

RECEIVED

MAY 02 2024

DEPT. OF WATER RESOURCES

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Abby R. Bitzenburg, ISB #12198
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bbrown@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

**DECLARATION OF TRAVIS L.
THOMPSON IN SUPPORT OF MOTION
TO ALTER OR AMEND**

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. Attached hereto as **Exhibit A** is a true and correct copy of an email string between Craig Saxton (IDWR) and Special Master Booth dated March 14, 2014. I did not receive notice of this email from IDWR or the Court but only discovered it when I accessed the online CSRBA subcase summary report for water right no. 95-16445 on March 21, 2024. I

confirmed with my client Brian Farley that he was not served with this information either.

3. The emails indicated further discussions between Mr. Saxton and Special Master Booth. I am not aware of the substance of those discussion and neither my client or I have been provided any notice or information regarding the proposed changes to the water right recommendations for water rights 95-16445 and 95-18409. The email includes two new water right recommendations dated “03/14/2024.” These new recommendations were not filed pursuant to a supplemental director’s report and have not been published on the CSRBA docket sheet.
4. According to the emails, the information provided by IDWR was submitted to Special Master Booth after the summary judgment motion argument was held at the CSRBA Courthouse on March 4, 2024. My client had no notice and was not provided with an opportunity to respond to this information. Special Master Booth relied upon this new information for purposes of certain findings in the *Memorandum Decision and Order on Gideons’ Motion for Summary Judgment* and the *Special Master’s Report and Recommendation* issued on March 19, 2024.
5. Attached hereto as **Exhibit B** is a true and correct copy of a January 2, 2020 letter from Victoria Williamson (Kootenai County Assessor’s Office) to Katherine Gideon. The letter was the Plaintiff’s Exhibit 14 (Gideons) in Case No. CV28-20-2706 before Judge Christensen in the First Judicial District. The “after” map attached to the letter depicts Parcels S (tax lot #25793) and T (tax lot #25794) which comprise the single county parcel identification number 52N03W095000. The document was admitted as an exhibit

in the trial in Case No. CV28-20-2706 and was provided to me by Michael Bissell, Mr. Farley's counsel in that matter.

6. Attached hereto as **Exhibit C** is a true and correct copy of Defendant's (Farley) Trial Exhibit T. The exhibit is a copy of a survey performed to adjust the boundary lines between Parcels I and S and T. The survey shows the locations of Parcels S and T. The document was admitted as an exhibit in the trial in Case No. CV28-20-2706 and was provided to me by Michael Bissell, Mr. Farley's counsel in that matter.
7. Attached hereto as **Exhibit D** is a true and correct copy of general property information that I downloaded from the Kootenai County Assessor's office website. This information shows the parcel identification (PIN) no. 52N03W095000 for the property owned by Mr. Farley (Tax Lot #25793 and #25794).
8. Attached hereto as **Exhibit E** is a true and correct copy of general property information that I downloaded from the Kootenai County Assessor's office website. This information shows the parcel identification (PIN) no. 52N03W095300 for the property owned by Mr. Cruson and Ms. Herlin. This document shows the couple purchases the property from Mr. Farley on 6/10/22. The document also shows that the Gideons do not own this property despite the reference in Mr. Saxton's 3/14/24 email claiming that "Farley sold that parcel to Gideon on 6/10/2022." *See Exhibit A.*
9. Attached hereto as **Exhibit F** is a true and correct copy of excerpts of the trial transcript from Case No. CV28-20-2706. The document was provided to me by Michael Bissell, Mr. Farley's counsel in that matter.
10. Attached hereto as **Exhibit G** are true and correct copies of emails between Mr. Farley's counsel (William Hughbanks dated June 29, 2021; and Michael Bissell dated May 24,

2022) to the Gideons' counsel (Michael Schmidt) concerning Mr. Farley's "permissive" use of the water from the Lower Well during the pendency of the first district litigation (Case No. CV28-20-2706). Mr. Bissell provided me with copies of these emails. The case in the first district is still pending and has been stayed due to the present litigation in the CSRBA.

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

DATED this 29th day of April, 2024.


Travis L. Thompson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of April, 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

Diana Delaney

From: Ted Booth
Sent: Thursday, March 14, 2024 1:28 PM
To: Diana Delaney
Subject: FW: Updated Recommendation Reports for 95-16445 and 95-18409
Attachments: Updated DirectorReportActive_95-16445.docx; Updated DirectorReportActive_95-18409.docx

From: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>
Sent: Thursday, March 14, 2024 12:09 PM
To: Ted Booth <tbooth@idcourts.net>
Cc: Rammell-O'Brien, Lacey <Lacey.Rammell-OBrien@idwr.idaho.gov>
Subject: Updated Recommendation Reports for 95-16445 and 95-18409

Hello Ted,

Sorry for the delay. Attached are the recommendations for 95-16445 and 95-18409 that you requested. I will summarize the changes:

95-16445:

I corrected the parcel number for the Place of Use to 52N03W095000 (Parcel T).
I corrected the parcel number for the Point of Diversion to 52N03W097100 (Parcel V).

Parcel S: We spoke about if the place of use should include Parcel S (PIN 52N03W095300). I was going to include it as we discussed, but I see it is now owned by Mark Cruson. A search of the Kootenai County website shows that Farley sold that parcel to Gideon on 6/10/2022. Since parcel S wasn't included on the original claim indicating that there was historic use on parcel s, and Farley doesn't own it, I opted not to add the PIN number for Parcel S (PIN 52N03W095300) on the explanatory condition for 95-16445. However, if you feel differently, we can always add it back in.

I added a combined use limit discussed in the 706 Report:

Right Nos. 95-16445 and 95-18409 are limited to a total combined diversion rate of 0.02 cfs.

I modified the combined use condition limiting all rights to 13,000 gallons per day as discussed in the 706 report and removing the reference to "for stockwater only".

The removal of the reference to "for stockwater only" was **NOT** mentioned in the 706 report.:

The quantity of water under Right Nos. 95-16445, and 95-17752, and 95-18409 for stockwater use shall not exceed 13,000 gallons per day.

Finally, I propose removing the individual 13,000 gallon per day limit as it is redundant. This change is **NOT** mentioned in the 706 report.

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

95-18409:

I corrected the parcel number for the Place of Use to 52N03W094700.

In addition, you spoke about adding some reference to the parcel numbers in the Place of Use section on the water right instead of the Explanatory conditions. My concern with that is that parcel numbers change. I don't know how often, but it seems like keeping the PIN in the explanatory condition will allow us to still retain the information in IDWR's database, but also allows us some flexibility to update it after the PD is issued since they won't be on the face of the decree.

Let me know if you want to discuss any of this.

Thanks,

C

Craig L. Saxton
Adjudication Section Manager
322 E Front St
Boise ID 83720-0098
Craig.saxton@idwr.idaho.gov
208.287.4916



IDAHO DEPARTMENT OF
WATER RESOURCES

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 95-16445

NAME AND ADDRESS: BRIAN T FARLEY
23134 N DERTING RD
HAYDEN ID 83835-7331

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under Right Nos. 95-16445, ~~and 95-17752, and 95-18409 for~~
~~stockwater use~~ shall not exceed 13,000 gallons per day.

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

Right Nos. 95-16445 and 95-18409 are limited to a total combined diversion rate of
0.02 cfs.

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

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

Stockwater use is for 12 cattle and/or horses.

03/14/2024

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 95-18409

NAME AND ADDRESS: ARTHUR V GIDEON
23452 N DERTING RD
HAYDEN ID 83835

KATHERINE M GIDEON
23452 N DERTING RD
HAYDEN ID 83835-7883

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under right nos. 95-16445, 95-17752 and 95-18409 shall not exceed 13,000 gallons per day.

Right Nos. 95-16445 and 95-18409 are limited to a total combined diversion rate of 0.02 cfs.

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
	DOMESTIC	01/01 12/31	0.020 CFS
	STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE:
STOCKWATER in KOOTENAI County
T52N R03W S09 SENW
DOMESTIC in KOOTENAI County
T52N R03W S09 SENW

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

Point of Diversion Parcel No. 52N03W097100.
Place of Use Parcel No. ~~52N03W095000~~ 52N03W094700.

Right No. 95-16445 is also diverted through the point of diversion described above.

Stockwater use is for 12 cattle and/or horses.

Exhibit B



Rich Houser
Kootenai County Assessor

451 Government Way • P.O. Box 9000 • Coeur d'Alene, Idaho 83816-9000
(208) 446-1500 • Fax (208) 446-1501 • E-Mail: kcassr@kcgov.us

January 2, 2020

Katherine M. Gideon
23452 N. Derting Rd.,
Hayden, ID. 83835

RE: Parcel # 52N03W-09-4700 AIN 145456

Dear Ms. Gideon,

Please accept my apology for the tardiness of our work schedule – the nature of our work is not an exact science in predicting when a parcel will be worked. After visiting with you today, I went back to my work area to look for and pull your file for immediate processing. However, it seems that someone beat me to the punch! It is in process right now and the mapper working this file has graciously given me copies of before and after maps that relate to this boundary line adjustment, which I am forwarding to you.

The enclosed "after" map will reflect the new configuration of your parcel as noted above. The map will be posted at some point either next week or the week after next. We are at the mercy of the GIS department which processes our data relating to maps and how they are displayed on the web.

The mapper working on your file will be posting the data entry on this project late this afternoon or tomorrow. As we discussed during your visit, these changes will be on the 2020 roll. This means that you will receive an Assessment notice in May from our office, giving you the value of the parcel, the acreage calculated and names on the account with the new configuration. If you have questions regarding our process or want to discuss the value, please make sure to contact this office as soon as possible – you will have six weeks to review and/or dispute values from the Assessment notice mailing date in May. In December, the first bill with the new configuration will be sent to you by the Treasurer's Office.

If you have additional questions or concerns regarding any of this information, please feel free to contact our office at your convenience.

Sincerely,

Victoria M. Williamson
Land Records Division
Kootenai County Assessor's Office
(208) 446-1561



Case No. CV28-20-2706
Trial Date 6/6 - 6/10/22



Joe Johns
Chief Deputy

Betty Conces
Land Records Manager

Reba Grytness
Administrative Manager

Holly Thompson
Vehicle License Manager

Jeff Hurt
Specialized Appraisal Manager

Darin Krier
Residential Appraisal Manager



GIDEON002193

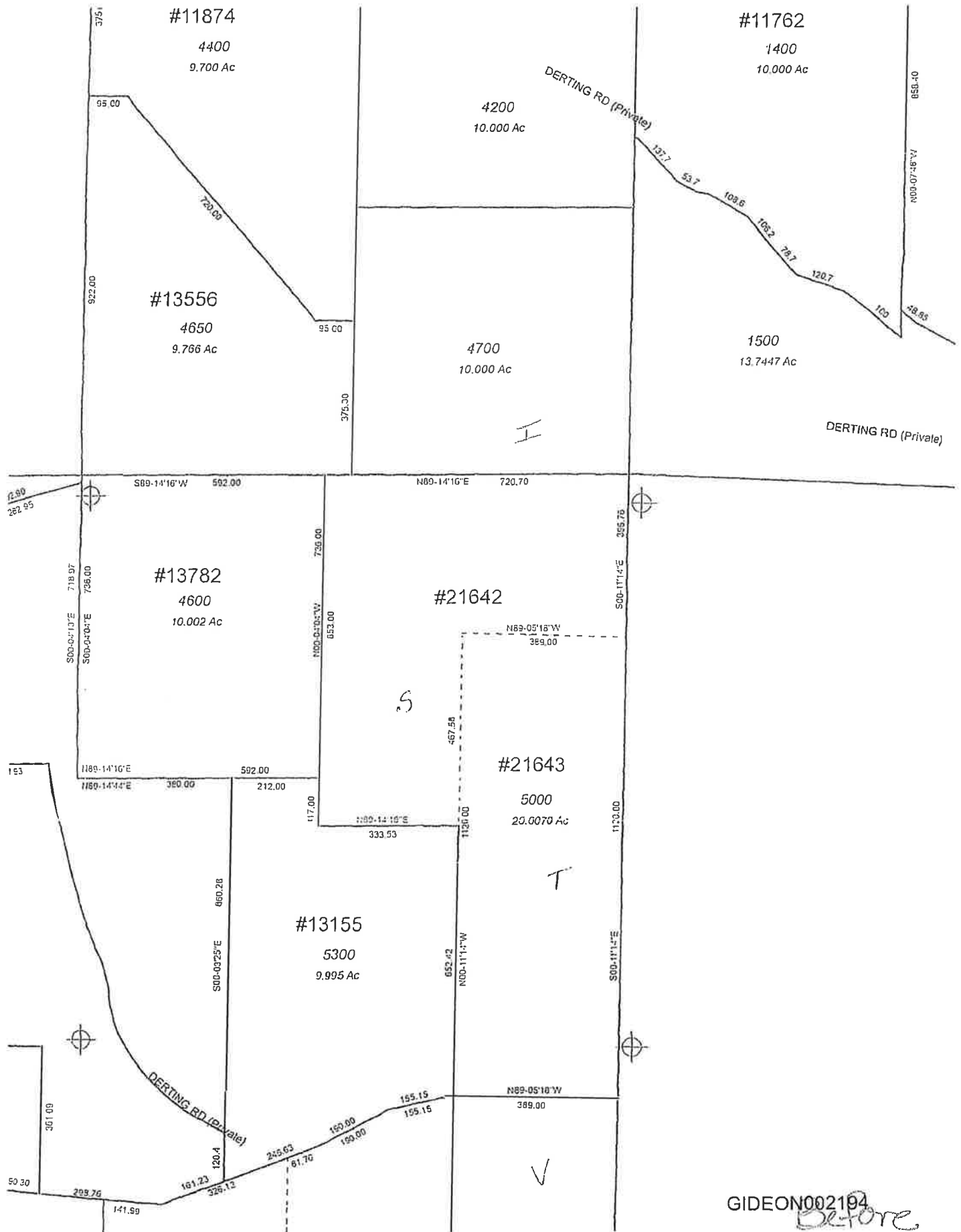


Exhibit C

Trial Exhibit T

BOOK _____ No. _____
STATE OF ILL.
COUNTY OF ROCK
AT THE REQUEST OF
MICHAEL ENGINEERING & SURVEYING
A _____ minutes past _____ o'clock _____ M
Decline _____
Jim Brennan, Clerk
By _____ Deputy
200 400
0 200
Page 8

1" = 200'

BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS ALONG THE LINE BETWEEN THE NORTHWEST CORNER OF BEARING 10° 15' 00" N. 1/4 SECTION 36, T. 36 N., R. 10 E., S. 4 E. WITH AN UNMARKED PLASTIC CAP AND THE NORTH QUARTER SECTION CORNER, UNMARKED WITH AN UNMARKED PLASTIC CAP, WITH BEARING 89° 54' 22" E. THE BEARING IS NORTH 89° 54' 22" EAST.

LEGEND

5 1/4 CORNER CORNER, UNMARKED, AS NOTED.

SECTION LOCUS, COMMENTED AS NOTED

9

10

QUARTER SECTION CORNER, COMMENTED AS NOTED

CENTER QUARTER CORNER, COMMENTED AS NOTED

• FOUND AN IRON ROD, 5/8 INCH DIAMETER, WITH A PLASTIC CAP, MARKED "PLS 4194", EXCEPT AS NOTED

a FOUND AN IRON ROD, 1/2 INCH DIAMETER, WITH A PLASTIC CUP MARKED "P5 4794"
 b FOUND AN IRON ROD, 1/2 INCH DIAMETER, NO CAP
 c SET AN IRON ROD, 30 INCHES LONG, 3/8 IN. DIAM., WITH AN ALUMINUM CAP, 2-1/2 INCHES DIAMETER, MARKED "P5 6374"
 d SET AN IRON ROD, 30 INCHES LONG, 3/8 IN. DIAM., WITH A PLASTIC CUP MARKED "P5 6374"
 e FOUND AN IRON ROD, 1/2 INCH DIAMETER, NO CAP
 f CALCULATED POINT (NOTHING FOUND OR SET)

BFD SURVEYS OF RECORDED OR PRIOR SURVEYS
OTHERS AS NOTED

PURPOSE OF SURVEY

THIS SURVEY WAS PERFORMED TO LOCATE EXISTING MONUMENTS ON PARCELS 1, 5 AND 7
AND TO MONUMENT THE CORNERS FOR BOUNDARY LINE ADJUSTMENTS BETWEEN PARCELS 1, 5
AND 7.

STATEMENTS OF RECORD & PRIOR SURVEYS

SURVEYS OF RECORD & PRIOR SURVEYS		
1) GENERAL LAW OFFICE - 24 OTHER		
1	JUNE 1915	BK 100, 101
2	JULY 1915	BK 100, 101
3	JAN 1916	BK 4, 102, 243
4	APR 1915	BK 4, 102, 243
5	APR 1915	BK 4, 102, 243
6	JAN 1916	BK 12, 102, 243
7	JAN 1916	BK 12, 102, 243
8	JAN 1916	BK 18, 102, 243
9	JAN 1916	BK 18, 102, 243
10	JAN 1916	BK 18, 102, 243
11	JAN 1916	BK 21, 102, 243
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84	JAN 1916	BK 21, 102, 243
85	JAN 1916	BK 21, 102, 243
86	JAN 1916	BK 21, 102, 243

SURVEYOR'S CERTIFICATE
I, SCOTT M. JASSO, STATEMENT LAND SURVEYOR
No. 6374 in the STATE OF MINN., DO HEREBY
CERTIFY THAT THE ABOVE DESCRIBED LAND OR
UNDER MY SUPERVISION FOR DEAN FACILE.

REC'D
REGISTERED
COUNTY CLERK
JAN 11 1915

6374

DEC. 20, P.G. 240
AUG. 2, 2009
JAN 11 1915
DEC. 17, P.G. 7

13) ROBERT STRATTON PLS 10077
14) JIM LUTHE PLS 5078
15) JAMES STRANSEN PLS 5078

C 1/4 Cor.
Long road, 30' wide.

Scott M. Rucker

SCOTT M. RUCKER FLS 6374 DATE _____

No. 1267884

A PART OF SECTION 9, T.5N., R.5W., E.4A.
QUARTER OF SECTION 9, T.5N., R.5W., E.4A.
KOOTENAI COUNTY, IDAHO

RECORD OF SURVEY
FOR THE SOUTHWEST
CORNER OF SECTION 9,
T.5N., R.5W., E.4A.

APPROVED FOR RECORDING

NOTARY PUBLIC

STATE OF IDAHO

JAN 10 1964

FARLEY 000

WORD OF SURVEY
NORTHWEST QUARTER AND THE SOUTHWEST
OF SECTION 9, T.52N., R.3W., B.M.,
QUANTLER KOOTENAI COUNTY, IDAHO

0.57

[illegible]

Fd. T.
Pwt 137.6' 83.23Y
HC=0.9/PN C-N 1/18
Cm. Cm.

M.F.I. 112K
2002 A.N. 1120

57 059

Ed. T.
Post

57 059

57 059

57 059

[illegible]

T 2
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 0.000000000000000000006617444900424219839341235439757959497833251953125
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y

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CONFIDENTIAL

[illegible]

(P&P) (42 x 110 in #1)	MATCH SHEET	DRAWN: JMH	CHECKED: SWR	DATE: 10/1/18 TIME: 08:00 AM CREW: TAB
		SHEET 1 OF 2	SEPT. 26, 2018	

5 4

8 9

SEAL CUT
24 Nov 1944
5/8 in diam.
with an irregular
fracture surface
CHAF 101

NOB 23 11 15 E
POSITION 108
CROSSING 108
10825721 101
10824142 22.5

Nov. 27 1918
A. 139651

NOTICE TO THE PUBLIC

[illegible]

12.25
2.25 (100)

SECRET
SECRET

W 1/4, Cst.
Rd. ex. time toll.
5/8 in. diam.,
20-1/2 in. deep.
9" C&P toll.
Inv. 720323

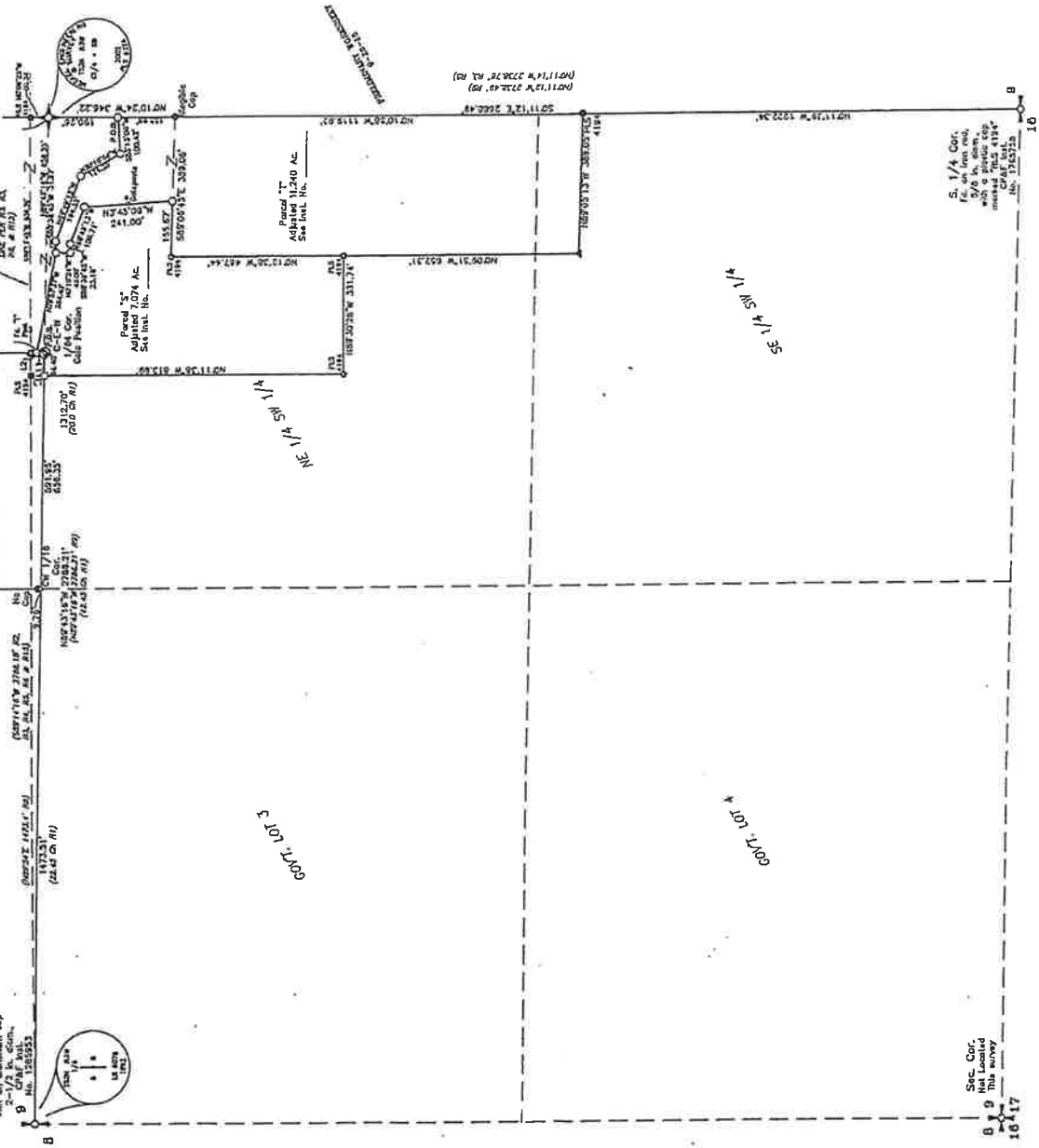
NOTE: THIS SUBJECT DOES NOT ATTEMPT TO SHOW AN OCCUPATION OF THE PROPERTY, BUT ONLY THE FACTS OF POSSESSION, ENJOYMENT, AND PAYMENT OF THE PROPERTY TAXES. THIS IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED. THE INFORMATION IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

Case No.: CV28
 et ux. v. Brian T.
 al.
 Merclaimant Exhibit
 Date: 6/6/2022

20-2706
Farley, et
bit No.: T

RECORD OF
A PART OF THE NORTHWEST
QUARTER OF SECTION 9,
KOOTENAI COUNTY

MATCH SHEET 1



Sec. Cor.
Not Located
This survey

NOTE: THIS SURVEY DOES NOT ATTEMPT TO SHOW ALL EXISTENTS OR RIGHTS-OF-WAY OF RECORD, THE SIZE OR LOCATION OF PRESCRIPTIVE EXISTENTS, TRAIL OR PHYSICAL FEATURES OF THE PROPERTY, ITEMS SUCH AS BALDWIN'S, ROADS AND FENCES IF SHOWN, ARE FOR INFORMATIONAL PURPOSES ONLY.

25	SHEET 2 OF 2	DRAWN: JWH	DATE: 08/20/18
26	SEPT. 26, 2018	CHECKED: SMP	CREW: M-178 DEG
27			DATE: 08/20/18



**MECKEL ENGINEERING
& SURVEYING**

2100 W. GERRARD BLVD. SUITE 101, SCARBOROUGH, ONTARIO M1H 2Z7, CANADA

RECORD OF SURVEY
A PART OF THE NORTHWEST QUARTER AND THE
QUARTER OF SECTION 9, T.52N. R.3W.,

TABLE 1. Continued

Exhibit D

General Information

Owner: Farley Brian T, Farley Brian
Mailing Address: 23134 N Derting Rd Hayden Id 83835
Property Address: Not Available
Neighborhood: 3040 Corbin Hill-Garwd E Of Rimrock
District (TCA): 156000

Parcel ID (PIN): 52N03W095000
Alternate ID (AIN): 109334
Property Class: 512- Rural residential tract
Deeded Acres: 18.3701

Last updated: 4/15/2024 01:53:00 AM

Legal Descriptions

Description

TAX#25793 & #25794 [E2-SW,SE-NW] 0952N03W

Net Taxable Value

Tax Year	Value
2023	\$137,511.00
2022	\$137,375.00
2021	\$71,084.00
2020	\$65,534.00
2019	\$55,785.00
2018	\$49,827.00

Value History

Year	Reason	Land Value	Improvement Value	Total Value
2023	Assessment Update	\$498,483.00	\$0.00	\$498,483.00
2022	Assessment Update	\$498,483.00	\$0.00	\$498,483.00
2021	Assessment Update	\$249,241.00	\$0.00	\$249,241.00
2020	Assessment Update	\$227,106.00	\$0.00	\$227,106.00
2019	Assessment Update	\$199,039.00	\$0.00	\$199,039.00

◀ ◻ 1 2 3 4 5 ▶ 5 items per page

1 - 5 of 23 items

Exemption History

Effective Year	Exemption Type	Percent	Total Value	Exemption Value	Net Taxable Value
No modifier data is available for this record.					

Land Details

Land Type	Acres	Total Value
Remaining Land Market Value	9.87	\$132,955
Remaining Land Market Value	7.50	\$101,028

Land Type	Acres	Total Value
Rural Land Site Value	1.00	\$264,500
Value Of Land With Timber Exemption		\$4,020
Value Of Land With Timber Exemption		

Improvements

Property Record	Improvement ID	Use Code	Description	Year Built	Length (ft.)	Width (ft.)	Area	Area Units
No improvements data present.								

Additional Commercial Info.

Property Record	Use Code	Description	Gross Square Footage
No additional commercial improvements data present.			

Permits

Filing Date	Sq Ft	Permit Description
No permits data is available.		

Sales History

Document Number	Date	Owner	Grantee	Type
2550447	6/22/16	Farley Pamela J	Farley Brian	Multiple Parcel Transfer
2078516 ADDS TRUST	1/1/07	Farley Brian T Etux	Brian And Pamela Farley Living Trust	Single Parcel Transfer
2102879	1/1/07	Brian And Pamela Farley Living Trust	Farley Brian T	Single Parcel Transfer

Exhibit E



Property Detail | Public Access



- Home
- Property Detail
- Assessments
- Maps
- Public Access
- Assessment History

General Information

Owner: Cruson Mark D, Herlin Sharon R
Mailing Address: 21502 N Derting Rd Hayden Id 83835
Property Address: 21502 N Derting Rd
Neighborhood: 3040 Corbin Hill-Garwd E Of Rimrock
District (TCA): 156000

Parcel ID (PIN): 52N03W095300
Alternate ID (AIN): 162232
Property Class: 548- NREV
Deeded Acres: 9.9950

Last updated: 3/27/2024 01:53:10 AM

Legal Description

Description

TAX #13155
09 52N 03W

Net Taxable Value

Tax Year	Value
2023	\$411,349.00
2022	\$364,625.00
2021	\$230,155.00
2020	\$189,147.00
2019	\$146,326.00
2018	\$141,533.00

Value History

Year	Reason	Land Value	Improvement Value	Total Value
2023	Assessment Update	\$308,598.00	\$227,751.00	\$536,349.00
2022	Assessment Update	\$308,598.00	\$184,948.00	\$493,546.00
2021	Assessment Update	\$168,299.00	\$123,780.00	\$292,079.00
2020	Assessment Update	\$155,226.00	\$89,250.00	\$244,476.00
2019	Assessment Update	\$116,229.00	\$81,190.00	\$197,419.00

1 2 3 4 5 5 items per page

1 - 5 of 23 items

Exemption History

Effective Year	Exemption Type	Percent	Total Value	Exemption Value	Net Taxable Value
2023	Homeowner's Exemption	100	\$536,349.00	\$125,000.00	\$411,349.00

Land Data

Land Type	Acres	Total Value
Remaining Land Market Value	9.00	\$133,598
Homesite	1.00	\$175,000

Improvements

Property Record	Improvement ID	Use Code	Description	Year Built	Length (ft.)	Width (ft.)	Area	Area Units
R01	M	MHOME	Manufactured Home	1998	66.00	27.00	1782	
R01	03	POLEBLDG	General Purpose Bldg Wood Pole Frame	2017	18.00	12.00	216	SF
R01	01	POLEBLDG	General Purpose Bldg Wood Pole Frame	2006	24.00	24.00	576	SF
R01	02	MHOOKUP	MH Site w/Util - Noncommercial	1998	n/a	n/a	n/a	

Additional Commercial Info.

Property Record	Use Code	Description	Gross Square Footage
No additional commercial improvements data present.			

Permits

Filing Date	Sq Ft	Permit Description
8/8/22	0	Roof/Siding/Wind/Mech Permit

Sales History

Document Number	Date	Owner	Grantee	Type
2903968	6/10/22	Farley Brian T	Cruson Mark D	Single Parcel Transfer
2466033	8/7/14	Brian And Pamela Farley Living Trust	Farley Brian T	Multiple Parcel Transfer
2466040	8/7/14	Farley Brian T	Farley Brian T	Multiple Parcel Transfer
2078517 ADDS TRUST	1/1/07	Farley Brian T Etux	Brian And Pamela Farley Living Trust	Single Parcel Transfer
1901166	9/16/04	Graddy, Rick Etux	Farley, Brian T Etux	Single Parcel Transfer

Exhibit F

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

4 -oOo-

5 ARTHUR V. GIDEON and KATHERINE M.
6 GIDEON, husband and wife,

7 Plaintiff,

8 vs.

9 BRIAN T. FARLEY and PAMELA FARLEY,
10 husband and wife,

11 Defendant.

Case No. CV28-20-2706

12 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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2 INDEX OF EXAMINATIONS

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6 Cross-Examination by Mr. Bissell 99
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8 Redirect Examination by Mr. Schmidt 175

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13 Cross-Examination by Mr. Bissell 272

14 JODY JAMES BARDEN
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17 PATRICIA ANN ELLIS
18 Direct Examination by Mr. Schmidt 335
19 Cross-Examination by Mr. Bissell 346
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31 Direct Examination by Mr. Schmidt 460
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7 JAMES CAROL DAY
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9 DOUGLAS ANDREW HILLER
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13 Direct Examination by Mr. Bissell 557
14 Cross-Examination by Mr. Schmidt 563

15 BRIAN FARLEY
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17 Resumed Direct Examination by Mr. Bissell 624
18 Cross-Examination by Mr. Schmidt 694
19 Redirect Examination by Mr. Bissell 726

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21 Direct Examination by Mr. Bissell 605

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23 Direct Examination by Mr. Bissell 608

24 RAMONA JEAN OLSON
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30 Direct Examination on Rebuttal by Mr. Schmidt 735

31 KATHERINE MARIE GIDEON
32 Direct Examination on Rebuttal by Mr. Schmidt 739

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34 [None]

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38 18, 19, 25, 26, 28, 29, 30, 32,
39 33, 35, 37, 39, 42, 44, 45, 46,
40 47, 53, 54, 55, 56, 59 - Admitted
41 by Stipulation

42 Exhibit 9 - Offered 35
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44 Exhibit 9 - Admitted 201

45 Exhibit 12 - Offered 41
46 Exhibit 12 - Admitted 41

47 Exhibit 13 - Offered 47
48 Exhibit 13 - Admitted 47

49 Exhibit 15 - Offered 56
50 Exhibit 15 - Offered 57
51 Exhibit 15 (Pages 1 - 3) - 57
52 Admitted

53 Exhibit 15 (Page 4) - Reoffered 58
54 Exhibit 15 - Reoffered 215
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56 Exhibit 16 - Offered 213
57 Exhibit 16 - Admitted 214

58 Exhibit 17 - Offered 63
59 Exhibit 17 - Admitted 64

60 Exhibit 20 - Offered 96
61 Exhibit 20 (Page 1) - Admitted 96

62 Exhibit 22 - Offered 97
63 Exhibit 22 - Admitted 98

64 Exhibit 24 - Offered 193
65 Exhibit 24 - Admitted 193

1 discussed this, but I just want to kind of set the
2 stage.
09:04:23 A. There.
09:04:24 Q. All right. And that's your notice of claim
5 for the water right for 16445, the lower well, correct?
09:04:36 A. Correct.
09:04:37 Q. If you look on the last page of that exhibit.
09:04:38 A. Yes.
09:04:39 Q. Is that a map you drew?
09:04:40 A. Yes, it is.
09:04:41 Q. Then on the top left there it says, "Point of
12 use," with a number ending 4700. What parcel is that
13 referring to?
09:04:54 A. That is parcel S – no, wait a minute.
09:04:55 Q. Look at Exhibit 14.
09:04:56 A. Yeah, I need the parcel numbers from you.
09:04:57 Q. Page 3 of Exhibit 14.
09:04:58 A. That's parcel I.
09:04:59 Q. Okay. And then we see the one on the right,
20 halfway down it ends in 5000. What parcel's that?
09:05:21 A. That's one parcel number for two parcels,
22 parcels S and T.
09:05:23 Q. And then at the very bottom where it says,
24 "The lower well," 7100, is that parcel V?
09:05:25 A. Parcel V, correct.

09:05:41 Q. Okay. So then you go back to the front page,
2 Exhibit 28, point of diversion – or line 4, parcel
3 7100, that's parcel V, the lower well, correct?
09:05:54 A. Correct.
09:05:55 Q. Then you go the next page, description place
6 of use, it says, "Parcel PIN numbers 4700," and that's
7 which parcel?
09:06:08 A. I.
09:06:09 Q. And then – and 5000, that's which parcel?
09:06:10 A. S and T.
09:06:11 Q. Okay. And there's no address given on line 13
12 for S and T, correct?
09:06:13 A. No, there is not.
09:06:14 Q. And why is that?
09:06:15 A. I don't believe there was one.
09:06:16 Q. You don't believe there was one. Is that what
17 you said? Just couldn't hear you.
09:06:18 A. Yeah, I don't believe there was one.
09:06:19 Q. Okay.
09:06:20 A. For either.
09:06:21 Q. And then at some point in time, did you take
22 action to change the point of use?
09:06:23 A. Yes.
09:06:24 Q. And what did you do?
09:06:25 A. On a notice of error reply form, I – that

1 goes back and forth between the IDWR and the claimant, I
2 indicated a name change and a desire to change the point
3 of use.
09:06:54 Q. And then what happened?
09:06:55 A. That was in February 2018. I subsequently
6 learned that it was not the proper method of doing that.
09:07:07 Q. So did you file an Amended Notice of Claim?
09:07:08 A. Yeah, I did it in person at the IDWR office in
9 Coeur d'Alene.
09:07:10 Q. Okay. So go to Exhibit 26, please, which I
11 believe we've also discussed.
09:07:12 A. I'm there.
09:07:13 Q. Okay. And that – is that the Amended Notice
14 of Claim for the lower well?
09:07:15 A. Yes, it is.
09:07:16 Q. And when did you file that?
09:07:17 A. In January of 2019.
09:07:18 Q. Okay. And if you'll turn to the next page,
19 place of use, number 9 it says now northeast of the
20 southwest as part of the description, correct?
09:08:21 A. Yes.
09:08:22 Q. There's no PIN number provided, right?
09:08:23 A. No, not there.
09:08:24 Q. Who filled this document out?
09:08:25 A. Kaila Savage.

09:08:01 Q. Of?
09:08:12 A. Tech for IDWR.
09:08:13 Q. Were you there?
09:08:14 A. Yes.
09:08:15 Q. Okay. Did you get a response from IDWR to
6 this Amended Notice of Claim?
09:08:27 A. Yes.
09:08:28 Q. Look at Exhibit double A, please. Let me know
9 when you're there.
09:08:40 A. There.
09:08:51 Q. Double A. And then there's a Bates number
12 526 – it's the bottom right corner, so it's about six
13 pages in. There's a number – a page of the Bates
14 number 526. Are you there?
09:09:15 A. Yes.
09:09:16 Q. Okay. And what is that document?
09:09:17 A. This is the IDWR director's recommendation to
18 the special master that my water rights are – need to
19 be decreed – are to be decreed.
09:09:20 Q. For the lower well?
09:09:21 A. And the points of use, yes.
09:09:22 MR. BISSELL: Okay. Your Honor, we'd move for
23 admission of 16445. We submitted this pursuant to a
24 902(11) notice.
09:09:25 (Defendants' Exhibit AA offered.)

11:07:49 Q. That you could cap it at any time you wanted?

2 Did you make that statement, either through yourself or

3 through your attorney at any point in time?

11:07:54 A. I don't seem to recall that.

11:08:05 Q. And there's nothing in writing stating that

6 you're going to withhold the water rights, correct? I

7 mean prior to the closing of this sale and this

8 transaction, no writing exists stating that you were not

9 going to transfer the water rights, correct?

11:08:10 A. There's –

11:08:11 Q. I'll start over.

11:08:12 A. – two sense of water rights. You need to

13 tell me which one you're talking about.

11:08:14 Q. Okay. I'm talking about the lower well and

15 all the water rights that are associated with it and the

16 right to receive water on parcel I.

11:08:17 A. There's nothing in writing?

11:08:18 Q. Yes.

11:08:19 A. Yes, there is.

11:08:20 Q. And what is it that's in writing?

11:08:21 A. That's all the documentation at the IDWR water

22 rights.

11:08:23 Q. Okay. But you didn't list anything in writing

24 in connection with the Purchase and Sale Agreement

25 saying you were going to withhold that, correct?

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1 accurate?

11:10:22 A. Yes, I think so.

11:10:33 Q. Okay. So but they never signed off on any

4 agreement or reached an agreement as to those terms,

5 correct?

11:10:36 A. They did on June 7th, yes.

11:10:47 Q. As of June 7th, it's your position that they

8 agreed to those terms in the Amended CC&Rs you recorded?

11:10:49 A. Well, I believe so, yes.

11:10:50 Q. You're thinking is that if they had decided to

11 go forward with the transaction, not actually having

12 received or reviewed them, that that constitutes their

13 agreement?

11:11:04 A. I think so, yes.

11:11:05 Q. Okay. But you're the one who chose what terms

16 to put into those Amended CC&Rs, correct?

11:11:17 A. Yes.

11:11:18 Q. You put those terms in without consulting my

19 clients, correct?

11:11:20 A. When I began that process, I had not – it was

21 a year prior to meeting your clients.

11:11:22 Q. So while you had an agreement to grant the

23 Gideons water from the lower well in connection with

24 your selling of the subject property, the specific terms

25 that you unilaterally chose for the agreement, the

703

11:09:01 A. I'm confused – no, not – no, I did not.

11:09:12 Q. There's no writing exists that says that,

3 correct?

11:09:14 A. That I provided?

11:09:15 Q. Yes.

11:09:26 A. No.

11:09:27 Q. In the Purchase and Sale Agreement. And

8 there's no other written agreement signed by the parties

9 that agrees that you get to withhold water rights,

10 correct?

11:09:29 A. I'm thinking I can't withhold water rights

12 from myself, but the answer, I guess, would be no.

11:09:33 Q. Is that correct?

11:09:34 A. Correct.

11:09:35 Q. Okay. And did you reach an agreement – you

16 allege that you talked about granting a priority

17 interest to my clients. My clients, of course, dispute

18 that. But did you reach any agreement on the terms of a

19 well share agreement with my clients prior to closing?

11:10:20 A. Yes.

11:10:21 Q. What were those terms?

11:10:22 A. The Amended CC&Rs.

11:10:23 Q. Okay. But you've testified you didn't

24 communicate those to the Gideons. You just let them

25 discover them at closing and blamed Ms. Ellis; is that

702

1 shared well agreement portion, were not agreed upon and

2 confirmed by my clients prior to closing, correct?

11:11:53 A. If I understand your question, correct.

11:12:04 I'm sorry I talked over you when you started

5 your question and I apologize for that.

11:12:06 Q. I want to talk about the hydrant that you have

7 run – or the waterline that you've run from the cistern

8 to parcel T below Derting Road, which used to be parcel

9 S. Do you know what I'm talking about?

11:12:10 A. No.

11:12:11 Q. Okay. The hydrant that a lock was put on and

12 then removed.

11:12:13 A. That's still parcel S.

11:12:14 Q. Okay. That is still parcel S, okay.

11:12:15 A. That's correct.

11:12:16 Q. Okay. So that line, the line that runs from

17 the cistern to parcel S, do we know what we're talking

18 about?

11:12:19 A. Yes.

11:12:20 Q. The one that you've brought a second lawsuit

21 against my clients on.

11:12:22 A. Yes.

11:12:23 Q. Okay. We're talking about the same one now.

11:12:24 Now, you do not have an express easement, that

25 is to say, a written easement to transport and deliver

704

Exhibit G

From: William Hughbanks <whughbanks@campbell-bissell.com>
Sent: Tuesday, June 29, 2021 1:33 PM
To: Michael G. Schmidt <mschmidt@lukins.com>
Cc: Terri L. Boyd-Davis <tboyddavis@lukins.com>; Michael Bissell <mbissell@campbell-bissell.com>
Subject: RE: Farley v. Gideon: Well issues

Mr. Schmidt,

I have passed your email along to my client. Please understand, Mr. Farley has not used any water from the Lower Well since approximately mid-May, and that was limited to approximately 300 gallons to fill the horse trough. It remains our position that the Lower Well, the associated point of use and point of diversion, are all the sole property of Mr. Farley and the Gideons no longer have a right to the water from the Lower Well since the Court's ruling on the Gideons' Motion for Partial Summary Judgment which voided the Amended CC&Rs as they pertain to Parcel I. Therefore, Mr. Farley is under no obligation to comply with your clients' demand that he stop using water from his own well.

However, Mr. Farley will agree to voluntarily abate water usage from his well until this dry spell passes with the exception that Mr. Farley periodically watering his livestock (this use is expected to be minimal). Understand, however, that Mr. Farley is only agreeing to abate his water usage from the Lower Well, and give the Gideons temporary permissive use of the vast majority of the water from the Lower Well, to be neighborly and avoid a larger dispute.

Additionally, it is becoming apparent the Gideons need an additional water source for the property. This is based on their continuing water supply issues and the fact Mr. Farley has not used any water from the Lower Well in quite some time. Indeed, Mr. Farley's use, in total, is limited to just a few hundred gallons over the past two years. Have your clients considered drilling a new well?

William M. Hughbanks
CB | LAWYERS

CAMPBELL & BISSELL | PLLC
P. 509.455.7100
F. 509.455.7111
WWW.CAMPBELL-BISSELL.COM

The information contained in this email is protected by the attorney-client or attorney work product privilege. If you are not the intended recipient of this email please notify me in a reply email and delete this message. Thank you.

From: Michael G. Schmidt <mschmidt@lukins.com>

Sent: Monday, June 28, 2021 10:18 AM

To: William Hughbanks <whughbanks@campbell-bissell.com>

Cc: Terri L. Boyd-Davis <tboyddavis@lukins.com>; Michael Bissell <mbissell@campbell-bissell.com>

Subject: Farley v. Gideon: Well issues

Warning - External Sender

This message originated outside of CB Lawyers. Use caution when opening links or attachments.

Mr. Hughbanks:

I have been advised that apparently your client is using water from the well system. The Gideons are only getting a trickle of water coming into the cistern. Please tell your client to stop using the water.

Thanks.

Michael G. Schmidt

Attorney at Law

Lukins & Annis, P.S.

601 E. Front Ave., Ste 303

Coeur d'Alene, ID 83814

Email: mschmidt@lukins.com

Phone: 208.667.0517

From: Michael G. Schmidt

Sent: Tuesday, May 24, 2022 10:01 AM

To: Michael Bissell <mbissell@campbell-bissell.com>

Cc: Brandon Slaven <bslaven@campbell-bissell.com>; Terri L. Boyd-Davis <tboyddavis@lukins.com>

Subject: RE: Lower Well

Mr. Bissell:

My clients need to have a burned-out switch (which was diagnosed yesterday) replaced today. Their contractor is trying to fit this work in between regularly-scheduled jobs because of the urgency of obtaining water.

Can you allow the Gideons' contractor to make the replacement today on that basis, i.e., he can't schedule an exact time?

Thanks.

Michael G. Schmidt

Attorney at Law

Lukins & Annis, P.S.

601 E. Front Ave., Ste 303

Coeur d'Alene, ID 83814

Email: mschmidt@lukins.com

Phone: 208.667.0517

From: Michael Bissell <mbissell@campbell-bissell.com>

Sent: Tuesday, May 24, 2022 7:48 AM

To: Michael G. Schmidt <mschmidt@lukins.com>

Cc: Brandon Slaven <bslaven@campbell-bissell.com>

Subject: Lower Well

Mr. Schmidt:

Ever since the Court voided the Amended CC&R's at your clients' request, Mr. Farley has, in an effort to avoid further inflaming matters while this dispute is litigated, permitted your clients to continue to use his water and access the pump/pumphouse. However, Mr. Gideon has abused Mr. Farley's courtesies by, among other things, simply stating when he or his agents will be at the pumphouse as opposed to asking permission, failing to close the gate, and failing to keep Mr. Farley apprised of his planned and actual actions while on the premises. Given the lack of courtesy by Mr. Gideon, he must comply with the following procedures regarding the Lower Well **beginning May 25, 2022:**

1. Ask Mr. Farley's permission to inspect/work on the Lower Well, and propose a date and time;
2. Inform Mr. Farley who will be present and, if known, the anticipated work;
3. Wait for Mr. Farley's approval before entering the Property;
4. Keep the gate closed and latched at all times while on the Property;
5. Promptly inform Mr. Farley when the work is complete and what was done; and

6. Lock the gate when leaving, and in doing so make sure the lock is connected to Mr. Farley's lock, NOT bypassing it and locking to a chain link.

Any entrance on the Lower Well Property without the prior express approval of Mr. Farley will be a trespass. Note that Mr. Farley is not going so far as to prohibit further use of the water by your clients or to outright prohibit their access to the well – he has no desire to do so while this litigation is pending. However, the lack of respect by Mr. Gideon has compelled implementation of the foregoing measures by Mr. Farley.

It is unfortunate it has come to this, but it is of your clients' own doing.

Michael S. Bissell

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Thank You!