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RECEIVED

FEB 26 2024

**DEPARTMENT OF
WATER RESOURCES**

Attorneys for Claimant/Objector Brian T. Farley

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

In re CSRBA

Case No. 49576

Subcase Nos. 95-16445 and 95-18409

**DECLARATION OF BRIAN T. FARLEY
IN SUPPORT OF RESPONSE IN
OPPOSITION TO GIDEONS' MOTION
FOR SUMMARY JUDGMENT**

I, Brian T. Farley, hereby declare and state as follows:

1. I am over the age of 18 and state the following based upon my own personal knowledge.

The exhibits attached this declaration are true and correct copies of documents that I have related to these subcases.

2. I reside at 23134 North Derting Rd., Hayden, Idaho, 83835.
3. I am the claimant in subcase no. 95-16445 and an objector in subcase no. 95-18409.
4. In 1992 I purchased approximately 40 acres in Kootenai County with my wife Pamela.

The property was comprised of four separate parcels described as follows: Parcel I

(RP#52N03W094700); Parcels S & T (RP#52N03W095000); and Parcel V (RP#52N03W097100). The parcels are shown on the map labeled Attachment V to the *Supplemental Director's Report Regarding Subcase Nos. 95-16445 & 95-18409* (Sept. 21, 2023) ("IDWR Report"). Parcel I is labeled "Gideon Property," Parcels S & T are labeled collectively as "Farley North Property," and Parcel V is labeled "Farley South Property." My wife conveyed her interest in the property to my sole ownership in 2018. See Attachment H to IDWR Report.

5. In 1994 I constructed my home on Parcel I. The first well we tried to complete collapsed when the driller tried to put additional casing in. The second well was drilled to the west of the home was connected to the 3,000 gallon cistern. This well is referred to as the "Upper Well" in IDWR's Report. This well provided all of the water for our use between 1994 and 1999.
6. I drilled a second well in 1999 on Parcel V as I was worried about the Upper Well caving in and I was hoping to provide irrigation water for my hayfields on Parcels I and S. The Upper Well's liner was damaged during a process when we hydrofracked it. The liner broke and was blocking the well at 460 feet, and the casing and liner no longer overlapped, leaving the pump exposed to raw earth. The Lower Well would also be more centrally located for future homes on Parcels S, T, and V. I moved the pump from the Upper Well to the Lower Well at this time. I installed a pipeline from the Lower Well to the cistern on Parcel I and used it for stockwater purposes on Parcels S and T where I had hydrants installed. The Lower Well also provided all of the water for our use on Parcel I between 1999 and 2017.

7. I decided to recommission the Upper Well when I made the decision to sell my home on Parcel I in 2017. I pulled the cap off, checked the well and the static water level was close to the ground level. I hired a company to put a camera down the well and we discovered that while the liner was being pulled for hydrofracking the well in 1995, the well caved in on the lower end and trapped the liner. I then contacted North Idaho Pump to perform a well yield test in the summer of 2017.
8. I was present for the well test and it pumped 2.5 gallons per minute for the entirety of the test. Once the initial pumping occurred and leveled out the discharge did not change and the well did not run out of water. A report of the pump test is attached to the *Declaration of Travis Thompson* (Exhibit E). After that test I had the well freeze-fracked by Water Recovery Services.
9. I then had North Idaho Pump install a new pump and reconnect the electrical and water lines and install new pump controls in the basement.
10. I also had North Idaho Pump install a new pump in the Lower Well and a ball valve on the waterline from the Lower Well at the cistern inlet that would allow me to turn off the water to the cistern. I shut the water off from the Lower Well in 2017 so that the sole source of water for the home, Parcels I and S was provided from the Upper Well.
11. On July 16, 2009, I filed water right Claim No. 95-16445 with the Idaho Department of Water Resources (IDWR). See Attachment D to IDWR Report. I claimed domestic use for one home, irrigation for 5 acres, and stockwater for 12 cattle and/or horses. The claimed places of use were as follows: domestic SENW, stockwater SENW and SESW, and irrigation SENW. IDWR later informed me in 2012 that I could not claim an “irrigation” purpose of use. See **Exhibit A** (April 20, 2012 Letter from K. Knoblock).

12. On February 9, 2018, IDWR sent me a Preliminary Recommendation and blank Notice of Error Reply sheet for Claim No. 95-16445. *See* Attachment E to IDWR Report. My copy of the Notice of Error Reply with my notes, and a copy of my letter back to IDWR dated May 7, 2018 is attached as **Exhibit B**.
13. On May 7, 2018, I returned the completed Notice of Error Reply sheet to IDWR, in which I indicated I wished to change the water right owner name to Brian Farley, the purpose of use to stockwater only, and the place of use to Parcels S and T only. *See* Attachment F to IDWR Report.
14. On May 12, 2018, I prepared handwritten notes of my understanding of the water rights I had filed and my intentions. I included in this list Claim No. 95-16445, noted its source as the Lower Well on Parcel V, and indicated as its Place of Use as only Parcels S and T, eliminating Parcel I. *See* **Exhibit C**. I separately noted that I eliminated Parcel I as a Place of Use because the parcel was using the original well in the hayfield (what is the “Upper Well”. *See* **Exhibit C**.
15. On May 21, 2018, IDWR sent me a letter with a Change of Ownership Form, but did not acknowledge the Place of Use error I included in my Notice of Error Reply. *See* Attachment G to IDWR Report.
16. On June 1, 2018, I hand delivered the completed Change of Ownership Form to Dawn Lenon at IDWR in its Couer d’Alene office. I also delivered a letter I wrote dated May 31, 2018 noting an apparent error on my part as to which well I had included in my 2009 claim, and asking whether I should file a new claim if the Upper Well had not in fact been included in the 2009 claim. *See* Attachment H to IDWR Report. I followed up with emails to Dawn Lenon on July 14 and 15, 2018. *See* **Exhibit D**.

17. On June 22, 2018, IDWR sent me a letter notifying me it had processed my Change of Ownership request.
18. Sometime in July 2018, I met with Ms. Lenon to discuss the changes I wished to make for my claim regarding the Lower Well, including with respect to the Place of Use. She indicated I could file an amendment to the existing claim 95-16445. Ms. Lenon provided me a completed Notice of Claim form that attempted to complete this amendment identifying domestic, irrigation, and stockwater uses (it turns out she mislabeled the place of use and listed it as the same quarter quarter as the Lower Well). *See Exhibit E.* The claim form is dated “6/22/2018” at the bottom. IDWR had apparently entered the information and I thought that was all that was needed. I asked about a claim for the Upper Well too and understood that would be addressed.
19. I listed Parcel I and the home at property address 23452 N. Derting Road for sale in November 2018.
20. I did not hear back from IDWR for several months.
21. On January 18, 2019, I met with Kaila Savage at IDWR. She told me that the place of use on my claim had not yet been changed and nothing had happened on the Upper Well claim, but that she would work on it.
22. On January 23, 2019, I called Ms. Savage and she advised the place of use had been changed for stockwater use only on Parcel I. She also advised I came in and met with her to complete the amendment and file the claim for the Upper Well.
23. On January 25, 2019, I met with Ms. Savage and she typed up the amended claim for water right 95-16445 which I reviewed and signed. *See Attachment J to IDWR Report.* I removed domestic and irrigation as claimed Purposes of Use, and retained only

stockwater as a claimed Purpose of Use. This amendment removed the domestic and stockwater Purposes of Use associated with Parcel I, and removed Parcel I from the Place of Use description.

24. Also on January 25, 2019, Ms. Savage typed up a separate claim no. 95-17752 for the Upper Well. I reviewed, signed, and filed this claim noting stockwater and domestic (one home) for use in the SENW. *See* Attachment K to IDWR Report. I used parcel numbers so there would be no confusion.
25. My intention in amending and separating the claims for the Lower Well and Upper Well was to have the Upper Well and any associated water right for Parcel I, and the water right for the Lower Well for stockwater use only for Parcels S and T. Ms. Savage advised that these changes could be made and that they would effectuate my intention. Based upon these representations, I believed I was changing the Place of Use for Claim No. 95-16445 to Parcels S and T exclusively. I intended to eliminate Parcel I from the Lower Well water right claim and only have that parcel associated with a water right claim from the Upper Well.
26. On January 28, 2019, I received a letter from Ms. Savage enclosing a Revised Preliminary Recommendation for my previous Claim No. 95-16445, a Preliminary Recommendation for my new Claim No. 95-17752, and a water right report noting “Application for Transfer of Water Right Part 2A Report for Claim No. 95-16445”. *See Exhibit F* (letter and Part 2A Transfer report). The recommendation for Claim No. 95-16445 correctly identified stockwater as the Purpose of Use but erroneously mixed up the Point of Diversion and the Place of Use; when I pointed this out to Ms. Savage on February 28, 2019, she said not to worry, as the recommendation was essentially an

explanatory statement, and confirmed that the legal descriptions were correct and would be included in the final decree. *See Exhibit G* (Feb. 28 email to K. Savage, Mr. Farley confirming “that place of use is no longer parcel #4700”). The recommendation for Claim No. 95-17752 was correct with respect to both the Purpose of Use and Place of Use. The Part 2A Transfer Report correctly reflected the new Point of Diversion (the Lower Well) and Place of Use (Parcels S and T) for Claim No. 95-16445.

27. About a month later, I received a letter from IDWR dated February 25, 2019 informing me that the recommendations for my water right claims had been reported to the Water Court.

28. At this point I believed my intentions regarding my water right claims had been accomplished based upon representations and what I had received from IDWR, including the transfer report. It was my understanding that Lower Well and its water right 95-16445 was transferred for stockwater use only on Parcels S and T, and that the Upper Well and water right 95-17752 was for domestic and stockwater use only on Parcel I. I had attempted to complete this process in the summer of 2018 when I met with Ms. Lenon, prior to ever listing the property for sale.

29. On April 26, 2019 I met with Patti Ellis, the Gideons’ real estate agent and toured the home and Parcel I. I informed her that Parcel I was serviced by the Upper Well and there was another well on Parcel V which would be designated as a shared well after Meckel Engineering completed the boundary line adjustment, and my attorney at the time, Michael Reagan, completed and recorded the First Amended CC&Rs.

30. On April 27, 2019, the Gideons made an offer to purchase the home and Parcel I.

31. I accepted the offer with conditions on April 29, 2019. The Gideons signed an addendum and inspected the property on May 3, 2019. During the visit I told Mr. Gideon that the well he was purchasing (the Upper Well) was located in the hayfield behind the garage. I showed him the Upper Well location from within the home by pointing out the window. I also advised that a shared well (the Lower Well) was located at the bottom of the hill. I did not tell him that the Lower Well, its rights, the pipeline, the panel, and pump was to be sold to them as part of the purchase of the home and Parcel I. When he asked about the well yields I told him he would know when he had his well tests performed. I had no intent to sell the Lower Well or any water rights from that well to the Gideons.
32. It was my intent that the Upper Well would be sold with the property and that any water provided by to Parcel I by the Lower Well would only be a shared use and benefit as set out in the Amended Covenants, Conditions & Restrictions (CC&Rs) that were recorded on May 31, 2019. *See Exhibit H.* Mary Spridgeon, the escrow officer at First American Title, told the Gideons about the Amended CC&Rs the prior to and at the day of closing (June 7, 2019) and Mr. Gideon advised her to proceed with the closing. *See Waldera Aff., Ex. A; Tr. 561:4 – 562:2.* The Gideons later had the Amended CC&Rs voided. *See Waldera Aff., Ex. D.*
33. It was my intent that Parcel I would have “shared use” of water from the Lower Well only pursuant to the Amended CC&Rs.
34. The property sale closed on June 7, 2019.
35. At the time the agreement was executed, Parcel I was not receiving any water from the Lower Well because I had turned off the valve between the well and the cistern in 2017. That same week of closing, I turned the valve on, consistent with the Amended CC&Rs

that were recorded on May 31, 2019, wherein I agreed to provide Parcel I with supplemental water from the Lower Well in the event it was needed.

36. The Gideons then filed a lawsuit against my wife Pamel and I in 2020. She was later dismissed from the case. During this lawsuit I have supplied water from the Lower Well to Parcel I by permission only until the well was damaged and unable to provide any water in the spring of 2023. *See Exhibit I* (July 6, 2023 Declaration). The Lower Well site was inspected on the Gideons' behalf by Jody Barden and Zack Horsley on August 1, 2023, as arranged by counsel.
37. The Gideons prevented me from receiving water from the Lower Well for stockwater use on Parcel S as their agents dug up the waterline and capped it in the spring of 2021. *See Exhibit I* (*See Exhibits E and F to Declaration* which are copies of my two declarations filed in Case No. CV-28-22-4171). This past summer they knowingly had another septic leachfield installed over my capped waterline. *See Exhibit I* (*see also Exhibit G photograph to Declaration*).

I declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct.

DATED this 23rd day of February, 2024.

/s/ Brian T. Farley
Brian T. Farley

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of February, 2024, I caused to be served a true and correct copy of the foregoing to the following:

Clerk of the Court
CSRBA
253 3rd Ave. North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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

Andy Waldera
Sawtooth Law Office
1101 W. River St., Suite 110
Boise, Idaho 83702

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

Director of IDWR
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, Idaho 83720-0010

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

United States Dept. of Justice
Environment & Natural Resources Division
550 W Fort Street, MSC 033
Boise, Idaho 83724

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



Travis L. Thompson

Exhibit A



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BLITCH" OTTER
Governor

GARY SPACKMAN
Interim Director

April 20, 2012

Brain Farley
Box 1836
Hayden, ID 83835

Re: 95-16445

Dear Mr. Farley:

We are reviewing your Notice of Claim. The date of priority is listed as March 1991. The uses are domestic, stock and 5 acres of irrigation. When a new diversion of ground water for irrigation is started after March 23, 1963, an appropriation permit had to be obtained first. If you want the right to irrigate 5 acres then you need to file an application for a water right first.

Sincerely,

Kenneth Knoblock
Water Right Supervisor

F1

Exhibit B

050718

IDWR

RE: Attached Water Rights Claims Notice of Error Reply.

Please accept all apologies for the tardiness of my reply to your request for review of the Directors Preliminary Report.

I travel south each year during the time that these documents were received, not returning to Idaho until a couple of months afterwards and after the dates of the informational presentation in March which I would certainly have looked forward to attending. . Therefore I had no knowledge of nor a "heads up" that this process was on its way to we claimants.

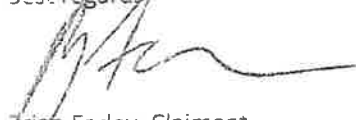
Moreover, upon my return, although I did review all the correspondence inclusive of the letters from Mr. Fristchle, Director Spackman, and Judge Wildman there is NO MENTION of any March 30, 2018 "deadline" in any of these letters.

This critical fact would seem to be of paramount importance and would be prominently depicted (in your face) like at the top of the page somewhere and also be in the same BOLD TYPE as the dates of the presentations at ISP in CDA is.

Only as I worked my way down through my "stack of stuff" and turned my attention to this matter again and looked at the actual reply forms did I see the notation regarding the deadline.

At any rate, not trying to hold up the process here for everyone else and again please accept my apology for not replying in a more timely manner.

Best regards,



Brian Farley, Claimant

POB 1836
Hayden, ID 83835
208-661-1218
longwalker@jrcda.com

02/09/2018

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR on the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: March 30, 2018

Water right number: 92-16445

BRIAN & PAMELA FARLEY LIVING TRUST
PO BOX 1836
HAYDEN ID 83835

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

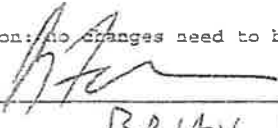
- (A) OWNER NAME
- (B) PLACE OF USE

2. Describe the changes you wish to make in the proposed recommendation:

- (A) OWNER IS BRIAN FARLEY ONLY
- (B) PLACE OF USE IS PARCEL # 52N03W09S000 ONLY

3. Give a brief explanation as to why you disagree with these portions:

____ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 050718 SIGNATURE: 
Please print your name: BRIAN FARLEY

IDWR Regional Office, 7401 N MINERAL DR STE 100, COEUR D'ALENE, ID 83815-7763, (208) 762-2800

FZ

THIS IS 30' WELL ONLY
THAT "USED" TO GO TO
CLT KENE (R 23452. I
ELIMINATED THAT PLACE OF
USE WITH THIS ERROR
REPLY BECAUSE USING
ORIGINAL WELL IN
HAYFIELD

ORIGINAL
THIS CHANGE
WAS MADE
SEE 062218
CLM

Exhibit C

051218

WATER RIGHTS DATA - BRICK REPLY TODAY

RIGHT #	PAGE #	PURPOSE OF USE	SOURCE
95-16445 ✓	94700 = 23452 - (ELIMINATED) 95000 = S+T	S+T	30' well on "V"
95-8966 ✓	97100	V	CITICOCK ON "V"
95-9252 ✓	95300	"U" 21502	SPRING ON "U"
95-8968 ✓	97100	V	SPRING ON "V"
95-16444 ✓	95300	21502 "U"	WELL ON "U"

- 4) NO RIGHTS TO
CRACK IN ROCK PIT
- 5) NO RIGHTS TO SPRING
A BRICK ROCK

- NOTES
- 1) SPRING ON "S" NOT
DEVELOPED - NO RIGHTS.
 - 2) WELL #2 ON "U"
NO RIGHT
 - 3) WELL IDENTIFIED
23452
NO RIGHT

Exhibit D

Brian Farley

From: Brian Farley <longwalker@jrcda.com>
Sent: Saturday, July 14, 2018 6:43 AM
To: 'dawn.lenon@idwr.idaho.gov'
Subject: Farley H20

Hey Dawn,

I am in receipt of your correspondence 06/22,2018 regarding the ownership changes to all of my water rights. Please note the following for your review and comment.

The 208-772-1822 phone number is no more. The only valid phone number is 208-661-1218

When I met with the IDWR agent out here on two or three occasions who's name escapes me just now, probably either Shaun or Keith, that person GPS-ed everything. But we do not use that method of identifying source, place of diversion or what have you?

95-16445

Your #11. Do I own the property? Yes I do.

95-8968

Your #3. Tributary to: This spring sinks and is not a tributary to Chilco lake or creek. In fact, as I am sure you know, the creek that fills Chilco Lake is not actually Chilco creek at all and to my knowledge has no name. The "real" named Chilco Creek is east of here near Chilco Mtn and flows into the East Fork of Hayden Creek.

#11. Do I own the property? Yes I own the property.

95-8966

#11. I own the property.

95-16444

#11. I own the property

95-9252

#5. Description of diverting works. This is a "typical" gravity flow set up with perforated collection piping that is then piped into a spring box which is then piped into an underground reservoir for use at the residence and stockwater troughs.

#11. Yes I own the property.

In my letter to you dated 053118 I mentioned the well located at and used at 23452 N Derting and asked what, if anything needed to be done about this . I do not believe you ever addressed this question.

Thanx
Brian Farley

24

Brian Farley

From: Brian Farley <longwalker@jrcda.com>
Sent: Sunday, July 15, 2018 10:41 AM
To: 'dawn.lenon@idwr.idaho.gov'
Subject: Farley H2O

Hey Dawn,

I am in receipt of your correspondence 06/22,2018 regarding the ownership changes to all of my water rights. Please note the following for your review and comment.

The 208-772-1822 phone number is no more. The only valid phone number is 208-661-1218

When I met with the IDWR agent out here on two or three occasions who's name escapes me just now, probably either Shaun or Keith, that person GPS-ed everything. But we do not use that method of identifying source, place of diversion or what have you?

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95-8968

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#11. I own the property.

95-16444

#11. I own the property

95-9252

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Thanx
Brian Farley

FS

Exhibit E

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

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO
THE USE OF WATER FROM THE COEUR D'ALENE-
SPOKANE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER 49576

Ident. Number 95-16445

Date Received: 4/20/2012

Receipt No N021358

Received By

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED
UNDER STATE LAW

1 Name of Claimant(s)

BRIAN T FARLEY Phone (208) 772-1822
PO BOX 1836
HAYDEN LAKE ID 83835-1836

2 Date of Priority 3/31/1999 ✓

3 Source GROUND WATER ✓ Tributary to

4 Point of Diversion

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County	Type
52N	03W	9 ✓	SE SW		KOOTENAI	W A A

5 Description of diverting works.

6 Water is used for the following purposes

Purpose	From To	C.F.S.	(or) A.F.A
DOMESTIC	01/01 12/31	0.04 ✓	
IRRIGATION	05/01 11/15	0.15	
STOCKWATER	01/01 12/31	0.02 ✓	

7 Total Quantity Appropriated is: 0.21 C.F.S. and/or A.F.A

8 Non-irrigation uses.

Number of Homes	1	Water Use	Type Of Stock	Number Of Stock
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9 Place of use

B. A. A.

W. A. A. ?

F3
3 Pgs

95-16445

6/22/2018

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

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO
THE USE OF WATER FROM THE COEUR D'ALENE-
SPOKANE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 49576

Ident. Number: 95-16445

Date Received: 4/20/2012

Receipt No. N021358

Received By

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED
UNDER STATE LAW

1. Name of Claimant(s)

BRIAN T FARLEY Phone (208) 772-1822
PO BOX 1836
HAYDEN LAKE ID 83835-1836

2. Date of Priority: 3/31/1999

3. Source: GROUND WATER Tributary to

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County	Type
52N	03W	9	SE SW		KOOTENAI	

5. Description of diverting works

6. Water is used for the following purposes

Purpose	From To	C.F.S.	(or) A.F.A.
DOMESTIC	01/01 12/31	0.04	
IRRIGATION	05/01 11/15	0.15	
STOCKWATER	01/01 12/31	0.02	

7. Total Quantity Appropriated is 0.21 C.F.S. and/or A.F.A.

8. Non-irrigation uses

Number of Homes	1	Water Use	Type Of Stock	Number Of Stock
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9. Place of use

BACK PAGE

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4</u>	<u>Lot</u>	<u>Use</u>	<u>Acres</u>
52N	03W	9	SE SW		DOMESTIC	
					Section Acres	
<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4</u>	<u>Lot</u>	<u>Use</u>	<u>Acres</u>
52N	03W	9	SE SW		STOCKWATER	
					Section Acres	
<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4</u>	<u>Lot</u>	<u>Use</u>	<u>Acres</u>
52N	03W	9	SE SW		IRRIGATION	5
					Section Acres	5
						Total Acres 5

10. Place of use in counties: KOOTENAI
11. Do you own the property listed above as place of use?
12. Other Water Rights Used
13. Remarks:

Priority date description

<u>Description of use</u>	<u>Water Use</u>	<u>Description</u>
	DOMESTIC	
	IRRIGATION	
	STOCKWATER	

14. Basis of Claim Beneficial Use

15. Signature(s)

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

For individuals, I/We do solemnly swear or affirm under penalty or perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

For Organizations I do solemnly swear or affirm under penalty or perjury that I am

Title _____ of _____ Organization

That I have signed the foregoing document in the space below as

Title _____ of _____ Organization

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

Signature of Authorized Agent _____ Date: _____

Title and Organization _____

Exhibit F



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene ID 83815-7763

Phone: (208) 762-2800 • Fax: (208) 762-2819

Website: idwr.idaho.gov • Email: northerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 28, 2019

BRIAN FARLEY
PO BOX 1836
HAYDEN LAKE ID 83835

RE: Notice of Error Reply for Coeur d'Alene-Spokane River Basin Adjudication (CSRBA) Claim No. 95-16445

Dear Claimant,

The Idaho Department of Water Resources has reviewed the Notice of Error Reply for the above referenced water right claim. Pursuant to corrections made to your parcel number in the Explanatory Material, the Preliminary Recommendation for that water right claim has been revised. Please review the enclosed Preliminary Recommendation to ensure your agreement with the corrections made.

I have also included the Preliminary Recommendation for the new claim you submitted for you to review.

If you have any further questions or concerns, do not hesitate to contact our office and we will be happy to help. We can be reached by phone during business hours at 208-762-2800.

Sincerely,

Kaila R Savage
Water Resource Agent
Northern Region

F
6

2 Rgs

Enclosures: Revised Preliminary Recommendation for CSRBA Water Right Claim No. 95-16445 and 95-17752.

Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 95-16445

Current Owner: BRIAN T FARLEY

Priority Date: 3/31/1999

Origin: Adjudication Recommendation

Status: Active

Basis: Beneficial Use

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.02 CFS	
	<u>Total Diversion</u>	0.02 CFS	

Location of Point(s) of Diversion

GROUND WATER

SE1/4SW1/4 Sec. 9, Twp 52N, Rge 03W B M

KOOTENAI County

Place of Use

STOCKWATER Within KOOTENAI County

T52N R03W S9

NESW

Conditions of Approval:

1. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.
3. N19 The quantity of water under Right Nos. 95-16445 and 95-17752 for stockwater use shall not exceed 13,000 gallons per day.
4. C13 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
5. PIN Point of Diversion Parcel No. 52N03W097100; Place of Use Parcel No. 52N03W095000
6. X02 Stockwater use is for 12 cattle and/or horses.

01/30/2019

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

RIGHT NUMBER: 95-14443

NAME AND ADDRESS: BRIAN J. FARLEY
PO BOX 1111
HAVERDALE LAKE ID 83835-1111

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.100 cfs

The quantity of water under this right shall not exceed 10,000 gallons per day.

The quantity of water under Right Nos. 95-14443 and 95-17781 for stockwater use shall not exceed 10,000 gallons per day.

PRIORITY DATE: 01/11/1999

POINT OF DIVERSION: 152N RDW 307 WITHIN POLTERNAI COUNTY

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01/01 12/31	0.000 cfs

PLACE OF USE: STOCKWATER IN POLTERNAI COUNTY

152N RDW 307 152N RDW

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 41-1412 b, Idaho Code

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 10 cattle and/or horses.

Point of Diversion Parcel No. IDN03W095700; Place of Use Parcel No. IDN03W095711

01/30/2019

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

RIGHT NUMBER: 95-17752

NAME AND ADDRESS: BRIAN T FAPLEY
PO BOX 1936
HAYDEN LAKE ID 83835-1936

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS

The quantity of water under Right Nos. 95-17752 and 95-14413 for stockwater shall not exceed 13,000 gallons per day.

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/13/1991

POINT OF DIVERSION:

T52N R03W S9 SE1/4 Within KOOTENAI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
DOMESTIC	01/01 12/31	0.040 CFS
Domestic use is for 1 home.		

PLACE OF USE: STOCKWATER in KOOTENAI County

T52N R03W S09 SE1/4 T52N R03W S09 NE1/4

DOMESTIC in KOOTENAI County

T52N R03W S09 SE1/4

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Idaho Code § 42-1412(6).

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Point of Diversion Parcel No. 52N03W094700; Place of Use 52N03W094700 and 52N03W095000

Stockwater use is for 12 head mixed stock.

WAH 24 I

WAH 24 I, 5+T

Exhibit G

Brian Farley

From: Savage, Kaila [Kaila.Savage@idwr.idaho.gov]
Sent: Thursday, February 28, 2019 1:17 PM
To: Brian Farley
Subject: RE: 16445 farley

Hey,

Oh goodness, of course. The good thing is, it's only in the Explanatory Material which isn't included on the final Decree did change it in the database, but you won't get a copy of that unfortunately. The Legal Descriptions appear to be correct, which is the most important part.

Sorry about that

Kaila Savage

From: Brian Farley [mailto:longwalker@rcda.com]
Sent: Thursday, February 28, 2019 12:55 PM
To: Savage, Kaila <Kaila.Savage@idwr.idaho.gov>
Subject: 16445 farley

Hey there you "savage" you☺

I'm thinking that this 16445 is now "partially" correct in that place of use is no longer parcel # 4700 BUT, the point of diversion and place of use are reversed?? The well is on 7100 and the place of use is 5000.

Thanx K
Brian

F
7
2 Pages

01/30/2019

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

RIGHT NUMBER: 95-16445

NAME AND ADDRESS: BRIAN T FARLEY
PO BOX 1836
HAYDEN LAKE ID 83835-1836

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

The quantity of water under Right Nos. 95-16445 and 95-17752 for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/31/1999

POINT OF DIVERSION: T52N R03W S9 SESW Within KOOTENAI County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in KOOTENAI County
T52N R03W S09 NESW

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 12 cattle and/or horses.

Point of Diversion Parcel No. 52N03W095000; Place of Use Parcel No. 52N03W097100

REMOVED

Exhibit H

STATE OF IDAHO
COUNTY OF KOOTENAI

} ss

April 4, 2022

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE COPY OF
THE ORIGINAL NOW ON FILE OR RECORDED IN THIS OFFICE
MARRIAGE / INSTRUMENT # 2695111000

BOOK

JIM BRANNON

CLERK

PAGE

BY

DEPUTY

PAGE COUNT 15 PAGES

NOT TO SCALE

JIM BRANNON 15 P 2695111000
KOOTENAI COUNTY RECORDER
CDB Date 05/31/2019 4:18 PM
REQ OF MICHAEL REAGAN

RECORDING FEE: \$52.00

SC



**FIRST AMENDED DECLARATION AND ESTABLISHMENT
OF CONDITIONS, RESERVATIONS AND RESTRICTIONS FOR
RIDGETOP RETREAT RANCH ESTATES SITE DEVELOPMENT**

This First Amended Declaration and Establishment of Conditions, Reservations and Restrictions for Ridgetop Retreat Ranch Estates Site Development (hereinafter "Amended Declaration") is made and entered into this 30 day of May, 2019 by Brian T. Farley ("Farley"), the sole owner of the Property, in connection with certain boundary line adjustments Farley has made to the property subject to this Declaration.

RECITALS

- A. WHEREAS, Brian T. Farley and Pamela J. Farley established those certain Declaration of Conditions, Reservations and Restrictions dated April 28, 1992 and recorded as instrument number 1256398 on April 28, 1992.
- B. WHEREAS, Farley subsequently made certain boundary line adjustments to the various parcels of the Property, discovered the correction of a quarter corner affecting the parcels, and made other modifications to the project as set forth in this Amended Declaration.

NOW THEREFORE, based upon the foregoing recitals, and other good and valuable consideration, receipt and adequacy of which is hereby acknowledged, Brian T. Farley, the sole owner of the Property does hereby declare as follows:

I

DECLARATION

Farley has established a general plan for the improvement and development of an area consisting of approximately forty (40) acres of land more particularly described on Exhibits "A", "B", "C", and "D" attached hereto and incorporated herein by reference, herein referred to as the "Property".

Kootenai County Case No.: CV28-20-2706
Arthur V. Gideon, et ux. v. Brian T. Farley, et al.

FIRST AMENDED DECLARATION -1

Defendants/Counterclaimant Exhibit No.: W
Trial Date: 6/6/2022

There are hereby established the following covenants, conditions, reservations and restrictions, clarifying and in conformity with the DECLARATION AND ESTABLISHMENT OF CONDITION, RESERVATIONS AND RESTRICTIONS FOR PLEASANT VIEW RANCH ESTATES SITE DEVELOPMENT, recorded as Instrument No. 968133, Book 131, Page 802, Records of Kootenai County, Idaho, and the AMENDED AND RESTATED DECLARATION AND ESTABLISHMENT OF CONDITIONS, RESERVATIONS AND RESTRICTIONS FOR PLEASANT VIEW RANCH ESTATES SITE DEVELOPMENT, recorded as Instrument No. 22P 2588168000, Records of Kootenai County, Idaho, upon which and subject to which all parcels and any portions of such parcels described on the attached Exhibits "A", "B", "C", and "D" shall be improved, sold and conveyed. Each and every one of these covenants, conditions, reservations and restrictions, is and, all are for the benefit of each owner of land in the said Ridgetop Retreat Ranch Estates Development, or interest therein, and shall inure and pass with each and every parcel or portion thereof of such development, and shall bind the respective successors in interest of the present owners thereof. All covenants, conditions, reservations and restrictions are to be construed as restrictive covenants running with the land and title to said parcels or portions(s) thereof.

II

UTILITY EASEMENTS

There is reserved a perpetual, non-exclusive easement for the construction, improvement, operations, maintenance, repair and replacement of utilities, including a sanitary sewer line (tight line), effluent line, water line, electric, cable, and appurtenances, on, over, under, across, and through that certain real property situated in Kootenai County, State of Idaho, which is more particularly described on the attached Exhibits "A", "B", "C" and "D", together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easement hereby granted and all rights and privileges thereto, the easement shall be a strip of land thirty feet (30') in width, adjacent and parallel to the Easterly boundary of Adjusted Parcel "T", Adjusted Parcel "S", Adjusted Parcel "T" and Parcel "V", described on the attached Exhibits "A", "B", "C" and "D".

III

DRAINFIELD/LEECHFIELD

In addition, there is reserved a perpetual, non-exclusive easement for the construction, improvement, operation and maintenance, repair, and replacement of utilities, including without limitation, effluent lines, a sanitary drainfield or leechfield and appurtenances thereon, under, across and through that certain real property situated in Kootenai County, State of Idaho, which is more particularly described as Adjusted Parcel "T" on the attached Exhibit "E", together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easement hereby granted, and all right and privilege thereto. The drainfield/leechfield easement shall consist of three (3) distinct and separate drainfields and replacement areas thereof which all together form a rectangular portion of land being two hundred feet (200') feet wide and three hundred and eighty-nine feet (389') long, being located in the southwest quarter of Section 9, township 52 North, Range 3 West, Boise Meridian; more particularly described on Exhibit "F" attached hereto and incorporated herein by reference and roughly depicted on the drainfield plan attached hereto as Exhibit "E". These said drainfields and replacement areas shall inure to the benefit of Adjusted Parcels "T", "S" and "T", as more particularly set forth in the attached Exhibit "E". The cost of the maintenance and repair of each said separate drainfield/leechfield shall be the sole responsibility of the owner or person actually using the same.

There is further reserved a perpetual, non-exclusive easement for the construction, improvement, operation and maintenance, repair, and replacement of utilities, including without limitation, effluent lines, a sanitary drainfield or leechfield and appurtenances thereon, under, across and through that certain real property situated in Kootenai County, State of Idaho, which is more particularly described as Parcel "V" on the attached Exhibit "D", together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easement hereby granted, and all right and privilege thereto. This easement is roughly depicted on the drainfield plan attached hereto as Exhibit "E". This said drainfield and replacement area shall inure exclusively for the use and benefit of Parcels, "V", as more particularly set forth in the attached Exhibit E. The cost of the maintenance and repair of said separate

drainfield/leechfield shall be the sole responsibility of the owner or person actually using the same.

The Declarant agrees to keep the easement free and clear of all structures and obstructions, and that all underground facilities installed by or for a subsequent owner of property described on the attached Exhibits "A", "B", "C" and "D" (hereinafter "Grantee") shall remain the property of the Grantee and shall be removable by the Grantee in its discretion.

Notwithstanding anything to the contrary implied by this Declaration, the obligation of the Grantee to restore the surface of the ground following construction or reconstruction upon, under, across and through the tight line easement and/or drainfield/leechfield shall be limited to back filling, compacting, grading, and reseeding the disturbed area, and the replacement of permitted structural improvements.

To have and to hold the rights created herein for the purposes described herein so long as the same shall be used, operated, and maintained as such.

IV

WELLS

A. There is a well located on Adjusted Parcel "I", west of the residence thereon and a reservoir east of the residence, which are for the sole use and benefit of Adjusted Parcel "I".

B. There is a well located on Parcel "V", in the northwesterly corner of the parcel. This well is for shared use and benefit of Adjusted Parcel "I" and Adjusted Parcel "T".

C. In addition to the wellhead, there is an appurtenant pump house, water distribution and electrical distribution lines, generally depicted on attached Exhibit "E", and electrical wiring from the reservoir to the wellhead on Parcel V.

D. Adjusted Parcels "I" and "T" have a perpetual easement for ingress and egress on the existing road from the gate at the northwest corner of Parcel "V" (which is the terminus point of North Derting Road) to the wellhead for operation and maintenance, including snowplowing.

E. This well is for domestic household, livestock and landscaping use only. In the event there is insufficient supply of water for Adjusted Parcel "I", Adjusted Parcel "T" should abate the use of the water to Adjusted Parcel "I" and Adjusted Parcel "T" will enjoy sole domestic use

of the well, until such time as there is an excess capacity for domestic use for Adjusted Parcel "I", at which time Adjusted Parcel "T" would again be able to use the well. During the period that Adjusted Parcel "T" is abated from use of the well, Adjusted Parcel "T" would have no further responsibility to pay for maintenance and repair of the well and lines.

F. There is a water line and electric line in the easement over, under and across Parcel "V", Adjusted Parcel "T" and Adjusted Parcel "I" to serve said Parcel "V" well.

G. Owners of Adjusted Parcels "T" and "I" shall equally share the maintenance and operational costs of the well located on Parcel V, subject to the provisions of Article IV E. above in the event of abatement.

H. Each Parcel owner shall be responsible for the maintenance, repair and replacement of pipe supplying water from the common water distribution piping to their own dwelling and property. Electricity costs shall be shared equally unless the parties separately meter their use of the well, or in the event of abatement.

V

DECLARANT EASEMENTS

Declarant reserves an access easement over, under, across and through the common areas, facilities and easements established herein for the purpose of completing any unfinished units or other improvement and exhibiting and preparing parcels for sale and for the purposes of developing any contiguous land owned by Declarant. Declarant hereby reserves for his benefit and for the benefit of utility providers, their successor and assigns, an easement for the existing transmission lines and pipes passing through the Property and for ingress and egress for the purpose of maintaining, replacing (including the right to install lines of larger capacity), and connecting to said lines.

The easements established and reserved herein are for the use and benefit of the owners of the parcels in the Property. Said easements both benefit and bind the respective parcels as an appurtenance which shall run with the land and not be severable from the land.

VI

The following are general provisions of this Declaration:

A. Violations of any restrictions, conditions, covenants, agreements or regulations contained herein, shall give each owner, until transferring conveyance to the Homeowner's Association as specified in said Declarations recorded as Instrument No. 969133 and amendments thereto, the right of enforcement by any proceedings at law or in equity. Failure to enforce a covenant or restriction shall in no event be deemed a waiver of the right to do so at a later time. In the event any lawsuit or the legal proceeding is instituted, the offending owner shall be obligated to pay the costs of such proceeding, including a reasonable attorney fee.

B. Invalidation of any one of these covenants and restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

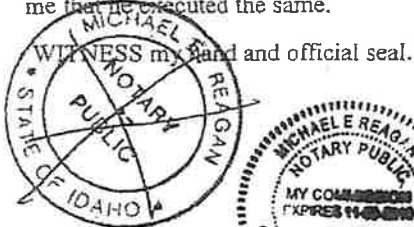
IN WITNESS WHEREOF, the Declarant has executed this Instrument this 30 day of May, 2019.



BRIAN T. FARLEY

STATE OF IDAHO)
County of Kootenai)

On this 30th day of May, 2019, before me, the undersigned Notary Public in and for said state, personally appeared BRIAN T. FARLEY, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.





Notary Public for Idaho

Residing at Coeur d'Alene

My commission expires: 11-06-2019



EXHIBIT "A"
MECKEL ENGINEERING & SURVEYING
7600 N. Government Way, Suite 3
Coeur d'Alene, ID 83815
Office 208-667-4638 • Fax 208-664-3347
www.meckel.com



September 25, 2018

Sec. 9, T52N, R3W

BRIAN FARLEY
BOUNDARY LINE ADJUSTMENT
REVISED PARCEL "I"
LEGAL DESCRIPTION

A part of the Southeast Quarter of the Northwest Quarter and the Northeast Quarter of the Southwest Quarter of Section 9, Township 52 North, Range 3 West, Boise Meridian, Kootenai County, Idaho; more particularly described as follows:

Beginning at the Center Quarter Section Corner (Southeast corner of said Southeast Quarter of the Northwest Quarter), monumented with an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2-1/2 inches diameter, marked PLS 6374, according to the Corner Perpetuation and Filing Record recorded as Instrument Number 1767664; from which the South Quarter Section Corner, monumented with an iron rod, 5/8 inch diameter, with a plastic cap, marked PLS 4194, according to Corner Perpetuation and Filing Record Form recorded as Instrument Number 1765758, bears South 0°11'12" East, a distance of 2668.49 feet;

thence South 0°10'24" East, a distance of 190.26 feet along the East line of the Northeast Quarter of the Southwest Quarter to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 85°13'00" West, a distance of 100.42 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 30°10'56" West, a distance of 124.35 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 69°49'13" West, a distance of 194.32 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 88°39'45" West, a distance of 31.97 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 79°57'37" West, a distance of 284.40 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 0°10'55" West, a distance of 638.20 feet along the West line of the Southeast Quarter of the Northwest Quarter to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374, at the SE-NW 1/64;

Revised Parcel "I"
Legal Description
Sec. 9, T52N, R3W

thence South 89°49'05" East, a distance of 656.29 feet along the North line of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374, at the C-S-N 1/64;

thence South 0°11'12" East, a distance of 660.84 feet along the East line of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter to the Point of Beginning; containing 10.885 Acres, more or less.

SUBJECT TO:

Any existing rights of way, easements, covenants, conditions, rights, reservations, restrictions, encumbrances or applicable subdivision, building and zoning ordinances and use regulations, of record or in view.

Exhibit "A"



EXHIBIT

"B"

MECKEL ENGINEERING & SURVEYING
7600 N. Government Way, Suite 3
Coeur d'Alene, ID 83815
Office 208-667-4638 • Fax 208-664-3347
www.meckel.com



OF November 13, 2018

Sec. 9, T52N, R3W

**BRIAN FARLEY
BOUNDARY LINE ADJUSTMENT
LEGAL DESCRIPTION
REVISED PARCEL "S" & "Y" COMBINED**

A part of the Northeast Quarter of the Southwest Quarter and the Southeast Quarter of the Northwest Quarter of Section 9, Township 52 North, Range 3 West, Boise Meridian, Kootenai County, Idaho; more particularly described as follows:

Commencing at the Center Quarter Section Corner (Northeast corner of said Northeast Quarter of the Southwest Quarter), monumented with an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2-1/2 inches diameter, marked PLS 6374, according to the Corner Perpetuation and Filing Record recorded as Instrument Number 1767664; from which the South Quarter Section Corner, monumented with an iron rod, 5/8 inch diameter, with a plastic cap, marked PLS 4194, according to the Corner Perpetuation and Filing Record Form recorded as Instrument Number 1765758, bears South 0°11'12" East, a distance of 2668.49 feet;

thence North 89°43'16" West, a distance of 656.35 feet along the South line of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter to an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2-1/2 inches diameter, marked PLS 6374, at the Center-East-West 1/64 corner;

thence North 0°10'55" West, a distance of 21.53 feet along the West line of said Southeast Quarter of the Southeast Quarter of the Northwest Quarter to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374, the Point of Beginning;

thence South 79°57'37" East, a distance of 284.40 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 0°10'24" East, a distance of 40.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 88°39'45" East, a distance of 25.19 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 69°49'13" East, a distance of 109.71 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

Revised Parcel "S" & "Y"
Legal Description
Sec. 9, T52N, R3W

thence South 3°45'09" East, a distance of 241.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 89°08'45" West, a distance of 155.67 feet to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 4194;

thence South 0°12'38" East, a distance of 467.44 feet to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 4194;

thence South 89°30'28" West, a distance of 331.74 feet to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 4194;

thence North 0°11'38" West, a distance of 813.99 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence continuing North 0°11'38" West, a distance of 37.45 feet to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 4194;

thence North 89°18'58" East, a distance of 64.40 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 0°10'55" East, a distance of 17.01 feet along said West line of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter to the Point of Beginning, containing 7.130 Acres, more or less.

SUBJECT TO:

Any existing rights of way, easements, covenants, conditions, rights, reservations, restrictions, encumbrances or applicable subdivision, building and zoning ordinances and use regulations, of record or in view.

Exhibit "B"



MECKEL ENGINEERING & SURVEYING
7600 N. Government Way, Suite 3
Coeur d'Alene, ID 83815
Office 208-667-4638 • Fax 208-664-3347
www.meckel.com



OF

September 25, 2018

Sec. 9, T52N, R3W

BRIAN FARLEY
BOUNDARY LINE ADJUSTMENT
LEGAL DESCRIPTION
REVISED PARCEL "T"

A part of the Northeast Quarter of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter of Section 9, Township 52 North, Range 3 West, Boise Meridian, Kootenai County, Idaho; more particularly described as follows:

Commencing at the Center Quarter Section Corner (Northeast corner of said Northeast Quarter of the Southwest Quarter), monumented with an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2-1/2 inches diameter, marked PLS 6374, according to the Corner Perpetuation and Filing Record recorded as Instrument Number 1767664; from which the South Quarter Section Corner, monumented with an iron rod, 5/8 inch diameter, with a plastic cap, marked PLS 4194, according to the Corner Perpetuation and Filing Record recorded as Instrument Number 1765758, bears South 0°11'12" East, a distance of 2668.49 feet;

thence South 0°10'24" East, a distance of 190.26 feet along the East line of said Northeast Quarter of the Southwest Quarter to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374, the Point of Beginning;

thence continuing South 0°10'24" East, a distance of 155.96 feet along the East line of said Northeast Quarter of the Southwest Quarter to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 4194;

thence South 0°10'58" East, a distance of 1119.92 feet along the East line of said Northeast Quarter of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 4194;

thence North 89°05'13" West, a distance of 389.05 feet to an iron rod, 1/2 inch diameter, no cap;

thence North 0°09'51" West, a distance of 652.31 feet to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 4194;

thence North 0°12'38" West, a distance of 467.44 feet to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 4194;

Revised Parcel "T"
Legal Description
Sec. 9, T52N, R3W

thence South 89°06'45" East, a distance of 155.67 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 3°45'09" West, a distance of 241.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 69°49'13" West, a distance of 109.71 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 88°39'45" West, a distance of 25.19 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 0°10'24" West, a distance of 40.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 88°39'45" East, a distance of 31.97 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 69°49'13" East, a distance of 194.32 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence South 30°10'56" East, a distance of 124.35 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6374;

thence North 85°13'00" East, a distance of 100.42 feet to the Point of Beginning; containing 11.240 Acres, more or less.

SUBJECT TO:

Any existing rights of way, easements, covenants, conditions, rights, reservations, restrictions, encumbrances or applicable subdivision, building and zoning ordinances and use regulations, of record or in view.

EXHIBIT "D"

Parcel V

That portion of the Southwest quarter of Section 9, Township 52 North, Range 3 W.B.M. Kootenai County, State of Idaho, described as follows:

Beginning at the South quarter corner of said Section 9; thence North 89 degrees 05'18" West, along the South line of said Section 386.24 feet; thence North 00 degrees 19'00" West, 1222.05 feet; thence South 89 degrees 05'18" East, 389.00 feet to the East line of said southwest quarter; thence South 00 degrees 11'14" East, along said East line 1222.00 feet to the Point of Beginning.

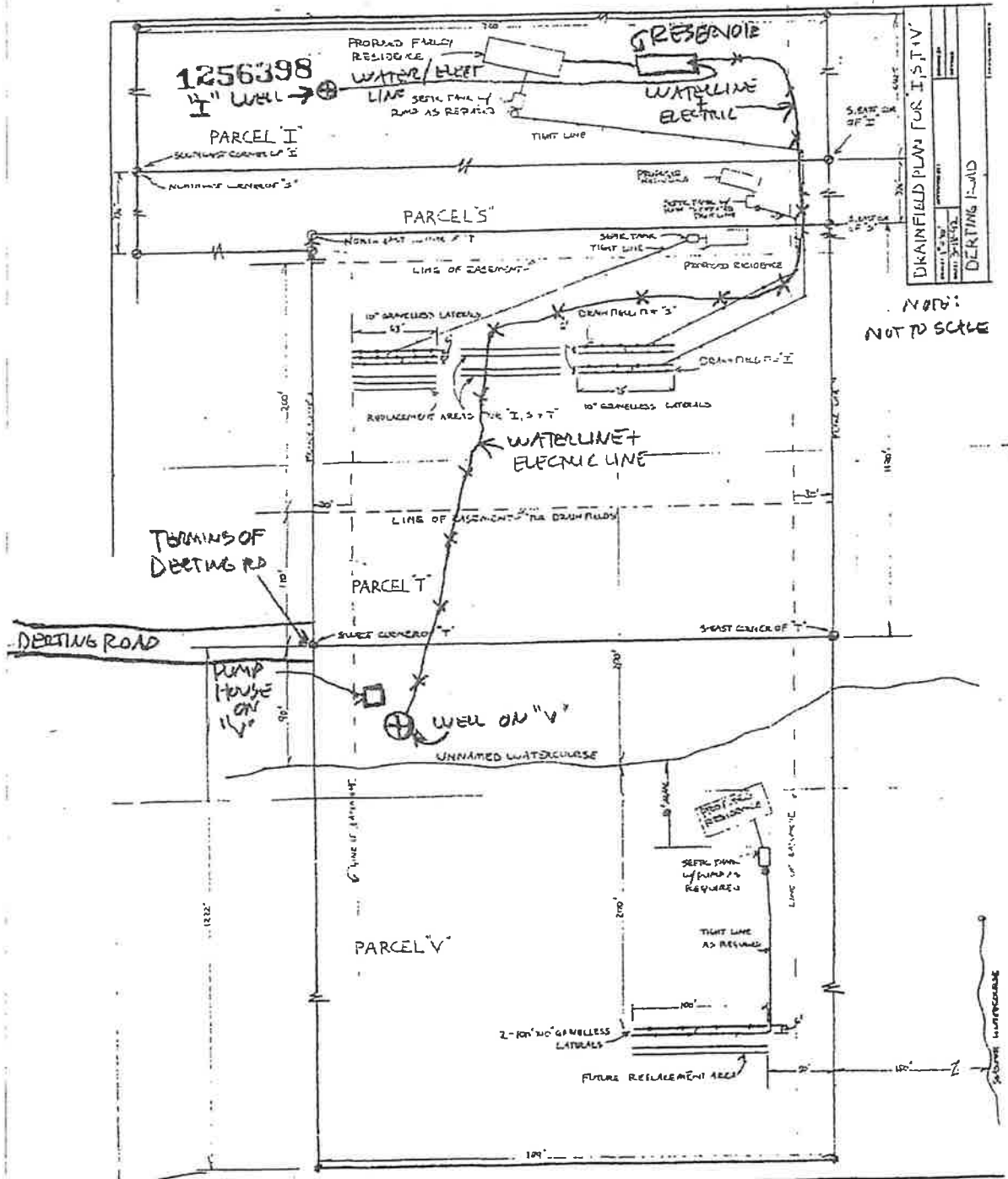


EXHIBIT "E"

1256398

DRAINFIELD PROPERTY

A rectangular portion of land being 200 feet wide and 389 feet long, being located in the Southwest 1/4 of Section 9, Township 52 North, Range 3 West of the Boise Meridian; more particularly described as follows:

Commencing at the Southeast corner of Tract "T", said corner being a 5/8" rebar with R.L.S. 4194 Plastic Cap, per Record of Survey as recorded in Book 5 at page 7, instrument number 1061512 in the recorders office, Kootenai County, Idaho, said Southeast corner also bears North 00°11'14" West, 1222.00 feet from the South 1/4, Section 9, Township 52 North, Range 3 West, Boise Meridian;

Thence North 00°11'14" West along the North-South Center Section line of said Section 9, said Section line also being the East boundary of said Tract "T" for a distance of 110.00 feet to a point, said point being the True Point of Beginning for the drainfield easement;

Thence North 89°05'18" West for a distance of 389 feet more or less to a point on the West boundary of said Tract "T",

Thence North 00°11'19" West along the West Boundary of Said Tract "T" for a distance of 200.00 Feet;

Thence South 89°05'18" East for a distance of 389 feet more or less to a point on the East boundary of Said Tract "T";

Thence South 00°11'14" East along the said North-South Center Section Line, said section Line also being the East boundary of said Tract "T" for a distance of 200 feet to the True Point of Beginning.

EXHIBIT "F"

Exhibit I

Michael S. Bissell, ISB #5762
Brandon Slaven, ISB #11483
CAMPBELL & BISSELL, PLLC
820 W. 7th Avenue
Spokane, WA 99204
Telephone: (509) 455-7100
Facsimile: (509) 455-7111
Email: mbissell@campbell-bissell.com
bslaven@campbell-bissell.com

Attorneys for Defendants

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

ARTHUR V. GIDEON AND
KATHERINE M. GIDEON, husband and
wife,

Plaintiffs,

vs.

BRIAN T. FARLEY AND PAMELA
FARLEY, husband and wife,

Defendants.

Case No. CV28-20-2706

**DECLARATION OF BRIAN T. FARLEY
IN SUPPORT OF RESPONSE IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

I, Brian Farley, hereby declare and state as follows:

1. I am over the age of 18 and state the following based upon my own personal knowledge.

2. I reside at 23134 North Derting Rd., Hayden, Idaho, 83835.

3. I am the Defendant in the above titled action.

4. I am intimately familiar with the four parcels at issue in this motion, since I owned them for approximately twenty-seven years before I sold the 23452 N. Derting Road

DECLARATION OF BRIAN T. FARLEY

parcel (Parcel I) to the Gideons in 2019. I still own the other three parcels (S, T, and V). In particular, I have extensive knowledge of the wells and water lines at issue in this case because I had the wells drilled, I personally installed all the water lines and the electrical switch wire from the cistern to the Lower Well, and I have been involved in all maintenance activities associated with the wells and water lines.

Communications with Kathy Gideon Regarding the Lower Well's Functionality

5. I typically spend two to three months each winter in the southwestern United States. I left on this trip in January 2023 and I returned to Hayden in mid-March 2023. I did not do any ground disturbing activities on my property in 2023 except as described in Paragraph 46 below.

6. From November 2022 to April 1, 2023, the Gideons had not requested that I check the functionality of the Lower Well.

7. On April 1, 2023, Kathy Gideon told me via text message that no water was flowing into our shared cistern and asked me to "take a look" at the Lower Well if I was on my property that day.

8. As has been my practice since I sold the Property to the Gideons, when I received a message regarding the Lower Well and I was in its vicinity, I visited the Lower Well to see whether and how it was functioning. I unlocked the pumphouse near the well head, checked the breaker to make sure it had not tripped, then checked the pump to see if it was running. The pump has a pump protector controller that can prevent it from turning on even when the cistern's float switch is calling for water. Around the time when I was checking on the well, Mrs. Gideon texted me that water was again flowing into the cistern.

9. On April 4, 2023, Mrs. Gideon told me via text message that no water was entering the cistern and asked me to “take a look” at the Lower Well if I was on my property that day. About three hours later, she texted again asking if I was on the property that day. She also indicated she was planning to have someone perform a service check on the Lower Well.

10. In my experience, cellular service is often inconsistent and/or unreliable in the vicinity of the property, given the terrain and its rural nature. I sometimes am out of cellular service for long stretches of time (hours or even days), and therefore may not receive text messages or be able to successfully send text messages until I am back within service range. Finally, I am often away from the property.

11. On April 5, 2023 around 7:30 am, Kathy Gideon asked via text message whether I was going to respond to her previous messages. I received this message, then saw the previous messages, and quickly responded and told her that I would check the Lower Well. I checked the well around 9:00 am and found the pump to be running. I was in the vicinity of the well again around 3:00 pm, checked the pump, and again found the pump to be running.

12. On April 6, 2023 around 7:30 am, Mrs. Gideon told me via text message that water was again flowing into the cistern. I told her via reply message that the water should have been flowing since approximately 9:00 am on April 5, and that the pump was working also around 3:00 pm on April 5. I checked the pump again that morning, found it to be running, and informed Mrs. Gideon of that fact as well.

13. In a subsequent reply message on April 6, I asked Mrs. Gideon whether water was entering the cistern at its full flow. She replied via text message that it was not full flow. I replied that something did not seem to be right and asked her to keep me apprised of the cistern’s water level.

14. Later on April 6, Mrs. Gideon texted me that no water was flowing into the cistern, and later texted me that water and air were flowing into the cistern.

15. On the morning of April 7, 2023, I checked the Lower Well and the pump was running. In the early afternoon, I checked the pump again and it was running.

16. On April 7, 2023, Mrs. Gideon texted me that water and air had been “spitting” into the cistern whenever she checked it that morning. She also suggested “there must be a hydrant open causing my line to drain and spit air.” Around noon, she texted again that water flow had stopped. I replied and told her that I have only two hydrants, neither of which had been functioning recently. I also told her that the pump was running that morning when I checked, and that it was currently running.

17. On the morning of April 8, 2023, I checked the Lower Well pump twice; the first time, it was running, the second time, it was not. Mrs. Gideon also texted me that day that the water was flowing earlier in the morning but was not around 11:30 am.

18. That afternoon, I visited the well house, checked the pump breaker and discovered that it had tripped. I reset the breaker and texted Mrs. Gideon that water should be flowing again. She replied and confirmed water was flowing.

19. On April 10, Mrs. Gideon texted me that water was not currently flowing into the cistern. I checked to see whether the pump was running and discovered the breaker had again tripped, which had by now become a pattern. I reset the breaker and told her the pump was running. She then confirmed water was flowing into the cistern.

20. On April 11 around 8:30 am, Mrs. Gideon texted me that water was not currently flowing into the cistern. Within the hour, I checked the pump, confirmed that it was running, and replied to her that the pump was running. She replied and said air and water were flowing in. I

told her there should not be any air entering into the cistern and that it sounded like a pump or waterline issue.

21. On April 12, starting at approximately 6:30 am, Kathy texted me several times to tell me that no water was flowing into the cistern. By this point, as explained below, I had determined that there would be no straightforward fix that would cause the cistern to receive full (or any) flow. Additionally, although the amended CRRs would have granted the Gideons a portion of the water from the Lower Well, they had the amended CCRs voided and now have no right to any of that water. I had been allowing them some use of the water (by my estimation, between 2,000,000 and 3,000,000 gallons of free water over four years)—and troubleshooting the flow issues—as a neighborly favor. For these reasons, I stopped responding to Mrs. Gideon’s text messages about the water flow to the cistern.

My Efforts to Investigate the Lower Well’s Functionality

22. One hydrant on my current property has not functioned since the Gideons dug it up, broke it, and capped the water line running to it while building a new leach field in spring 2021. I discovered the broken hydrant and capped water line in March 2022.

23. Note that this was the same hydrant on which Arthur Gideon had placed a lock in October 2019 after trespassing on my property, which prevented any water from reaching the trough used by my horses and mules. Arthur Gideon only removed the lock when a Kootenai County sherriff’s deputy visited the Gideons.

24. In fall of 2022, I turned off the other hydrant on my property because I was not planning to pasture horses there until summer 2023.

25. In my experience, when the Lower Well has not produced water in the past, it was usually due to a blown BW switch. Other times, leaks in the water line (particularly in later years

as those components aged) would cause a lack of flow to the cistern. In these instances, which never occurred near the well head, I would excavate the areas where water was on the surface and repair the leaks myself.

26. Based on this experience, I started by checking the water line that runs from the Lower Well to the cistern on the Gideon property. On or around April 10, 2023, I traveled the length of the water line from the Lower Well to the Gideon Property on ATV and on foot and visually inspected the soil above the line. I did not observe any water on the surface or wet soil; if there were any leaks, the soil above the leaks would be wet. I also confirmed that no water was leaking from the hydrant on Parcel T, and that water flowed from it when opened (which I did to test it) when the pump was running.

27. Also on or around April 10, I also installed a new breaker for the Lower Well pump. However, I soon discovered that the new breaker also tripped from time to time after I installed it.

28. Next, I turned my attention to the Lower Well itself. I noticed that the gasket from the aluminum well cap was laying on the ground and that the conduit for the wires to the pump was broken. I removed the bucket I keep on top of the well head and noticed that the well cap was shattered and a chunk was missing. There was also a dent in the casing. I also noted that the casing was no longer plumb (instead, it was leaning) and that gaps were visible in the bentonite seal between the casing and where the well head enters the ground, such that I could move it with just my hands.

29. With the cap off and the wires pulled up and out of the way, I looked down the hole with a flashlight. I noticed that the PVC liner, the top of which which was only four or five feet below the surface, was cracked. I could not see much below the liner.

30. I then used fish tape to further investigate the hole. The tape ran down only approximately 12 to 15 feet.

31. At this point I began to suspect that the Lower Well had collapsed.

32. To continue my investigation, I needed a downhole camera. I made several calls trying to locate this item to rent, and finally located one at a home improvement store in Spokane.

33. On April 11, I picked up the camera and also purchased another new breaker to ensure that the spare breaker I had installed was not also weak. *See* Exs. A-B. When I returned to the property, I installed the new breaker and it too did not solve the problem.

34. I ran the downhole camera into the casing, and again was not able to penetrate past 12-15 feet due to the earth I observed in the casing. I also saw the broken white PVC liner on the camera feed. However, the camera did not have video recording capabilities, so no images could be captured. In any event, it was now clear to me that the well had collapsed and caved in. Based on these observations and my experience with this and other wells, the most likely cause of the collapse was a blunt force impact to the casing, perhaps caused by a snowplow or another vehicle.

35. I knew that the well could not be salvaged. However, the pump was relatively new and I could re-use it elsewhere, and removing it should have been relatively straightforward. My 28-ton excavator was nearby but too large for this project, so I rented a "mini" 6-ton excavator. *See* Exhibit C. I excavated down to the casing's pitless adapter. I also removed the broken PVC liner. However, I was not able to raise the pump; the down hole water pipe was not galvanized iron pipe but plastic, and while pulling up in an effort to salvage my pump, the pipe broke and the pump still had not budged.

36. There has been no excavation work near the Lower Well using any equipment larger than the mini excavator mentioned above by me or anyone else since the trench for the water line was dug in 1999.

37. Neither the Lower Well's well head nor the location where I store my 28-ton excavator and crawler are visible from outside my property, in winter or any other season. They are not visible from the Gideon property because the mountain obstructs the view. They are not visible to someone standing at the point where Derting Road terminates at my gate due to vegetation or my dump truck. Furthermore, the trail cameras that I have placed between the gate and the well head area have not identified any trespassers this year.

38. When the casing became dislodged, the bentonite seal that prevents surface contaminants from entering the well was breached. The well head is just a few feet from a creek that has overflowed from its banks on several occasions over my period of ownership, and flood waters have reached and surrounded the wellhead before. Derting Road (which is approximately 100 feet from the wellhead) has also washed out during these flood events. I have had the creek's water quality tested on a number of occasions, and found it to contain harmful parasites and bacteria, including E. coli.

39. Because I had some bentonite on hand leftover from some unrelated sealing work I performed some years ago and I wanted to be absolutely sure that there would be no cross-contamination, I poured the bentonite into the now defunct well. It turned out that the amount I had was insufficient to fill the void.

40. On April 12, I drove to Spokane and purchased an additional four hundred pounds of bentonite. *See* Exhibit D. I returned to the property and used the additional bentonite to finish

filling the well void. I also used the rented mini excavator to remove the damaged casing. I returned the mini excavator to the rental yard on April 13. *See* Exhibit C.

Stock Water Issues

41. Last summer, I submitted two declarations in the separate Case No.CV28-22-4171 currently pending in this Court. I hereby reaffirm those declarations and have attached them hereto as Exhibits E-F.

42. As I mentioned above, in spring 2021, the Gideons capped my water line. As a result, I have been deprived of stockwater since that time.

43. Because I have not been able to collect stockwater, I have been forced to either purchase additional feed or truck in stockwater to the property.

44. For the past two weeks or so, Plaintiffs have engaged in work on a new drainfield directly above my water line. This activity has further damaged my water line. I took a photograph of the work and have attached it hereto as Exhibit G.

Other Issues Raised in Kathy Gideon's Declaration

45. Each spring, I re-gravel my corral areas and parking area at the creek bottom. On April 14, 2023, I had North Idaho Landscape Supplies deliver twelve "half" loads of crushed rock for this purpose. (The loads had to be "half" loads because Lakes Highway District load limits were still in place.) The loads were delivered via dump truck and then I used my crawler to spread the gravel. I did not receive any dirt deliveries in April of 2023.

46. My excavator, crawler, and my dump truck remained parked at the creek bottom during the winter of 2022-23 until April 2023 (except when I used the crawler to spread gravel at the creek bottom), while I waited for the log landing area to dry out and become accessible. Again, other than the dump truck, this equipment was not visible from outside my property at

this time. On or around June 2, 2023, I returned this equipment to the log landing area, which is approximately 200 feet (and visible) from the Gideon property, and used it for grading, not excavation. I did not do any excavation or grading near the Lower Well or near or above my water line from the Lower Well to the Gideon property from approximately October 2022 to June 2023.

47. On June 14, 2023, I felled and skidded some logs to the log landing area, which is approximately one thousand feet from the Lower Well. Before this instance, the last time I had moved any logs was January or February 2022.

48. I began excavating to build my log landing in spring 2020. None of this excavation activity impacted the Lower Well water line except one day in August 2022, when I removed the Gideons' abandoned septic tightline from the trench it shared with the water line. Because of this disturbance, I replaced approximately 200 feet of the water line near the log landing. I took special care to ensure that no soil or rocks entered the water line at this time. To my knowledge, no soil or rocks entered the water line.

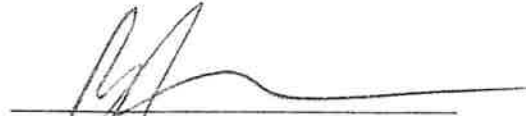
49. Additionally, no "tree greenery" entered the water line during this replacement work. Furthermore, as a general matter, yarding and processing logs do not cause golfball sized greenery to enter a water line.

50. In July 2019, the Gideons hired a man named Jodie Barden to repair the telemetry wire from the cistern to the Lower Well on both my property and the Gideon property. In the course of his work, he broke the water line from the Lower Well to the cistern. In my experience, foreign objects can and sometime do enter broken water lines. I discovered the damage in November 2019 and immediately informed the Gideons. Judging by the amount of erosion I observed on the ground surface, the line was broken at least several days before Mr. Barden

repaired it. Before Mr. Barden broke the water line, in the twenty-five years that I'd lived in the house on the Gideon property, I never observed any rocks blocking the inlet pipe.

I declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct.

DATED this 6th day of July, 2023 at Wilder, Idaho.



BRIAN T. FARLEY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of July, 2023, I caused to be served a true and correct copy of the foregoing to the following:

☐	HAND DELIVERY	<u>Counsel for Plaintiffs:</u>
☐	U.S. MAIL	Michael G. Schmidt
☐	OVERNIGHT DELIVERY	Lukins & Annis, P.S.
☐	FACSIMILE	601 E. Front Avenue, Suite 303
☒	EMAIL/iCOURT	Coeur d'Alene, ID 83814
	mschmidt@lukins.com	

/s/ Michael S. Bissell

MICHAEL S. BISSELL

Exhibit A



STORE 4714 E Spokane
5617 E Sprague Ave
Spokane Valley, WA 99212
(509)532-7406

CONTRACT #: 228109

Status: CLOSED

BRIAN FARLEY
23452 N DERTING RD
HAYDEN, ID 83835
(208) 661-1218

Rental Center Hours

MON 6A- 8P TUE 6A- 8P WED 6A- 8P THU 6A- 8P FRI 6A- 8P SAT 6A- 8P SUN 7A- 8P

RENTAL DURATION

4 Hours, 46 Minutes

90 11263 90 11776
NA 04/11/23 NA 04/11/23
4714230411073474522810975 4714230411073474522810975

BRIAN FARLEY

04/11/2023 - 10:52 AM
04/12/2023 - 10:52 AM
04/11/2023 - 3:39 PM

Item Description	Charges	Amount	
Drain Camera	Tool Rental Fee	\$237.60	Rental Subtotal \$237.60
(1) Locator For Camera (XT-512)	SubTotal	\$237.60	Sales Tax \$12.15
			Contract Total \$258.75
			Deposit - PAID 04/11/23 (MASTERCARD ending 3765) -\$500.00
			Balance Returned -\$241.25 (MASTERCARD ending 3765)
			Outstanding Balance \$100.00

RENTAL FEE CALCULATOR DISCLAIMER

Home Depot uses a Rental Calculator to insure our customers to get the lowest rates possible for the time they had the tool.

TERMS & CONDITIONS

I agree that no representative of The Home Depot is authorized to make any promise, warranty, or representation to me other than those reflected in writing in the Agreement. I agree to the Terms & Conditions and understand that the Agreement cannot be modified or changed except in writing signed by both parties. With respect to equipment I am renting, I have received the equipment referenced in the Agreement. In the event that I am returning equipment, I acknowledge and agree that I am returning the listed rental equipment, the total charges are correct, and additional charges may apply if the equipment is returned damaged.

Exhibit B



**How does
get more done.**

220 W KATHLEEN AVE CDA, ID (208)676-1441
CDA'S HOME IMPROVEMENT WAREHOUSE

1803 00061 77021 04/11/23 01:23 PM
SALE SELF CHECKOUT

047569062760 H20ACSLPBRK <A> 17.50
BREAKER HOM 20A 2-POLE
045242605262 JOBSITE OFFS <A> 18.37
MKE JOBSITE OFFSET PRECISION SW-100R

SUBTOTAL 36.80
SALES TAX 2.21
TOTAL \$39.01

XXXXXXXXXXXX3755 MASTERCARD USD\$ 39.01

AUTH CODE 022143 1614787 TA
Card Read
AID A0000000041010 CAPITAL ONE

P.O.#/JOB NAME: 000

1803 04/11/23 01:23 PM



1803 61 70021 04/11/2023 8743

RETURN POLICY DEFINITIONS
POLICY ID DAYS POLICY EXPIRES ON
A 1 90 07/10/2023

DID WE NAIL IT?

Take a short survey for a chance to win
A \$5,000 HOME DEPOT CERT CARD

Opine en español

www.homedepot.com/survey

User ID: Hd9 142134 140392
PASSWORD: 2.211 140331

Entries must be completed within 14 days
of purchase. Entrants must be 18 or
older to enter. See complete rules on
website. No purchase necessary.

Exhibit C



10833 N. Government Way
Hayden, ID 83835

INVOICE DATE
OUT 4/11/13
INVOICE DATE
IN 4/13

CUSTOMER
Brian Farley

PHONE NBR
661-1218

SALESPERSON	SHIPPED VIA	TERMS	PO#

QTY.	EQUIP. #	DESCRIPTION	#	AMOUNT
1	Cat	12,000 Ex		400
	Cat			
1	Tow	Trailer		
	Trailer			
		HOURS OUT: 4	FUEL OUT: Full	
		HOURS IN:	FUEL IN: Full	

RENTAL RATE
DAY 400
WEEK
MONTH

SUBTOTAL
TAXES - STATE
SHIPPING & HANDLING
TOTAL
SIGNATURE

500

Exhibit D

PLATE 16A, CONT'D

Exhibit E

Travis L. Thompson, ISB #6168
Michael A. Short, ISB #10554
BARKER ROSHOLT & SIMPSON LLP
163 Second Avenue West
P.O. Box 63
Twin Falls, Idaho 83303-0063
Telephone: (208) 733-0700
Facsimile: (208) 735-2444
Email: tlt@idahowaters.com
mas@idahowaters.com

Michael S. Bissell, ISB #5762
CAMPBELL & BISSELL, PLLC
820 W. 7th Avenue
Spokane, WA 99204
Telephone: (509) 455-7100
Facsimile: (509) 455-7111
Email: mbissell@campbell-bissell.com

Attorneys for Plaintiff Brian T. Farley

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

BRIAN T. FARLEY,

Plaintiff,

vs.

ARTHUR V. GIDEON and
KATHERINE M. GIDEON,

Defendants.

Case No. CV28-22-4171

DECLARATION OF BRIAN T. FARLEY

I, Brian Farley, hereby declare and state as follows:

1. I am over the age of 18 and state the following based upon my own personal knowledge.
2. I reside at 23134 North Derting Rd., Hayden, Idaho, 83835.
3. I am the Plaintiff in the above titled action.
4. In 1992 my wife, Pamela Farley, and I purchased approximately 40 acres in Kootenai, County. Relevant to this action are Parcels I, S, T and V.

DECLARATION OF BRIAN T. FARLEY

5. I installed a well system on the property that consists of an upper well, a lower well, a reservoir and a pipe system ("the well system").
6. The upper well, reservoir and various pipelines are located on Parcel I.
7. I hold a water right claim (95-16445) to the water from the lower well and that water has been delivered to Parcel S for stockwater use since 1999, except from July of 2017 to late May/early June of 2019 when the lower well was not delivering water to the reservoir. Approximately 8-10 years ago I installed the buried pipeline and hydrant on Parcel S, before that I used a hose to deliver stockwater to the property.
8. Parcel S receives water from a pipeline that crosses Parcel I to deliver water to Parcel S.
9. On June 7, 2019, I sold Parcel I of the Ridgetop Retreat Ranch Estate to Arthur V. Gideon and Katherine M. Gideon. I retained possession of Parcels S, T and V.
10. On March 3, 2022 I discovered that the Gideons directed Jody Barden, owner of North Idaho Pump Company, Inc., to dig up the pipeline that delivers water to Parcel S and cap it, thereby preventing delivery of water to Parcel S. *See* Ex. A. The invoice at page 3 references "cut and capped this line." That is the pipeline that provides stockwater to my Parcel S.
11. On March 8, 2022, the Gideons' attorney was contacted with a request from my attorney to restore the pipeline so that it will deliver water to Parcel S.
12. The Gideons' attorney has not responded to this request.
13. I am currently prevented from using the pasture on Parcel S and my livestock cannot receive any stockwater pursuant to water right claim 95-16445. The lack of water and pasture is causing me damage.

I declare under penalty of perjury under the laws of the State of Idaho that the foregoing
is true and correct.

DATED this 19th day of July, 2022.

/s/ Brian Farley
Brian Farley

Exhibit F

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Attorneys for Plaintiff Brian T. Farley

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

BRIAN T. FARLEY,

Plaintiff,

vs.

ARTHUR V. GIDEON and
KATHERINE M. GIDEON,

Defendants.

Case No. CV28-22-4171

**SECOND DECLARATION OF BRIAN T.
FARLEY**

I, Brian Farley, hereby declare and state as follows:

1. I am over the age of 18 and state the following based upon my own personal knowledge.
2. I reside at 23134 North Derting Rd., Hayden, Idaho, 83835.
3. I am the Plaintiff in the above titled action.
4. The pasture on my Parcel S is an integral part of my standard rest rotation grazing that I have practiced on several of my pastures and hayfields in the area. I brush raked and burned the brush off of Parcel S and seeded it to pasture grasses as forage for livestock over 25 years ago.

5. I also fertilize Parcel S along with all of my other pastures each year. I also spray for weeds every other year. Some years Parcel S was swathed and baled for hay for winter feeding, and then grazed after.
6. There are corrals and a haystack yard located on Parcel S. Some years I have wintered my horses and/or mules on this property.
7. As in any rest rotation grazing program, during some years some pastures, including Parcel S, are not grazed or hayed, but allowed to lie fallow. I rested Parcel S from grazing in 2021 and did not check the hydrant to see if water was available. I only discovered water was shut off in early March of this year. I was hopeful the pipeline could be restored and could be turned back on this spring. That did not happen despite repeated requests to the Defendants' counsel.
8. In order to graze any pasture, water is necessary for the livestock. When I owned all properties, including the Parcel I owned by the Gideons, there was never a time, including from 1994 to 1999, that water was not available from either the Lower Well or the Upper Well when I chose to graze Parcel S. Currently the Lower Well and use of my water right 95-16445 is my sole source of water for livestock watering on Parcel S.
9. My Parcel S pasture is not contiguous to any of my other pastures as it is isolated by Derting Road and therefore has no other source of water for my livestock.
10. My longstanding historical use of my water from the Lower Well to Parcel S began years before the Coeur d'Alene-Spokane River Basin Adjudication (CSRBA) commenced.
11. I am currently prevented from exercising my water right due to the pipe that was capped on Parcel I by the Defendants' contractor. I planned on grazing and using the pasture this summer and fall and have been prevented from doing so ever since this spring.

12. I would move livestock to Parcel S immediately if I could resume using my water because I have a need to graze that pasture.

I declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct.

DATED this 8th day of August, 2022.

/s/ Brian Farley
Brian Farley

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of August, 2022, the foregoing **SECOND DECLARATION OF BRIAN T. FARLEY** was filed electronically using the Court's e-file system.

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☐	Overnight Mail
☒	iCourt
☐	E-mail

Attorneys for Defendants

/s/ Travis L. Thompson
Travis L. Thompson

Exhibit G

