time under I.C. § 42-204 for good cause or other reasons expressly provided in Idaho Code.

C. Juniper Station is Once Again Seeking to Categorically and Prematurely Deny Future Requests for Extension.

This is another attempt by Juniper Station to challenge permits which have been previously issued and approved by IDWR. On September 12, 2023, Juniper Station filed a *Motion to Deny Any Additional Requests for Extension of Time or in the Alternative to Provide Actual Notice and an Opportunity to be Heard to Challenge the Same Before They are Approved* (hereinafter “*Motion*”) which sought to prematurely deny future requests for extensions of time. After briefing by those involved, on October 11, 2024, IDWR issued a *Preliminary Order on Motions* (hereinafter “*Order*”) which denied Juniper Station’s Motion in all respects.

Juniper Station’s latest Petition is also an attempt to challenge the previously approved permits and to prevent the right to complete beneficial use and/or the right statutory right to seek further extensions. While Juniper Station has presented the Petition pursuant to a different statutory basis, namely I.C. § 42-301, it is essentially making the same argument that IDWR should

categorically cancel permits and deny all future requests for extension for specific permits without considering the grounds, facts, circumstances, basis or reasons.

The Nevid Successors do not dispute that I.C. § 42-301 *et seq.* provides for a petition to seek the cancellation of a permit based upon certain conditions. However, Idaho Code § 42-204 specifically and expressly provides applicants with a statutory right to seek extensions of time based upon certain grounds and Juniper Station is essentially asking IDWR to ignore such statutory rights. In other words, I.C. § 42-301 *et seq.* must be reconciled with the statutory rights provided in I.C. § 42-204, including, but not limited to the fact that IDWR is statutorily required to consider such extension requests and to consider the merits, facts and circumstances for such requests to determine whether good cause exists. Idaho Code § 42-204, which is the more specific statute concerning commencement of work and extensions of time, cannot be simply ignored or rendered meaningless, by a request to cancel a permit. If an applicant has received an extension of time for “good cause” or some other legitimate reason under I.C. § 42-204, and/or has a good cause basis for a future extension, then such good cause or basis cannot simply be ignored. Such extensions and the right to further extensions as authorized or provided in I.C. § 42-204 must still be available to the applicant. Juniper Station’s Petition is another attempt to prematurely cancel permits and categorically deny the permit holder the statutory right to seek further extensions if good cause or other reasons exist.

D. Juniper Station’s Superficial Review of the Properties Does Not Warrant Cancellation of Permits.

In support of its Petition, Juniper Station submits the *Declaration of Mike Eisenman* as documentation that “it is not apparent that the permits have been developed in order to satisfy the requirements of I.C. § 42-301.” However, the Declaration is nothing more than some photographs taken by Mr. Eisenman from public roadways of areas which are allegedly of the property in

question. The Nevid Successors reserve the right to respond and provide any additional information relative to the permits at the appropriate time and/or when a hearing is held, but it is worth noting that such superficial review of the property does not warrant the cancellation of the permit. The Declaration does not address whether the well or other infrastructure for the permits have been installed, whether the applicant has taken any steps to obtain necessary entitlements or approvals from other agencies, or whether the applicant has experienced delays or other good cause reasons for not fully developing the permits at this time. For example, a review of the last extension request for Permit No. 61-12096, which was approved by IDWR, provides that the applicant had indicated in the extension request that a 1,100 foot deep supply well had been constructed and drilled, a 1,100 foot deep exploration well had been drilled, a 539 foot deep monitoring well had been completed, and measuring and reporting of ground water levels has occurred since 2011. Thus, to suggest that nothing has been done based upon photographs from public roadways is inaccurate to say the least.

The Nevid Successors appreciate the fact that Juniper Station's Petition seeks a hearing which would allow the permit holders to respond to and contest the allegations of Juniper Station, which if required, the Nevid Successors intend to do so. However, Juniper Station's Petition also concludes that the Declaration "clearly and plainly sets forth the bases upon which the Permits should be canceled and voided." Accordingly, the Nevid Successors respond that despite Juniper Station's conclusion, the above-ground photographs and conclusory statements are not sufficient to cancel the permits.

E. Conclusion

Juniper Station's Petition raises questions whether it is a motion under IDAPA 37.01.01.220 and whether a response from the permit holders is necessary at this time.

Accordingly, the Nevid Successors have filed this “initial” response out of an abundance of caution and to also provide a notice of appearance given the change in ownership, and future changes in ownership, of the Nevid Permits. Given the uncertainty, and other procedural issues implicated by the Petition, the Nevid Successors request that IDWR set this matter for a status conference to determine next steps and how the parties and IDWR intend to address the issues raised by the Petition. To the extent IDWR or Juniper Station believe a response is necessary at this time, the Nevid Successors oppose the Petition because it is inconsistent with and fails to recognize the rights authorized or provided in I.C. § 42-204 and is based upon insufficient factual basis to simply cancel the permits. The Nevid Successors specifically reserve the right to further respond to the Petition at an appropriate time.

DATED this 24th day of February, 2025.

SAWTOOTH LAW OFFICES, PLLC

By 
S. Bryce Farris
Attorneys for Nevid Successors

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of February, 2025, I caused a true and correct copy of the foregoing **NOTICE OF APPEARANCE; AND INITIAL RESPONSE TO PETITION TO CANCEL AND VOID PERMIT NOS. 61-12090, 61-12096, 63-32499 & 63-35473** to be served by the method indicated below, and addressed to the following:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
file@idwr.idaho.gov

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Email / CM/ECF

Nick Miller
IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
nick.miller@idwr.idaho.gov

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Email / CM/ECF

Chris M. Bromley
Candice M. McHugh
McHugh Bromley PLLC
380 S. 4th Street, Suite 103
Boise, ID 83702
cbromley@mchughbromley.com

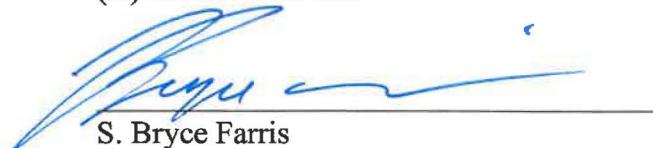
U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Email / CM/ECF

Norman Semanko
Parsons Behle & Latimer
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nsemanko@parsonsbehle.com

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Email / CM/ECF

Michael Lawrence
Givens Pursley
P.O. Box 2720
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mpl@givenspursley.com

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Email / CM/ECF



S. Bryce Farris

EXHIBIT A

Instrument # 0000513823
ELMORE COUNTY, ID
12:07:40 PM Jan 31, 2025
For FIRST AMERICAN TITLE AND ESC
No. of Pages: 2 Fee: \$15.00
SHELLEY ESSL, Recorder
CG, Deputy
Electronically Recorded by Simplifile

After Recording
Return to:

Heth Clark
Clark Wardle LLP
251 E. Front Street, Suite 310
Boise, ID 83702

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT.

FOR RECORDING INFORMATION

42025484:TD
24532187-ST

WARRANTY DEED

FOR VALUE RECEIVED, NEVID LLC, a Nevada limited liability company ("Grantor") does hereby grant, bargain, sell and convey unto Patagonia Lakes Development LLC, an Idaho limited liability company, as to a 45.03% undivided interest, whose current address is PO Box 344, Meridian, Idaho 83680; Wood Properties, LLC, an Idaho limited liability company, as to a 37.59% undivided interest, whose current address is PO Box 344, Meridian, Idaho 83680; and Richland Properties, LLC, a Washington limited liability company, as to a 17.38% undivided interest, whose current address is PO Box 344, Meridian, Idaho 83680, all as tenants in common (collectively, "Grantee"), the premises located in Elmore County, Idaho, more specifically described on Exhibit A attached hereto and made a part hereof (the "Property").

TO HAVE AND TO HOLD said Property, with their appurtenances unto said Grantee, and Grantee's heirs and assigns forever. Said Grantor does hereby covenant to and with said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those made, suffered or done by the Grantee; and subject to reservations, restrictions, dedications, easements, rights of way and agreements (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor shall warrant and defend the same from all lawful claims whatsoever.

Dated: January 29, 2025.

GRANTOR:

NEVID LLC,
a Nevada limited liability company

By: John Erickson
John Erickson, Manager

STATE OF Nevada)
County of Clark) ss.

This record was acknowledged before me on January 29, 2025 (date), by John Erickson, as Manager of NEVID LLC, LLC.



Kathy L. J.
Signature of Notary Public
My commission expires: 7/7/2027

WARRANTY DEED
4896-6703-2841, v. 1.2

EXHIBIT A
Legal Description of the Property

PARCEL I:

The South half of the Southeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 2 and the Northeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 11, both in Township 1 South, Range 4 East, B.M., Elmore County, Idaho.

Except:

That parcel in the SW1/4NE1/4 and the NW1/4SE1/4 lying South and West of the Southwesterly Right-of-Way line of U.S. Highway 30 and lying North and West of the Northwesterly Right-of-Way line of Simco Road in Section 11, Township 1 South, Range 4 East of the Boise Meridian and is more particularly described as follows:

Beginning at the Southwest corner of said SW1/4NE1/4; thence
N 0°08'43" W along the West boundary line of said SW1/4NE1/4 a distance of 480.01 feet to a point on the Southwesterly Right-of-Way line of U.S. Highway 30; thence
S 33°54'52" E along said Highway Right-of-Way line a distance of 750.70 feet to a point on the Northerly Right-of-Way line of Simco Road; thence
S 46°36'32" W along said Right-of-Way line for Simco Road a distance of 572.84 feet to a point on the West boundary line of said NW1/4SE1/4; thence
N 0°08'43" W a distance of 608.50 feet to the POINT OF BEGINNING.

Also Except:

Township 1 South, Range 4 East, Boise Meridian, Elmore County, Idaho

Section 11: All that portion of the NW1/4SE1/4 lying South of Simco Road and West of Old Highway 30.
Further Excepting:

Those portions deeded to the State of Idaho as disclosed in Deed, Recorded May 18, 1929, as Instrument No. 42773, and Warranty Deed Recorded, June 12, 1959, as Instrument No. 100559, Records of Elmore County, Idaho.

PARCEL II:

Township 1 South, Range 4 East, Boise Meridian, Elmore County, Idaho.

Section 1:

The Southeast Quarter of the Northwest Quarter;
The Southwest Quarter;
U.S. Government Lots 5 and 6;
The Northwest Quarter of the Southeast Quarter;
U.S. Government Lot 1, excepting therefrom the Westerly 200 feet of Government Lot 1;
The Southwest Quarter of the Northeast Quarter, excepting the Northerly 400 feet,

and

Section 12:

North Half of the Northwest Quarter

EXHIBIT A
4896-6703-2841, v. 1.2