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DEPT. OF WATER RESOURCES

Travis L. Thompson, ISB #6168
Abby R. Bitzenburg, ISB #12198
MARTEN LAW LLP
163 Second Ave. West
P.O. Box 63
Twin Falls, Idaho 83303-0063
Telephone: (208) 733-0700
Facsimile: (208) 735-2444
Email: tthompson@martenlaw.com
abitzenburg@martenlaw.com

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

**SECOND DECLARATION OF TRAVIS L.
THOMPSON IN SUPPORT OF
RESPONSE IN OPPOSITION TO
CLAIMANT GIDEONS' MOTION FOR
SUMMARY JUDGMENT REGARDING
CLAIM NO. 95-18409**

I, Travis L. Thompson, hereby declare and state as follows:

1. I am duly licensed to practice law in the State of Idaho and before this Court, and I am an attorney with the firm Marten Law LLP. I am over the age of 18 and make this declaration based upon my own personal knowledge. I am an attorney representing Brian Farley ("Farley") in these consolidated subcases.
2. As discussed at the summary judgment argument on March 11, 2024, I am filing a copy of the transcript excerpts submitted to the Court and the parties. Attached hereto as **Exhibit A** is a true and correct copy of excerpts of the court reporter certified trial

transcript in *Gideon v. Farley*, Kootenai County Dist. Ct., First Jud. Dist., Case No. CV28-20-2706. The excerpts include testimony of Arthur Gideon admitting that he never sought the assistance of a water rights expert (Tr. p. 106, Ins. 1-4) and never had the Upper Well tested (Tr. p. 106, Ins. 5-7) prior to closing. The testimony also shows the Mr. Gideon was unaware of the second well (Lower Well) until he visited the property. Tr. p. 111, Ins. 11-13.

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

DATED this 12th day of March, 2024.

A handwritten signature in dark ink, appearing to read 'Travis L. Thompson', written over a horizontal line.

Travis L. Thompson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of March, 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
andy@sawtoothlaw.com

☒ U.S. Mail, postage prepaid
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Director of IDWR
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

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

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

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Travis L. Thompson

Exhibit A

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1 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
2 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
3 -oOo-

4 ARTHUR V. GIDEON and KATHERINE M. GIDEON, husband and wife,
5 Plaintiff,
6 vs. Case No. CV28-20-2706
7 BRIAN T. FARLEY and PAMELA FARLEY, husband and wife,
8 Defendant.
9

Court Trial

13 AT: Kootenai County, Coeur d'Alene, Idaho
14 ON: June 6, 2022 - June 9, 2022
15 BEFORE: Honorable Richard S. Christensen, District Judge
16 APPEARANCES:
17 For the Plaintiff: Lukins & Annis, P.S.
18 By: Michael G. Schmidt, Esq.
19 601 E Front Avenue, Suite 303
20 Coeur d'Alene, Idaho 83814
21 For the Defendant: Campbell & Bissell
22 By: Michael S. Bissell, Esq.
23 Brandon E. Slaven, Esq.
24 820 W 7th Avenue
25 Spokane, Washington 99204

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DEFENDANTS' SURREBUTTAL WITNESSES:

[None]

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1 obtain the advice of an appropriate professional such as
 2 a home inspector, engineer, surveyor," close quote.
 11:35:13 Did I read that correctly?
 11:35:14 A. That's correct.
 11:35:25 Q. You never sought the assistance of a surveyor
 6 regarding the subject property, did you?
 11:35:27 A. No, I did not.
 11:35:38 Q. Did Ms. Ellis ever tell you who the surveyor
 9 was who was performing the work for Mr. Farley?
 11:35:40 A. Say that again, please.
 11:35:41 Q. Did Ms. Ellis ever tell you the name of the
 12 surveyor that was performing the work for Mr. Farley?
 11:35:43 A. She didn't know there was a survey.
 11:35:44 MR. BISSELL: No. Move to strike, your Honor.
 15 Nonresponsive.
 11:35:46 THE COURT: Overruled. Go ahead. You can ask
 17 another question.
 11:35:48 MR. BISSELL: Q. Mr. Gideon, did Ms. Ellis
 19 ever tell you the name of the surveyor that was
 20 performing the work for Mr. Farley?
 11:35:51 A. No.
 11:35:52 Q. And prior to closing, you never sought an
 23 assistance — an expert to look into water rights
 24 associated with the property either, correct?
 11:35:55 A. I took Mr. Farley's word for it.

11:35:13 Q. Prior to closing, you never sought the
 2 assistance of an expert to look into water rights
 3 associated with the property either, correct?
 11:35:24 A. No.
 11:35:25 Q. And you never had either well tested prior to
 6 closing, correct?
 11:35:37 A. No, I didn't have it tested.
 11:35:38 Q. Please turn to Exhibit, that would be 1,
 9 please.
 11:35:40 A. Which one?
 11:35:41 Q. One.
 11:35:42 A. Just 1?
 11:35:43 Q. Yeah. It's — that's the other binder that
 14 you had. Just let me know when you have it there,
 15 Mr. Gideon, if you would.
 11:35:46 A. Okay.
 11:35:47 Q. Okay. And that — there's nothing in
 18 Exhibit 1 which we've talked about that references more
 19 than one well serving the property, correct?
 11:35:50 A. It says, "Well system."
 11:35:51 Q. Okay. There's nothing in Exhibit 1 that says
 22 there's more than one well serving the property, is
 23 there?
 11:35:54 A. No.
 11:35:55 Q. Okay. But it says, "Private system, private

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1 well," correct?
 11:36:22 A. Private well system, yes.
 11:36:23 Q. Well, look at the bottom of page — well, we
 4 can look — the easier one is to look at page 3 of
 5 Exhibit 1 where it says, "Water." Do you see that up in
 6 the upper right, the Bates number on the bottom of that
 7 page?
 11:36:58 A. Okay. Yes, it says private system well.
 11:36:59 Q. "Private system, private well," correct?
 11:36:40 A. Yes.
 11:36:41 Q. Okay. And in your deposition, you stated that
 12 the water from the home is indeed provided by a private
 13 well system, correct?
 11:37:14 A. Yes.
 11:37:15 Q. And take a look at exhibit — I think we're
 16 using Exhibit 3, if you would, please. Same binder that
 17 you have in front of you. Just a second. I got to grab
 18 mine here.
 11:37:49 Okay. And nothing in this disclosure
 20 statement Exhibit L, or Exhibit 3, indicates two wells
 21 are being sold, does it?
 11:37:22 MR. SCHMIDT: Objection. Document speaks for
 23 itself.
 11:37:24 THE COURT: I think he's allowed to cross on
 25 it. Go ahead. You can answer if you know.

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11:37:51 THE WITNESS: No.
 11:38:02 THE COURT: Mr. Bissell.
 11:38:03 MR. BISSELL: Yes, your Honor.
 11:38:04 THE COURT: If you'd just move the microphone
 5 a little further away.
 11:38:06 MR. BISSELL: Oh, sorry. I'm a little loud?
 11:38:07 THE COURT: Yeah. Okay. Thank you.
 11:38:18 MR. BISSELL: Q. Exhibit — or page 3 of
 9 Exhibit 3, Mr. Gideon, please.
 11:38:10 A. Okay.
 11:38:11 Q. Well, actually, strike that.
 11:38:12 But in any event, you did not rely on
 13 Exhibit 3 in deciding whether to purchase the property,
 14 did you? That's what you stated in your deposition.
 15 You did not rely on it; isn't that true?
 11:38:16 MR. SCHMIDT: Objection. Is he testifying
 17 about what he's stated in deposition or is he asking a
 18 question?
 11:38:19 THE COURT: Are you addressing the Court,
 20 Mr. Schmidt?
 11:38:21 MR. SCHMIDT: Yes, sorry.
 11:38:22 THE COURT: And your objection is?
 11:38:23 MR. SCHMIDT: Is that he's testifying about
 24 what he stated in his deposition.
 11:38:25 THE COURT: I think I know where you're going.

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1 You need to ask that a different way.

11:38:52 MR. BISSELL: I will, your Honor.

11:38:53 THE COURT: If you're asking him about what he

4 said in the deposition, he needs to be able -- should be

able to see the deposition.

11:38:06 MR. BISSELL: Q. Mr. Gideon, isn't it true

7 you did not rely on this Property Condition Disclosure

8 statement in deciding whether to purchase the property?

11:38:19 A. I relied on Mr. Farley.

11:38:10 Q. Right, on his verbal statements.

11:38:14 A. That's correct.

11:38:12 Q. Not on Exhibit 3.

11:38:13 A. That's correct.

11:38:14 Q. Okay. Now, you claim that during your site

15 inspection -- well, let me back up. Strike that.

11:38:16 So during your site inspection, Mr. Farley

17 told you the property was served by two wells, correct?

11:38:18 A. He said the system had two wells attached to

19 it.

11:38:20 Q. He said it was served by two systems, didn't

21 he?

11:38:22 A. I said he had said two wells attached to it.

11:38:23 MR. BISSELL: Your Honor, may I approach? I

24 got to get an exhibit marked.

11:38:25 THE COURT: You may.

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11:40:24 MR. BISSELL: Here's one for Your Honor.

11:40:32 (Defendants' Exhibit LLL marked.)

11:40:43 THE CLERK: Would that be Exhibit KK?

11:40:44 MR. BISSELL: Should be LLL, I think. Yeah.

11:40:45 Q. Mr. Gideon, you have in front of you what's

6 marked as Exhibit 27. Do you see that?

11:40:47 A. Yep.

11:40:48 Q. That's your declaration, right?

11:40:49 A. Okay.

11:40:50 MR. BISSELL: And, your Honor, this already is

11 in the record, obviously, but we still move for

12 admission of Exhibit LLL, so we have a complete record.

11:40:53 (Defendants' Exhibit LLL offered.)

11:40:54 MR. SCHMIDT: No objection.

11:40:55 MR. BISSELL: Q. Okay. Mr. Gideon --

11:40:56 THE COURT: Hold on.

11:40:57 MR. BISSELL: I'm sorry, your Honor.

11:40:58 THE COURT: I have to say it. Exhibit LLL is

19 admitted.

11:40:59 MR. BISSELL: Thank you, your Honor.

11:40:59 (Defendants' Exhibit LLL admitted.)

11:40:59 MR. BISSELL: Q. Mr. Gideon, could you turn

23 to page 6 of Exhibit 27. And we're on paragraph 26 to

24 begin with. Let me know when you're there.

11:40:59 A. Okay.

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11 42:24 Q. All right. And you see 26, it says, quote,

2 "While inspecting the property, I asked Mr. Farley about

3 the property's water sources," close quote. Correct?

11 42:34 A. Yes.

11 42:35 Q. Okay. And you responded that, quote, "In

6 response to my question, Mr. Farley represented that

7 property was served by two wells."

11 42:48 A. Okay.

11 42:49 Q. And it goes on, correct?

11 42:40 A. Correct.

11 42:41 Q. Okay. In fact, you didn't know there were two

12 wells until you visited the property, correct?

11 42:43 A. That's correct.

11 42:44 Q. Okay. And if we look at Exhibit -- I think it

15 would be 4, Exhibit 4. Should be the Purchase and Sale

16 Agreement.

11 43:17 A. Okay.

11 43:18 Q. Let me know when you have that.

11 43:19 A. I have it.

11 43:20 Q. Okay. And there's nothing in the Purchase and

21 Sale Agreement that specifically states two wells are

22 part of the transaction, is there?

11 43:23 MR. SCHMIDT: Objection. Document speaks for

24 itself.

11 43:25 THE COURT: He can cross-examine on it. Go

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1 ahead, if you know.

11 43:42 MR. BISSELL: Q. And if at the time you

3 executed Exhibit -- get confused of this. Is it three

4 or four? -- 4.

11 43:55 When you executed Exhibit 4, you hadn't seen

6 the property yet, correct?

11 44:07 A. No, I hadn't.

11 44:08 Q. Okay. You had not spoken to Mr. Farley yet?

11 44:09 A. No.

11 44:10 Q. And there's nothing in writing anywhere where

11 Mr. Farley expressly states two wells are part of this

12 transaction, is there?

11 44:13 A. Say that again.

11 44:14 Q. There is no writing by Mr. Farley that says

15 two wells are part of this transaction, are there?

11 44:16 A. Just from his realtor.

11 44:17 Q. You say there's something from his realtor

18 that says two wells are a part of this transaction?

11 44:19 A. Yes.

11 44:20 Q. Okay. Well, maybe we'll see that at some

21 point.

11 44:22 There's nothing in the Purchase and Sale

23 Agreement that says the water rights applicable to

24 parcels S and T are part of this transaction, is there?

11 44:25 MR. SCHMIDT: Objection. Calls for a legal