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# Regan v. Owen Appellant's Reply Brief Dckt. 43848

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IN THE SUPREME COURT OF THE STATE OF IDAHO

Supreme Court Docket No. 43848

Case No. CV-2011-2136

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BRENT REGAN and MOURA REGAN, husband and wife,

Plaintiffs/Appellants

vs.

JEFF D. OWEN and KAREN A. OWEN, husband and wife,

Defendants/Respondents

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**APPELLANTS' REPLY BRIEF**

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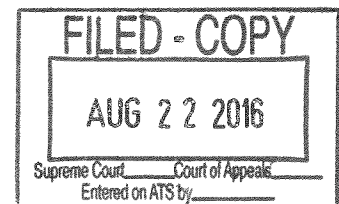
Appeal from the District Court of the First Judicial District of the State of Idaho  
In and For the County of Kootenai

Honorable John P. Luster, Senior District Judge

---

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Illustrative Exhibits A-D

Exhibit A: **MAP, Record of Survey**, Pls. Ex. 22 at p. 25 of 87, Clerk's Record of Trial Exhibits (attached pp. 1, 2, & 25).

Exhibit B: **Owens' Request for Segregation or Combination**, Ex. 3 to Aff. of Scott Poorman in Supp. of Pls. Second Mot. for Summ. Judgment (attached A.R. pp. 411-412, 404-405 with Sup. Ct. Order Granting in Part and Denying in Part Appellant's Second Motion to Augment the Record (Docket No. 40848-2013).

Exhibit C: **MAP, Kootenai Co. Parcel Map Showing Consolidation**, Ex. F to Suppl. Aff. of Scott Poorman in Supp. of Pls. Mot. for Preliminary Inj. and Contempt.

Exhibit D: **Kootenai Co. Tax Record for Tax No. 23482** (Orphan, plus Owen Parcel (12/12/13).

## APPELLANT REGANS' REPLY BRIEF ARGUMENT

Pursuant to Idaho Appellate Rule 35(g), Regan herewith supplies this Court with Exhibits A, B, C, and D to this Reply Brief labeled to identify the physical location of the real property discussed herein and other matters. Also, citations appearing in indented paragraphs are superfluous, thus are omitted from the Table of Cases and Authorities above.

1) **Whether the trial court erred in not considering Idaho Code section 55-603 when it ruled to dismiss Regans' prescriptive easement claim with prejudice.**

Respondents Owen would like this Court to don blinders and agree that the District Court should ignore all law that the attorneys do not bring before it, and thus that Idaho Code section 63-1009 should be the only law the District Court or this Court considers, when Owen claims Idaho Code section 55-603 should be ignored in this case. Resp. Br. at 29. Even if a District Court as a matter of judicial policy is advised to wear blinders to Idaho law obviously applicable in a case, certainly this Court should not advocate or follow such practice. "Appellate judges should defer to findings of fact based upon substantial evidence, but they ought to review freely the conclusions of law reached by stating legal rules or principles and applying them to the facts found." *Staggie v. Idaho Falls Consol. Hospitals, Inc.*, 110 Idaho 349, 351, 715 P.2d 1019, 1021 (Ct.App.1986); see, e.g., *City of Burley v. McCaslin Lumber Co.*, 107 Idaho 906, 693 P.2d 1108 (Ct.App.1984); *Posey v. Ford Motor Credit Co.*, 141 Idaho 477, 480, 111 P.3d 162, 165 (Ct.App.2005) ("The analysis of the parties and the district court was flawed, however, because the common law rule is not applicable here. Rather, the lease transaction was subject to [ ] the Uniform Commercial Code"). Here, similarly, Idaho Code section 55-603 should not be ignored.

In addition to ignoring the law of easements in Idaho Code section 55-603, Owen claims "[Idaho] C[ode section] 63-1009 controls over I[daho] C[ode section] 55-603 because it is a more specific and recent statute." Resp. Br. at 30. While true that Idaho Code section 63-1009 was first

enacted in 1996, that date only presents itself as the purported date of enactment if one ignores all of its earlier iterations in the statutes as cited in the cases. *Smith v. City of Nampa*, 57 Idaho 736, 68 P.2d 344 (1937) (citing I.C. § 61-1032 dated 1932); *Andrews v. North Side Canal Co.*, 52 Idaho 117, 12 P.2d 263 (1932) (citing C.S. § 3263 dated 1921, and C.S. § 3423 dated 1929).

Finally, Owens reach their core contention on this issue in the second paragraph at the bottom of its Brief on page 30: the “long-standing and foundational rule of statutory construction that when two statutes conflict, the more specific [Idaho Code section 63-1009] controls over the more general [Idaho Code section 55-603] statute.” Resp. Br. at 30. Owens claims Idaho Code section 63-1009 “created a specific exemption to the general rule in Idaho Code section 55-603.” Owens Br. at 31. However, the Title 63 statute does not create the specific exemption in its plain language, but can only be interpreted as being more specific if it utilizes the dicta from the 1929 case of *Hunt v. Bremer* expanding the definition of an encumbrance. Id. at 31; see *Hunt v. Bremer*, 47 Idaho 490, 276 P. 964 (1929). Without the dicta, Idaho Code section 63-1009 makes no specific exception.

Interestingly, Owen claims Idaho Code section 63-1009 “simply created an exception to the general rule” of Idaho Code section 55-603, however what Owen really means to say is that the tax deed statute completely eradicates the effect of Idaho Code section 55-603 when a tax collector issues a deed. Owen provides no answers -- in fact, does not even address the question why a delinquent taxpayer would have included in their seized property a vested real property interest that rightfully belongs to a dominant estate next door when the seized land is deeded to the county for back taxes. Owen argues that the legislature enacted Idaho Code section 63-1009 to give a County free reign to unconstitutionally take vested property rights belonging to third parties, and Owen argues this without qualms -- *or answers* about the clear and unmistakable constitutional

violation Owens' interpretation requires. "An exception to the general rule" indeed. Owens Br. at 32.

Regan disagrees the legislature has any such power to violate constitutional rights.

2) **Whether the trial court erred in assuming the Tax Deed for the orphan parcel was valid, even though the Tax Deed did not meet the legal description requirements for tax deeds under Idaho Code section 63-1006(6)(c).**

The District Court committed a fundamental error when it assumed the tax deed for the orphan parcel was valid. Owen claims validity of the deed was never challenged, and thus this Court "should not consider the issue on appeal." Owen Br. at 32. However, this Court has the power to reverse fundamental error under certain conditions met here:

Idaho decisional law, however, has long allowed appellate courts to consider a claim of error to which no objection was made below if the issue presented rises to the level of fundamental error. See *State v. Field*, 144 Idaho 559, 571, 165 P.3d 273, 285 (2007); *State v. Haggard*, 94 Idaho 249, 251, 486 P.2d 260, 262 (1971). In *State v. Perry*, 150 Idaho 209, 245 P.3d 961 (2010), the Idaho Supreme Court abandoned the definitions it had previously utilized to describe what may constitute fundamental error. The *Perry* Court held that an appellate court should reverse an unobjected-to error when the defendant persuades the court that the alleged error: (1) violates one or more of the defendant's unwaived constitutional rights; (2) is clear or obvious without the need for reference to any additional information not contained in the appellate record; and (3) affected the outcome of the trial proceedings. *Id.* at 226, 245 P.3d at 978.

*State v. Neyhart*, No. 42923 (Ct.App. Jun. 8, 2016).

In this case, addressing the first *Neyhart* element, the fundamental error of the District Court was in assuming the validity of the tax deed when it determined Regan's vested easement right could be taken by that tax deed, which was a violation of Regan's unwaived constitutional right to due process pursuant to the Fifth and 14th Amendments to the U.S. Constitution, and his constitutional right to enjoy just compensation for the taking pursuant to the Fifth Amendment of the U.S. Constitution. U.S. Const. Am. V; XIV.



Addressing the second *Neyhart* element, a simple reading of the legal description in the tax deed shows that it violates the stated requirements of Idaho Code section 63-1006(6)(c) without the need for reference to any additional information whatsoever. A.R. 622-623.

Finally, addressing the third *Neyhart* element, this fundamental error of the District Court in assuming the validity of the tax deed affected the outcome of the trial proceedings, because if the deed is invalid, then it would be void and Regan's easement would not be unconstitutionally taken by it. Even though *Neyhart* is a criminal case, and this is a civil case, Regan finds no citation to authority showing a hierarchy of constitutional rights mandates a civil constitutional right is or should be less fundamental to liberty in the eyes of this Court than a criminal constitutional right.

Regan believes a constitutional right is a constitutional right. When a court below makes an assumption which fundamental error results in the unconstitutional destruction of a vested right to real property, then this Court not only has the power to reverse it, but should do so.

Owen then argues that the tax deed at issue shows the "tax assessor's number immediately below the Exhibit "A," and identifies it as Parcel Number 50N03W-27-7160." Owens Br. at 32. This is not true. The tax deed states, "Bill #220140," which is not a tax number. A.R. at 623 (Ex. B. to Weeks' Aff. in Supp. Of Def's. 2nd Mot. for Summ. J.).

Instead of focusing on the actual requirements of Idaho Code section 63-1006(6)(c), Owens cite to earlier case law that does not involve that statute - notably pre-1996 case law. Owens Br. at 33; citing *Meneice v. The Blackstone Mining Co., Ltd.*, 22 Idaho 451, 120 P.2d 450 (1942); *Kelson v. Drainage Dist. No. 10 of Boundary Co.*, 77 Idaho 320, 291 P.2d 867, 869 (1955). The pre-1996 cases do not address the tax deed statute at issue here and should be ignored by the Court. The reason the *Meneice* and *Kelson* cases do not apply is because they were pre-1996, when Idaho code section 63-1006(6)(c) was passed requiring new specificity to legal descriptions used in tax deeds.

In the *Meneice* case, this Court stated:

It should be further remembered that the acquisition of a tax title by the county or state is a purely ex parte, unilateral proceeding in rem and requires more particularity of description than is required in a contract for sale or deed or other bilateral contract or agreement. *Wilson v. Jarron*, 23 Idaho 563, 568, 131 P. 12; *Norrie v. Fleming*, supra; *Miller v. Williams*, 135 Cal. 183, 67 P. 788; *Mallman v. Kneeben*, 11 Cal.App.2d 484, 54 P.2d 46, 47.

This court has consistently held, through a series of opinions, that a valid tax title may not be based on an assessment and tax deed containing an insufficient description to enable one to examine the record and there to acquire sufficient data to enable him to locate the land taxed. *Booth v. Cooper*, 22 Idaho 451, 126 P. 776; *Wilson v. Jarron*, supra; *Cahoon v. Seger*, 31 Idaho 101, 111, 168 P. 441; *Dickerson v. Hansen*, 32 Idaho 18, 22, 177 P. 760; *Hedrick v. Lee*, supra; *Western Loan & Bldg. Co. v. Bandel*, 57 Idaho 101, 63 P.2d 159; *Stickel v. Carter*, 63 Idaho 78, 117 P.2d 477; see also *Burton v. Hoover*, 93 Utah 498, 74 P.2d 652; *Van Cise v. Carter*, 9 S.D. 234, 68 N.W. 539; *Grand Forks County v. Fredericks*, 16 N.D. 118, 112 N.W. 839.)

*Meneice v. The Blackstone Mining Company, Ltd.*, 63 Idaho 413, 417-18, 121 P.2d 450, 454-55 (1942). In 1942, a person could “examine the record and there [ ] acquire sufficient data to enable him to locate the land taxed.”

However, today the statutes require more specificity: “[a]n accurate description of the property using a township, range, section and division of section, together with a statement as to acreage, or in the appropriate case, using block and lot numbers or as described in a city plat; and if appropriate, include the tax number.” I.C. § 63-1006(6)(c). The Owen Tax Deed includes none of those descriptors. A.R. 624-25.

Owens’ cited *Kelson* case gave the result Regan prays this Court finds here, which is that the case be “remanded with directions to the trial court to enter conclusions and decree holding the county's assessment and notice voidable for insufficient description, and that the county acquired no title to the property by reason thereof, and enjoining any tax sale based thereon.” *Kelson v. Drainage Dist. No. 10 Boundary Co.*, 77 Idaho 320, 325, 291 P.2d 867, 872 (1955); see *Cahoon*

*v. Seger*, 31 Idaho 101, 168 P. 441 (1917) (“the tax deed in question operated to convey no title whatever.”) Because the Owen tax deed does not comply with Idaho Code section 63-1006(6)(c) in any respect, this Court should find the earlier cases do not apply, because the statute today requires specificity not required in those earlier cases.

3) **Whether the trial court erred in dismissing Regans’ prescriptive easement claim, because appellants were denied due process by the Kootenai County Board of Commissioners when it did not provide Regans notice of the pending issuance of the Tax Deed for the orphan parcel.**

Next, Owens brief tries to persuade this Court to jettison Regan’s rights to due process, because it was only raised in “a statement made in passing.” Owens Br. at 33. In doing so, Owen hopes this Court will let the District Court off the hook for blatantly ignoring evidence in the pleadings of a violation of Regan’s constitutional due process rights. In addition, Owens would like this Court to sweep the issue aside in this appeal, as if constitutional rights to due process should not be rigorously ferreted out and upheld by this Court. Owens arguments are frivolous.

Owens then tries to persuade this Court that Regan’s must prove a negative, where Reagan’s “provide this court with no citation to evidence in the record to support their claim they did not receive notice of the tax sale.” Id.

In the *Wylie* case, this Court noted it held previously that:

. . . notice by publication is sufficient only where an interested party is not ‘reasonably identifiable;’ for example, where a person is missing or unknown, or after a reasonable and diligent search, no address could be found for a missing person. *Giacobbi v. Hall*, 109 Idaho 293, 297, 707 P.2d 404, 408 (1985), relying on *Mennonite* and *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed.2d 865 (1950). The import of the decisions in *Mennonite* and *Giacobbi* is that where the interested party is reasonably identifiable, such as through a publicly recorded instrument, notice solely by publication is not sufficient to meet due process requirements.

*Wylie v. Patton*, 111 Idaho 61, 66, 720 P.2d 649, 654 (Ct.App.1986); citing *Giacobbi v. Hall*, 109 Idaho 293, 297, 707 P.2d 404, 408 (1985).

In this case, even though the legal description was insufficient to make the tax deed conveyance valid pursuant to Idaho Code section 63-1006(6)(c), Kootenai County could have used the grantees' address information in the deeds referenced in it to give notice to surrounding landowners of the pending tax sale. Kootenai County did not make that effort, and its publication was insufficient to give Regan notice of the tax sale.

4) **Whether the trial court erred when it determined the definition of “absolute title” to the servient estate orphan parcel did not include such servient status for Regans’ dominant estate appurtenant and vested rights to the prescriptive easement claimed but unadjudicated by that court.**

Owen argues that “absolute title is synonymous and Idaho case law with fee simple or fee simple absolute title in real property.” Owens Br. at 21. However, Owens leave unaddressed the issue of why upon a tax deed foreclosure the county would enjoy greater rights than a common lender like Bank of America or Wells Fargo when foreclosing the real property held as security for its debt. If absolute title is synonymous with fee simple title, then a private conveyance of fee simple title that leaves third-party vested easement rights in those third parties should be synonymous with the result of a tax deed where a fee simple title is taken from the delinquent taxpayer to secure taxes then due. Owen does not discuss the difference. There is none.

After that, Owens unreasonably attempts to argue that the District Court's use of dicta from the 1929 *Hunt* case should make this Court's interpretation of Idaho Code section 67-1009 clear. In short, that the 1929 open-ended definition of an encumbrance is the proper way to interpret an allegedly unambiguous statute that Owens earlier argues was only passed in 1996! Owens accomplishes this leap of logic using an entire page to argue Idaho Code section 63-1009 is

unambiguous, which means the language on its face requires no further interpretation. Owens Br. at 25. However, if the language is unambiguous, why retreat to 80-year-old case law?

However, *and more importantly*, Owens completely leaves unaddressed the issue of why the conveyance of absolute title in the tax deed, which title is purported to be synonymous with fee simple title gave Kootenai County the ability to seize more property than the delinquent taxpayer actually owned. Owen argues a tax deed carries the power to take property the delinquent taxpayer does not own, to wit, the vested easement rights of Regan. Owens Br. at 22. This Court should not approve such instability in the law, unless it wants to sit as a legislature and craft notice provisions so that every dominant easement owner in Idaho gets notice of the pending issuance of tax deeds. Such an absurd violation of the separation of powers is a path to avoid.

Owen's case turns frivolous when that respondent states when interpreting Idaho Code section 63-1009 this "Court must give effect to unambiguous statutory language without further engaging in statutory construction." Owens Br. at 25. If that statute was unambiguous regarding the definition of the term "encumbrance," why would this Court have to reach back to 1929 and use dicta to give its 2014 guidance to the District Court? *Regan v. Jeff D.*, 339 P.3d 1162, 1169 (2014). The statute is certainly ambiguous when the Court has to refer to case law over 80 years old and finds no constitutional violation in the taking resulting from its guidance. Certainly there is ambiguous statutory language in Idaho Code section 63-1009, and Owens is arguing frivolously in stating there is not. Owens Br. at 25.

Finally, and unargued previously, the 1929 *Hunt* case was an "action to foreclose [a voluntary, private party] contract for sale of real estate." *Hunt v. Bremer*, 47 Idaho 490, 491, 276 P. 964, 965 (1929). It was a case regarding the covenant against encumbrances in that voluntary private contract, wherein the vendor promised to provide "a good and sufficient deed with title free and clear of encumbrances." *Hunt*, 47 Idaho at 492, 276 P. at 966. Owen does not account for

differences between a voluntary, private party contract and an involuntary public party tax deed seizure. This Court should find the 1929 *Hunt* case and its dicta inapplicable to a tax deed seizure.

5) **Whether the trial court erred in not determining whether Owens' December 17, 2010 combining of their two parcels effectively served as a relocation by that servient estate owner of the existing northern thirty-foot wide easement roadway pursuant to Idaho Code section 55-313.**

Owen's response brief conflates the reformation of the Owens deed, which was properly overturned by this Court, with the argument presented by Regan. Owens Br. at 39. Regan's argument is that when Owen consolidated his parcels in 2010, that he moved the location of the express 30-foot easement physically on the ground, by moving the northern boundary of his deed with the consolidation. See attached Reply Brief Ex. B. This issue was raised in the Supplemental Affidavit of Scott Poorman in Support of Regan's Motion for Preliminary Injunction and Contempt filed December 7, 2011. A.R. pp. 269-274, ¶ 5, Ex. F; see attached Reply Brief Ex. C. Mr. Poorman's Exhibit F shows the "Z" indicating a consolidated parcel at the very top of that Exhibit, where Owens' square parcel designated tax number 14159 on its northern border shows the consolidation. Id. The Segregation Revisions on the left side of that Exhibit F map show that on December 17, 2010 the orphan parcel number "50N03W-27-7160 was combined with [Owens' main] parcel number 50N03W-34-3600." Id.

Regan's argument here is that because he enjoys a 30-foot express easement across the top of Owens' parcel (however that parcel is described) and Owen consolidated his parcel in December 2010 that Owen effectively accomplished a servient estate Idaho Code section 55-313 alteration of the location of the easement. See attached Reply Brief Exs. B, C, & D. The District Court bypassed this issue completely.

Here, Owen was “the person or persons owning or controlling the private lands [and had] the right at their own expense to change such access to any other part of the private lands, but such change must be made in such a manner as not to obstruct motor vehicle travel, or to otherwise injure any person or persons using or interested in such access.” I.C. § 55-313. Notably, the statute does not require Owen to crank up his bulldozer and move a physical road or easement on the ground, but only to “change such access to any other part of the private lands,” which he did by consolidating his parcels. *Id.* Further, it was also done in a way “not to obstruct motor vehicle travel, or to otherwise injure any person or persons [such as Regan] using or interested in such access.” *Id.* In fact, Owen used the existing road on the orphan parcel for the new location of Regan’s easement. *Id.* In doing so, Owen moved the motor vehicle access, which was “less than a public dedication.” *Id.*

Owen’s Brief alleges in its conclusion “Reagan’s constructed a road in the location [of the 30-foot express easement] after receiving a summary judgment that [Reagan’s] express easement was in that location.” Owens’ Br. at 40. However, Regan only cleared a path in that space prior to receiving the injunction to use the orphan parcel roadway until this litigation was settled. A.R. 186, 190-91. There is certainly no usable road there, and Regan continues to be stymied as to why Owen would want a roadway closer to his residence rather than further north on the orphan parcel.

Regan’s argument is not about the overturned reformation of the deed by the Court.

6) **Whether if the previous question regarding relocation by the servient estate owner is answered in the affirmative, then whether paragraphs one and three in the December 17, 2010 judgment must be vacated and remanded to the trial court to determine and then restate the true location of the thirty-foot express easement to confirm whether Instrument No. 1137747 controls said easement’s location.**

Regan prays this Court agrees Owen moved his easement by consolidating the orphan parcel with his main parcel, and that this Court remand to confirm Owens' relocation.

7) **Prayer and Argument for Award of Regans' Attorney's Fees and Costs.**

Owens' Response Brief does not argue against Regan's claims for an award of costs. Owens Br. at 39-40. Therefore, pursuant to Idaho Appellate Rule 40(a) this Court may "as a matter of course" award Regans' their costs, and Regans pray it does make that award. I.A.R. 40(a).

Owens' claim their "defense in this appeal is not frivolous." Owens Br. at 40. However, Regan has shown in this Reply Brief where Owens defense is frivolous, but since "proceedings at the trial level are [in]complete," this Court may choose to leave this issue until the full resolution of the case at a later date. *Steel Farms, Inc. v. Croft & Reed, Inc.*, 297 P.3d 222, 232, 154 Idaho 259, 269 (Idaho 2012); citing I.R.C.P. 54(d)(1). Regan prays this Court makes Regans an award of attorney's fees and costs in a proportion it deems reflects a proper allocation.

## CONCLUSION

The trial court judgment that Regans' prescriptive easement over the Orphan Parcel was extinguished by the Tax Deed conveyance to Kootenai County was in error, because its decision failed to account for Idaho Code section 55-603 and the resulting unconstitutional taking. The decision did not consider the validity of the tax deed itself. Nor did it consider the constitutional due process issues created by the lack of notice to Regans before the issuance of the tax deed. The trial court decision did not reflect an accurate interpretation of the phrase "absolute title" in Idaho Code section 63-1009. Also, the decision did not consider the impact of Owens' combination of the Owen Parcel with the Orphan Parcel in 2010, or the effect it had on the location of the Regans' easement pursuant to Idaho Code section 55-313. Finally, Regans should be awarded costs and attorney's fees, the latter at a later date.



Respectfully submitted this 19<sup>th</sup> day of August, 2016.



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### CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 19<sup>th</sup> day of August, 2016, I caused to be served two true and correct copies of the foregoing APPELLANTS' REPLY BRIEF by Certified U.S.

MAIL with postage prepaid addressed to:

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Arthur B. Macomber  
Attorney for Appellants Regan

# RECORD OF SURVEY

PORTION OF SE 1/4 SW 1/4 SECTION 27  
TOWNSHIP 50 NORTH, RANGE 3 WEST, BOISE MERIDIAN  
KOOTENAI COUNTY, IDAHO

Book 26 Page 405  
COUNTY RECORDER

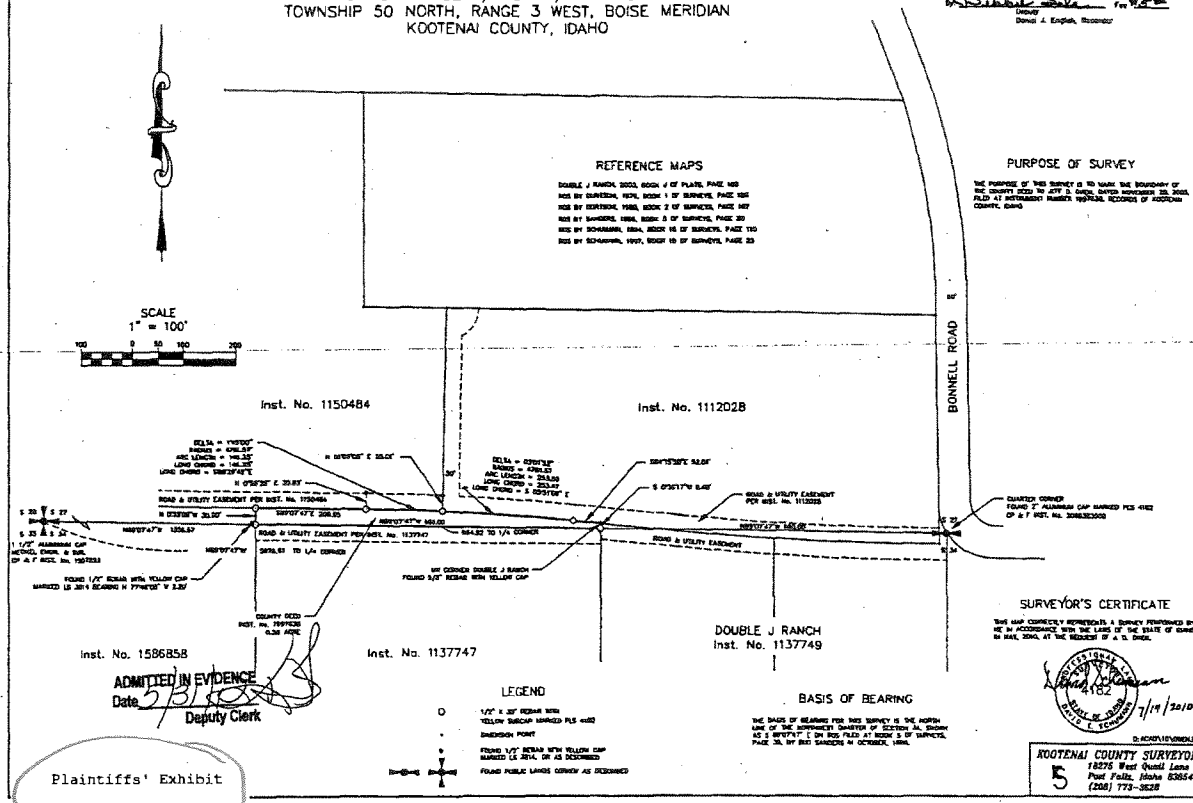
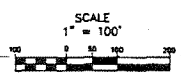
This map was filed for record in the Kootenai County Recorder's Office at the request of David Kottmann this 15th day of May, 2012, at 10:30 AM. It contains 4 pages of information, the 1st, 2nd, 3rd and 4th pages of which are the 1st, 2nd, 3rd and 4th pages of Survey. The 4th page of Survey is the 4th page of the 1st, 2nd, 3rd and 4th pages of Survey. David J. English, Recorder

### REFERENCE MAPS

DOUBLE J RANCH, 1902, BOOK 4 OF PLATS, PAGE 182  
182 BY BARNES, 1901, BOOK 1 OF SURVEYS, PAGE 182  
182 BY BARNES, 1901, BOOK 2 OF SURVEYS, PAGE 182  
182 BY BARNES, 1901, BOOK 3 OF SURVEYS, PAGE 20  
182 BY BARNES, 1901, BOOK 4 OF SURVEYS, PAGE 20

### PURPOSE OF SURVEY

THE PURPOSE OF THIS SURVEY IS TO MARK THE BOUNDARY OF THE QUARTER CORNER FOUND BY ALABAMA CAP MARKED PER 402 OF A F INST. NO. 308383000



### SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY PERFORMED BY ME IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO IN 1901, 1902, AT THE REQUEST OF A. J. ENGLISH.

*David J. English*  
7/19/2010  
DAVID J. ENGLISH  
KOOTENAI COUNTY SURVEYORS

KOOTENAI COUNTY SURVEYORS  
18276 West Grand Lane  
Post Falls, Idaho 83854  
(208) 773-8228

ADMITTED IN EVIDENCE  
Date *5/21/12*  
Deputy Clerk

- #### LEGEND
- 1/2" x 2" REBAR WITH YELLOW SUBCAP MARKED PER 402
  - BOUNDARY POINT
  - ✱ FOUND 1/2" REBAR WITH YELLOW CAP MARKED PER 402, OR AS DESCRIBED
  - ⊕ FOUND PUBLIC LANDS CORNER AS DESCRIBED

### BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 27, BOOK 4 OF SURVEYS, FILED IN 1901 AT BOOK 3 OF SURVEYS, PAGE 20, BY BARNES IN OCTOBER, 1901.

Plaintiffs' Exhibit

22  
CV 11-2136

STATE OF IDAHO  
 COUNTY OF KOOTENAI  
 MAY 18 2012  
 DEPUTY CLERK  
 DEPT. OF COUNTY CLERK  
 100 N. 1ST ST.  
 POST FALLS, IDAHO 83854  
 (208) 773-8228

*Ex. A (p. 1 of 3)*

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

Brent Regan and Moura Regan, husband and wife,	)	
	)	Supreme Court Case No.
	)	40848-2013
Plaintiffs-Counterdefendants-	)	
Respondents,	)	District Court
VS.	)	Case No. CV 2011-2136
	)	
Jeff D. Owen and Karen A. Owen, husband and wife,	)	
	)	
	)	
Defendants-Counterclaimants-	)	
Appellants	)	
	)	
	)	
	)	

**CLERK'S CERTIFICATE OF EXHIBITS**

I, Clifford T. Hayes, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court of Appeals.

I further certify that the following documents will be submitted as exhibits to the Record:

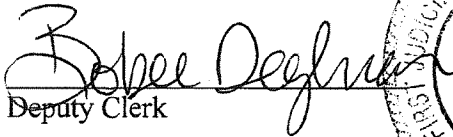
1. Plaintiff's Exhibits: 1 - Photo- Filed 5/31/12  
2, 4, 10, 11, 12, 13, 14, 15 - Photo  
15 - Warranty Deed  
16 - Photo  
17 - Warranty Deed  
17, 18, 19 - Photo  
20- Tax Deed  
21- County Deed  
22- Record of Survey  
25 - Building Permit  
37 - Tax Paper  
47, 51, 57, 58 - Photo

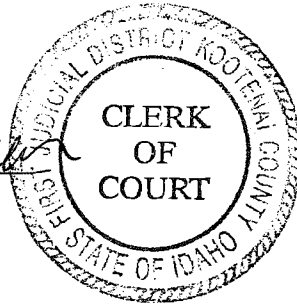
Ex. A (p. 2 of 3)

2. Defendant's Exhibits: I - Real Estate Contract Filed 5/31/12  
L - Property Survey  
M - Record Survey  
KK, LL, MM, NN, PP, QQ, RR - Photo  
TT - Letter  
YY - Letter  
ZZ - Photo  
AAA- Property Map  
BBB, CCC, DDD, EEE, GGG, HHH, III, JJJ, KKK, LLL,  
MMM, NNN, OOO - Photo

In witness whereof, I have hereunto set my hand and affixed the seal of said Court at Kootenai  
County, Idaho this 17 day of April, 2013.

Clifford T. Hayes  
Clerk of the District Court

  
Deputy Clerk



503W27.\*  
503W34.\*

12-9

**REQUEST FOR SEGREGATION OR COMBINATION AS-51**

The owner is responsible for checking with the city/county Planning and Building Departments regarding applicable zoning and subdivision regulations for both combining and splitting land parcels. Any action taken through the Assessor's Office does not constitute permit approval for other city/county departments.

I, Jeff & Karen Owen (owner), hereby request the following parcel(s) be SEGREGATED / COMBINED

For assessment purposes beginning the Assessment Year: 2011 (please circle action requested)

PARCEL: 50N03W-27-7160 SERIAL: 220140

PARCEL: 50N03W-34-3600 SERIAL: 172650  
(attach additional pages if needed)

For segregations, please list the separate legal descriptions below, or attach individual instrument # with description references as applicable. If there are buildings or other improvements assessed to the current parcel, please indicate on which descriptions (new parcels) the buildings or improvements are located:

Combine p# 27-7160 into p# 34-3600 - see Instr. # 2294085 for correct vesting

Please read the following information carefully regarding the combining of parcels for assessment purposes and acknowledge by initialing the applicable statement(s) and signing and dating below.

Initial: KO It is my intent to combine multiple assessment notices and tax bills into a single assessment notice and tax bill, and I understand that this action will not affect the valuation basis for my property.

Initial: \_\_\_\_\_ It is my intent to combine a buildable parcel of land with other non-buildable parcel(s) of land for both valuation and assessment notice and tax billing purposes into a single assessment notice. I have attached a "determination of non-buildability" for each applicable parcel, from the appropriate City or County Planning or Building Department, or the Panhandle Health District.

**NON-SUBDIVIDED PARCELS**

Initial: \_\_\_\_\_ It is my intent to combine multiple buildable parcels of land into a single buildable parcel for both valuation and assessment notice/tax billing purposes. I have attached a copy of a recorded deed that describes the new boundary of the single buildable parcel with added language expressing the grantors intent to merge and consolidate said parcels into a single parcel for all purposes. (Please ask for example Quitclaim Deed)

**SUBDIVIDED PARCELS**

Initial: \_\_\_\_\_ Combining multiple buildable lots into a single buildable parcel for valuation purposes requires documentation from the appropriate City or County Planning Department stating that the combined lots constitute a single buildable parcel.

**ATTENTION**

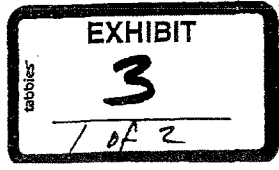
Initial: KO I understand that for any parcels to be combined into one assessment notice/tax bill, current years' taxes must be paid in full. This includes any delinquencies and 2<sup>nd</sup> half payments still owing. Non-payment of taxes will result in denial of this application for combination.

Signature: Karen Owen Date: 12-9-10 Daytime Phone: 208-660-7650

**ASSESSOR'S OFFICE USE ONLY:**

Taxes Delinquent:  NO  YES for assessment years: 2010 in full INIT: V. Miller

Comments: See attached receipt copy



Ex. B (p. 1 of 8)

page 1 of 2

*Paid in  
Full*  
Kootenai

Cashier: HMJ Location: HMJ  
Session: HMJ-12092010-0 Date: 12/9/2010

Payment Receipt: U10,4027  
Real Property \$26.94  
Bill Number: 149141  
Bill Year: 2010  
PIN: 50N09A77160  
Owner: OWEN, JEFF D  
Prop Desc: SE-SW EX TAX#S

Tendered Information:  
Amount Due: \$26.94  
Cash \$26.94  
Total Tendered: \$26.94

By Whom Paid:  
OWEN, JEFF D  
3239 S BONNELL RD  
COEUR D'ALENE ID 83814

Thank you

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS.

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE  
COPY OF THE RECORD ON FILE IN THE KOOTENAI  
COUNTY ASSESSOR'S OFFICE.

5-21-2012 BY B. T. WENBULL  
DATE DEPUTY

Ex. B (p. 2 of 8)

2012 AUG 14 PM 4:39

CLERK DISTRICT COURT

DEPUTY

Scott L. Poorman, ISB #4701  
 SCOTT L. POORMAN, P.C.  
 8884 North Government Way, Suite E  
 Post Office Box 2871  
 Hayden, ID 83835  
 Telephone: (208) 772-6800  
 Facsimile: (208) 772-6811

Attorney for plaintiffs

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

BRENT REGAN and MOURA REGAN,  
 husband and wife,

Plaintiffs,

v.

JEFF D. OWEN and KAREN A. OWEN,  
 husband and wife,

Defendants.

Case No. CV 11-2136

**Affidavit of Scott L. Poorman in  
 Support of Plaintiffs' Second  
 Motion for Summary Judgment**

STATE OF IDAHO )  
 ) ss.  
 County of Kootenai )

SCOTT L. POORMAN, being first duly sworn under oath, testifies as follows:

1. I am the attorney for the plaintiffs in this case. I am over the age of 18 years, I make this affidavit voluntarily and I have personal knowledge of the facts set forth in this Affidavit.
2. Attached hereto as **Exhibit 1** is a certified copy of Kootenai County Instrument No. 1486932 recorded on April 18, 1997.

Affidavit of Scott L. Poorman in Support of Plaintiffs' Second Motion for Summary Judgment

Page - 1

**Ex. B (p. 3 of 8)**

3. Attached hereto as **Exhibit 2** is a certified copy of Kootenai County Instrument No. 2294085000 recorded on December 9, 2010.

4. Attached hereto as **Exhibit 3** is a certified copy of a **Request for Segregation or Combination** filed by Jeff and Karen Owen with the Kootenai County Assessor's office on or about December 9, 2010.


5. Attached hereto as **Exhibit 4** is a certified copy of a Record of Survey recorded in Book 1 of Surveys, Page 132, records of Kootenai County, Idaho.

6. Attached hereto as **Exhibit 5** is a true and correct copy of the defendants' title insurance commitment dated January 17, 2003.

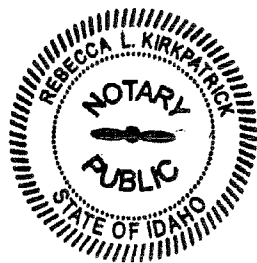
7. Attached hereto as **Exhibit 6** is a true and correct copy of the defendants' title insurance policy dated June 5, 2003.

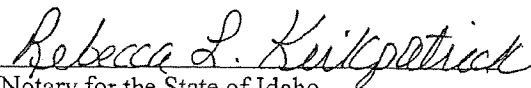
8. Attached hereto as **Exhibit 7** is a certified copy of the Kootenai County Assessor's records related to the "orphan" parcel number 50N03W-27-7160.

DATED this 14 day of August 2012.

  
Scott L. Poorman, attorney for plaintiffs

SUBSCRIBED AND SWORN to before me this 14 day of August, 2012.



  
Notary for the State of Idaho  
Commission Expires: 3.20.18





- and Contempt, file-stamped October 27, 2011;
10. Affidavit of Scott Poorman in Support of Plaintiffs' Motion for Preliminary Injunction and Contempt, with attachments, file-stamped October 27, 2011;
  11. Affidavit of Brent Regan in Support of motion for Preliminary Injunction and Contempt, with attachments, file-stamped October 27, 2013;
  12. Motion for Enlargement of Time to File Objection to Preliminary Injunction, file-stamped November 3, 2011;
  13. Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction, file-stamped November 4, 2011;
  14. Affidavit of Jeff D. Owen in Response to Plaintiffs' Motion for Preliminary Injunction, with attachments, file-stamped November 4, 2011;
  15. Affidavit of Karen Owen in Response to Plaintiffs' Motion for Preliminary Injunction, file-stamped November 4, 2011;
  16. Affidavit of Weeks in Response to Plaintiffs' Motion for Preliminary Injunction, with attachments, file-stamped November 4, 2011;
  17. Supplemental Affidavit of Scott Poorman in Support of Plaintiffs' Motion for Preliminary Injunction and Contempt, with attachments, file-stamped December 7, 2011;
  18. Supplemental Affidavit of Brent Regan in Support of Motion for Preliminary Injunction and Contempt, with attachments, file-stamped December 7, 2011;
  19. Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction and Contempt, file-stamped December 7, 2011;
  20. Affidavit of Bruce Anderson, Kootenai County Surveyor, with attachments, file-stamped December 8, 2011;
  21. Notice of Election to Cross Examine the Adverse Party's Affiants, file-stamped December 13, 2011;
  22. Defendants' Motion for Leave to Amend Pleadings to Add a Counterclaim for Trespass, with attachment, file-stamped March 16, 2012;
  23. Defendants' Motion for Relief from Uniform Pretrial Order, file-stamped March 16, 2012;
  24. Defendants' Motion for Summary Judgment, file-stamped March 28, 2012;
  25. Defendants' Memorandum in Support of Motion for Summary Judgment, file-stamped March 28, 2012;
  26. Affidavit of Weeks in Support of Defendants' Motion for Summary Judgment, with attachments, file-stamped March 28, 2012;
  27. Affidavit of David Johnson in Support of Plaintiffs' Motion for Summary Judgment, file-stamped March 28, 2012;
  28. Motion in Limine to Preclude Witnesses from Testifying, file-stamped May 14, 2012;
  29. Affidavit of Weeks in Support of Motion in Limine to Preclude Witnesses from Testifying, with attachments, file-stamped May 14, 2012;
  30. Affidavit of Scott Poorman in Support of Plaintiffs' Objection to Defendants' Motion in Limine, file-stamped May 16, 2012;
  31. Plaintiffs' Motion for Relief from Pre-trial Order to Serve Supplemental Discovery and Motion to Shorten Time, file-stamped May 16, 2012;
  32. Plaintiffs' Objection to Defendants' Motion in Limine, file-stamped May 16, 2012;
  33. Reply Memorandum in Support of Motion in Limine to Preclude Witnesses from Testifying, with attachment, file-stamped May 22, 2012;

ORDER GRANTING IN PART AND DENYING IN PART APPELLANTS' SECOND MOTION  
TO AUGMENT THE RECORD – Docket No. 40848-2013

Ex. B (p. 6 of 8)

Reply Brief  
Ex. C

Reply Brief  
Ex. B

34. Notice of Election to Cross Examine the Adverse Party's Affiants and to Produce Testimony, file-stamped May 30, 2012;
35. Order on Motions, file-stamped June 20, 2012;
36. Affidavit of Scott L. Poorman in Support of Plaintiffs' Second Motion for Summary Judgment, with attachments, file-stamped August 14, 2012;
37. Affidavit of Harold D. Smart in Support of Plaintiffs' Motion for Summary Judgment, with attachments, file-stamped August 14, 2012;
38. Affidavit of Thomas R. Collins in Support of Plaintiffs' Motion for Summary Judgment, with attachments, file-stamped August 14, 2012;
39. Affidavit of David English in Support of Plaintiffs' Motion for Summary Judgment, with attachments, file-stamped August 14, 2012;
40. Brief in Support of Plaintiffs' Second Motion for Summary Judgment, file-stamped August 14, 2012;
41. Plaintiffs' Second Motion for Summary Judgment and Notice of Hearing, file-stamped August 14, 2012;
42. Defendants' Motion for Leave to Amend Affirmative Defenses, file-stamped August 16, 2012;
43. Defendants' Memorandum in Opposition to Plaintiffs' Second Motion for Summary Judgment, file-stamped August 30, 2012;
44. Affidavit of Weeks in Response to Plaintiffs' Second Motion for Summary Judgment, with attachments, file-stamped August 30, 2012;
45. Affidavit of Jeff D. Owen in Support of Defendants' Second Motion for Summary Judgment, file-stamped September 4, 2012;
46. Affidavit of Susan P. Weeks in Support of Defendants' Second Motion for Summary Judgment, with attachments, file-stamped September 4, 2012;
47. Memorandum in Support of Defendants' Second Motion for Summary Judgment, file-stamped September 4, 2012;
48. Defendants' Second Motion for Summary Judgment, file-stamped September 5, 2012;
49. Plaintiffs' Brief in Opposition to Defendants' Second Motion for Summary Judgment, file-stamped September 18, 2012;
50. Affidavit of Harvey Richman in Opposition to Defendants' Second Summary Judgment Motion, with attachments, file-stamped September 18, 2012;
51. Affidavit of Brent Regan in Opposition to Defendants' Second Summary Judgment Motion, with attachments, file-stamped September 18, 2012;
52. Affidavit of Ben Tarbutton in Opposition to Defendants' Second Summary Judgment Motion, with attachment, file-stamped September 18, 2012;
53. Affidavit of Scott Poorman in Opposition to Defendants' Second Summary Judgment Motion, with attachments, file-stamped September 18, 2012;
54. Motion for Enlargement of Time to File Defendants' Reply in Support of Second Motion for Summary Judgment, file-stamped September 25, 2012;
55. Reply Memorandum in Support of Defendants' Second Motion for Summary Judgment, file-stamped September 27, 2012;
56. Stipulation for Dismissal of Contempt Claims, file-stamped January 22, 2013; and
57. Order Dismissing Motions for Contempt and Releasing Cash Deposit, file-stamped February 7, 2013.


Ex. B (p. 7 of 8)

IT FURTHER IS ORDERED that APPELLANTS' SECOND MOTION TO AUGMENT THE RECORD be, and hereby is, **DENIED** in part, without prejudice, as to the documents listed below as they do not bear the file stamp of the district court as required by IAR 30(a).

1. Plaintiffs' Objection to Defendants' Motion for Relief from Pretrial Order, dated March 26, 2012; and
2. Plaintiffs' Reply Brief in Support of Plaintiffs' Second Motion for Summary Judgment, dated September 6, 2012.

DATED this 8<sup>th</sup> day of October, 2013.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record

STATE OF IDAHO  
COUNTY OF KOOTENAI } ss  
FILED:

2011 DEC -7 PM 2: 51

CLERK DISTRICT COURT

DEPUTY

Scott L. Poorman, ISB #4701  
SCOTT L. POORMAN, P.C.  
8884 North Government Way, Suite E  
Post Office Box 2871  
Hayden, ID 83835  
Telephone: (208) 772-6800  
Facsimile: (208) 772-6811

Attorney for plaintiffs

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

BRENT REGAN and MOURA REGAN,  
husband and wife,

Plaintiffs,

v.

JEFF D. OWEN and KAREN A. OWEN,  
husband and wife,

Defendants.

Case No. CV 11-2136

**Supplemental Affidavit of Scott  
Poorman in Support of Plaintiffs'  
Motion for Preliminary  
Injunction and Contempt**

STATE OF IDAHO )  
) ss.  
County of Kootenai )

SCOTT L. POORMAN, being first duly sworn under oath, testifies as follows:

1. I am the attorney of record for the above-named plaintiffs. I make this affidavit voluntarily and I am competent to testify to the facts stated herein based upon my personal knowledge.
2. Attached hereto as **Exhibit "C"** is a certified copy of the Property Survey recorded on June 26, 1979 in Book 1 of Surveys, Page 186, records of Kootenai County, Idaho

Supplemental Affidavit of Scott L. Poorman in Support of Plaintiffs' Motion for Preliminary Injunction and Contempt  
Page - 1

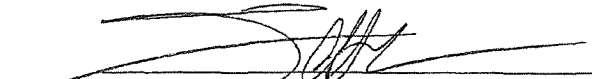
Ex. C (p 1 of 6)

3. Attached hereto as **Exhibit "D"** is a certified copy of the Record of Survey recorded on October 27, 1986 in Book 5 of Surveys, Page 30, records of Kootenai County, Idaho.

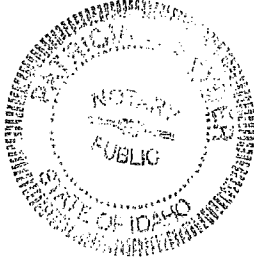
4. Attached hereto as **Exhibit "E"** is a certified copy of the Record of Survey recorded on June 25, 1997 in Book 19 of Surveys, Page 23, records of Kootenai County, Idaho.


5. Attached hereto as **Exhibit "F"** is a true and correct copy of the current Kootenai county Assessor's Map for Section 34, Township 50 North, Range 3 West, Boise Meridian, and showing the combination of the OWEN Parcel and the orphan parcel.

DATED this 7 day of December, 2011.

  
Scott L. Poorman, attorney for plaintiffs

SUBSCRIBED AND SWORN to before me this 7<sup>th</sup> day of December, 2011.



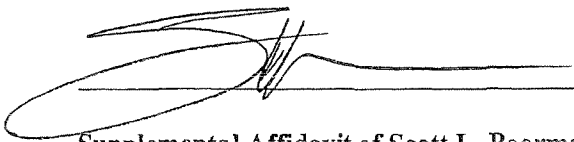
  
Notary for the State of Idaho  
Commission Expires: 21 JULY 2014

**Certificate of Delivery**

I hereby certify that on the 7 day of December, 2011, a true and accurate copy of the foregoing **Supplemental Affidavit of Scott L. Poorman in Support of Plaintiffs' Motion for Preliminary Injunction and Contempt** was delivered as follows:

- U.S. mail postage paid
- fax transmission
- hand delivery

Susan P. Weeks  
James, Vernon & Weeks, PA  
1626 Lincoln Way  
Coeur d'Alene, ID 83814-2971  
Fax: 664-1648



Supplemental Affidavit of Scott L. Poorman in Support of Plaintiffs' Motion for Preliminary Injunction and Contempt

Page - 2

Ex. C (p. 2 of 6)

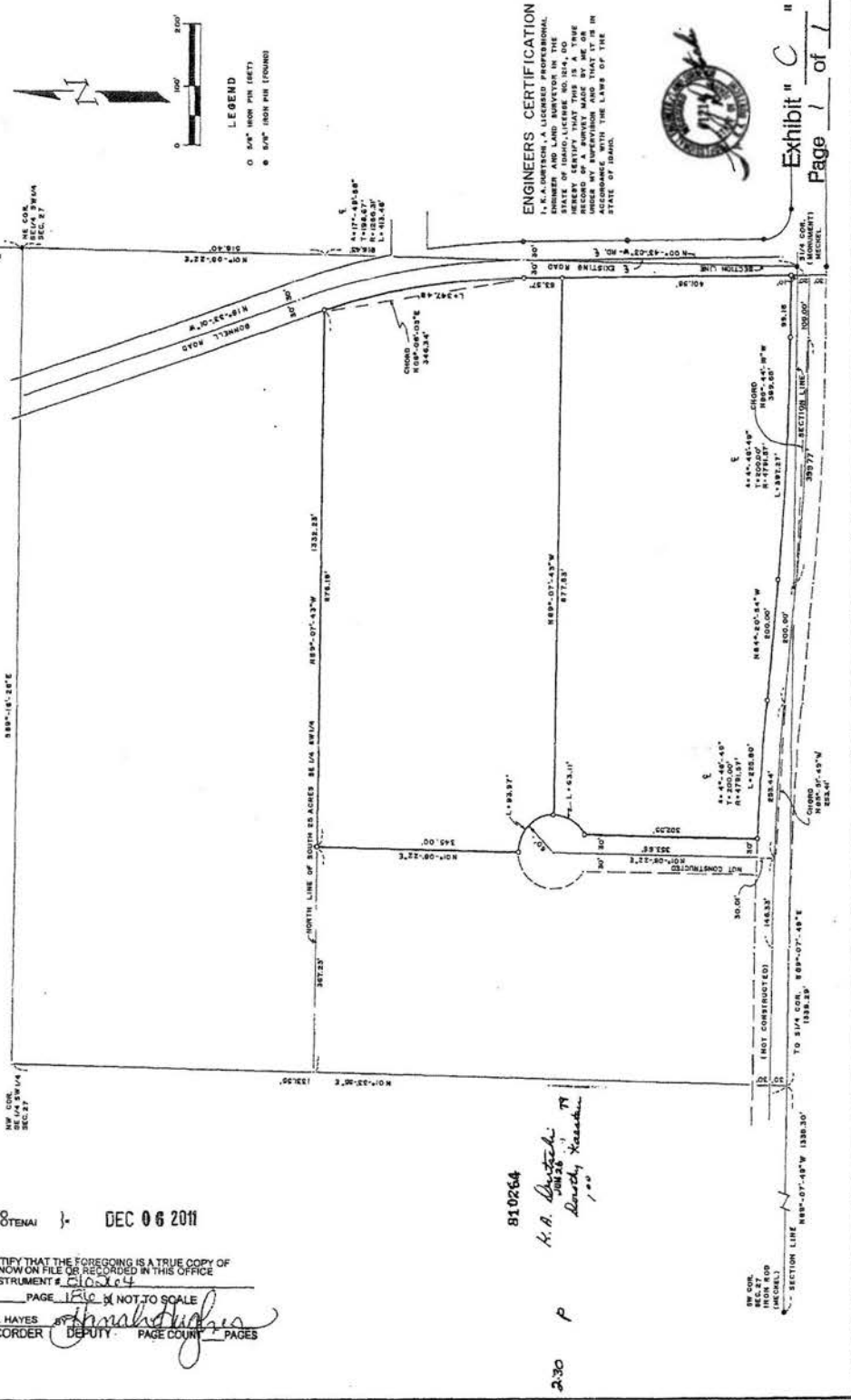
Back Page 186

# PROPERTY SURVEY

A PORTION OF THE SE 1/4 SW 1/4 SECTION 27, T50N, R3W B.M.  
KOOTENAI COUNTY, IDAHO  
OWNER: BAR-ACH, INC.  
SCALE: 1" = 100'

STATE OF IDAHO  
COUNTY OF KOOTENAI  
DEC 06 2011

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE COPY OF  
THE ORIGINAL NOW ON FILE OR RECORDED IN THIS OFFICE  
MAKEMADE / INSTRUMENT # 510264  
BOOK PAGE 186 NOT TO SCALE  
CLIFFORD T. HAYES  
CLERK/RECORDER DEPUTY PAGE COUNT PAGES



810264

*K. A. Dorrison*  
JUN 26 '11  
Dorothy Kessner

230

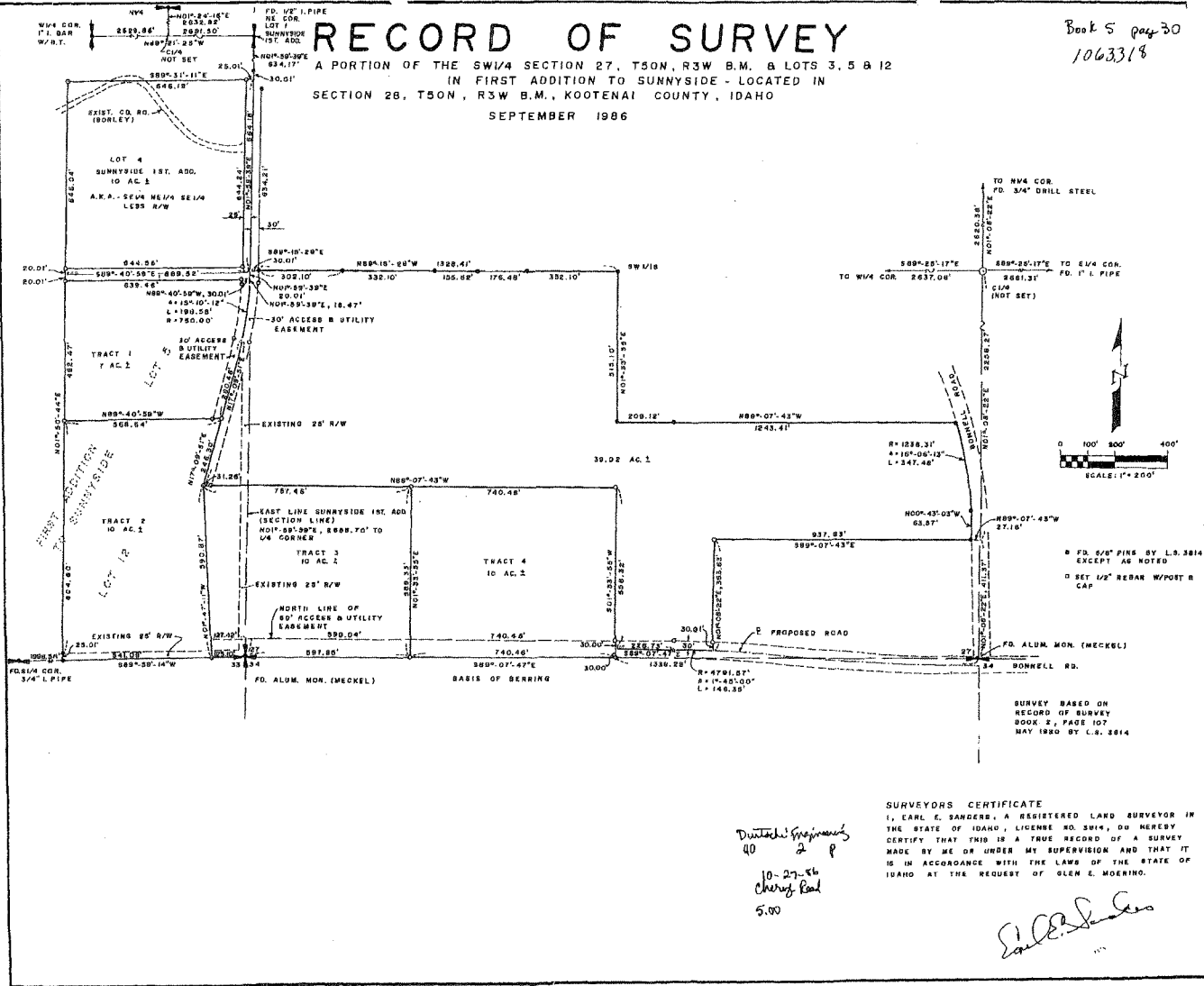
Ex. C (p.3 of 6)

Ex. C (p. 4 of 6)

# RECORD OF SURVEY

A PORTION OF THE SW 1/4 SECTION 27, T50N, R3W B.M. & LOTS 3, 5 & 12  
IN FIRST ADDITION TO SUNNYSIDE - LOCATED IN  
SECTION 28, T50N, R3W B.M., KOOTENAI COUNTY, IDAHO  
SEPTEMBER 1986

Book 5 page 30  
1063318



**SURVEYORS CERTIFICATE**  
 I, EARL C. SANDERS, A REGISTERED LAND SURVEYOR IN THE STATE OF IDAHO, LICENSE NO. 5144, DO HEREBY CERTIFY THAT THIS IS A TRUE RECORD OF A SURVEY MADE BY ME OR UNDER MY SUPERVISION AND THAT IT IS IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO AT THE REQUEST OF GLEN E. MOERING.

*Deutsche Engineering*  
 40 2 P  
 10-27-86  
 Cheryl Reed  
 5.00

*Earl C. Sanders*

DEC 06 2011

CLERK OF DISTRICT COURT  
 COUNTY OF KOOTENAI  
 IDAHO

Exhibit " D " Page 1 of 1



# RECORD OF SURVEY

PORTION OF SE 1/4 SW 1/4 SECTION 27, AND NE 1/4 NW 1/4 SECTION 34  
TOWNSHIP 50 NORTH, RANGE 3 WEST, BOISE MERIDIAN  
KOOTENAI COUNTY, IDAHO

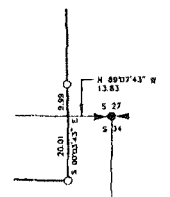
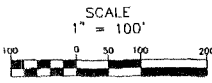
Book 19 page 23

COUNTY RECORDER

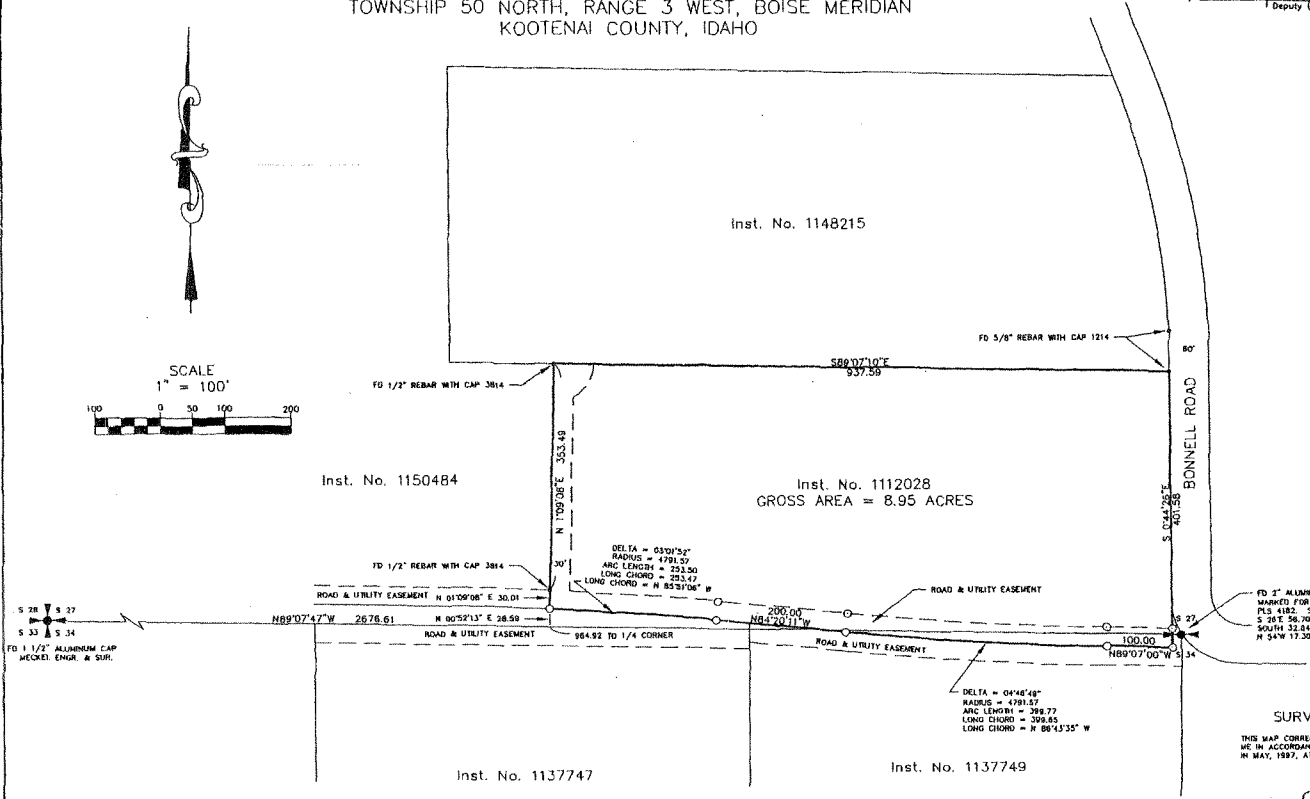
This map was filed in the Kootenai County Recorder's Office at the request of David Schumann this 25<sup>th</sup> day of October 1997 at 12:21 o'clock P.M. as Instrument No. 1495096 and duly received of Book 19 Page 23 of Surveys by: David Schumann Fee 5.00  
Deputy L. Lusk  
Deputy

STATE OF IDAHO  
COUNTY OF KOOTENAI  
CLERK OF THE DISTRICT COURT  
DEPUTY  
PAGE 23  
KNOT TO SCALE  
PAGE COUNT 1 PAGES

DEC 06 2011



DETAIL SCALE 1" = 20'



REFERENCE MAPS

- ROS BY OURTSON, 1979, BOOK 1 OF SURVEYS, PAGE 186
- ROS BY SANDERS, 1988, BOOK 5 OF SURVEYS, PAGE 30
- ROS BY SCHUMANN, 1994, BOOK 16 OF SURVEYS, PAGE 110

LEGEND

- SET 1/2" X 30" REBAR WITH YELLOW BURCAP MARKED PLS 4182
- FOUND MONUMENT AS DESCRIBED
- ⊙ FOUND PUBLIC LANDS CORNER AS DESCRIBED

BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 34, WHICH AS S 89°07'47" E ON ROS FILED AT BOOK 5 OF SURVEYS, PAGE 30, BY RUD SANDERS IN OCTOBER, 1996.

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY PERFORMED BY ME IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO IN MAY, 1987, AT THE REQUEST OF LARRY AND PATRICIA REED.

*David Schumann*  
6/10/97  
PROFESSIONAL LAND SURVEYOR  
STATE OF IDAHO  
WORLD E. SCHUMANN

KOOTENAI COUNTY SURVEYORS  
8076 West Quail Lane  
Post Falls, Idaho 83854  
(208) 773-3628

Exhibit "E"  
Page 1 of 1

Exc. C (p. 5 of 6)

**SEGREGATION REVISIONS**

The number dates below represent the file date for the putting of the listed revisions. The number dates for these revisions are printed within the ARCHIVE REVISIONS box in the drawing file block.

- 06/15/98 - JGJ
- 50N03W-34-2700 reworked on Tax #18204 (700)
- 06/08/98 - VAC
- 50N03W-34-8300 reworked on Tax #18201 (700)
- 06/03/03 - SLW
- 50N03W-34-7420 coverage amended per NUG 23-18 (10)
- 06/06/03 - VAC
- Indemn on Tax #11162 for include plat plat within 87-90-20 (10)
- 01/16/04 - SLW
- 50N03W-34-7500 out of 3000 (10)
- 04/07/05 - VAC
- 50N03W-34-8000 reworked on Tax #20532 (85)
- 06/17/05 - bc
- 50N03W-34-2500 and 2600 plat into DOUBLE J BRANCH (14)
- 06/21/05 - VAC
- Plat of 50N03W-34-8300 combined w/ 3400 on Tax #20608 (10)
- 07/11/05 - SLW
- 50N03W-34-4300 out of 4700 and 1470 on Tax #20679 (10)
- 08/10/06 - VAC
- 50N03W-34-8300, 8400, 8000 in 3000 out of 7800
- 50N03W-34-7000 reworked on Tax #21118 (10)
- 10/12/06 - ET
- Plat of 50N03W-34-7200 combined w/ 2300
- Plat of 50N03W-34-2300 combined w/ 7700 and reworked on Tax #21191 (10)
- 50N03W-34-4300 combined w/ 1470 (10)
- 12/04/07 - VAW
- 50N03W-34-3600 reworked on Tax #21718 (10)
- 04/21/08 - JG
- 50N03W-34-1400 out of 1470 (10)
- 06/27/08 - ET
- 50N03W-34-2000 and plat 3000 combined w/ 7400 and reworked on Tax #21861
- 50N03W-34-2000 reworked on Tax #21762 (10)
- 50N03W-34-2000 corrected cartographic map of Tax #20578 (10)
- 12/17/10 - VAW
- 50N03W-27-7100 combined w/ 50N03W-34-3600 (11)
- 01/19/11 - GJC
- 50N03W-27-2900 plat into LYNN'S HIGHVIEW ESTATES (11)

THIS DRAWING IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE LATEST REVISIONS SHALL BE THE AUTHORITY FOR ALL REGULATORY ACTIONS.



KOOTENAI COUNTY  
IDAHO

**ARCHIVE REVISIONS**

REVISION	DATE	BY
ADD	06-10-06	GENEVA CHAPMAN
DEL	06-10-06	GENEVA CHAPMAN
MOD	06-10-06	GENEVA CHAPMAN
ADD	06-10-06	GENEVA CHAPMAN
DEL	06-10-06	GENEVA CHAPMAN
MOD	06-10-06	GENEVA CHAPMAN
ADD	06-10-06	GENEVA CHAPMAN
DEL	06-10-06	GENEVA CHAPMAN
MOD	06-10-06	GENEVA CHAPMAN

DATE: 06-10-06  
DRAWN BY: GENEVA CHAPMAN

**NOTES:**

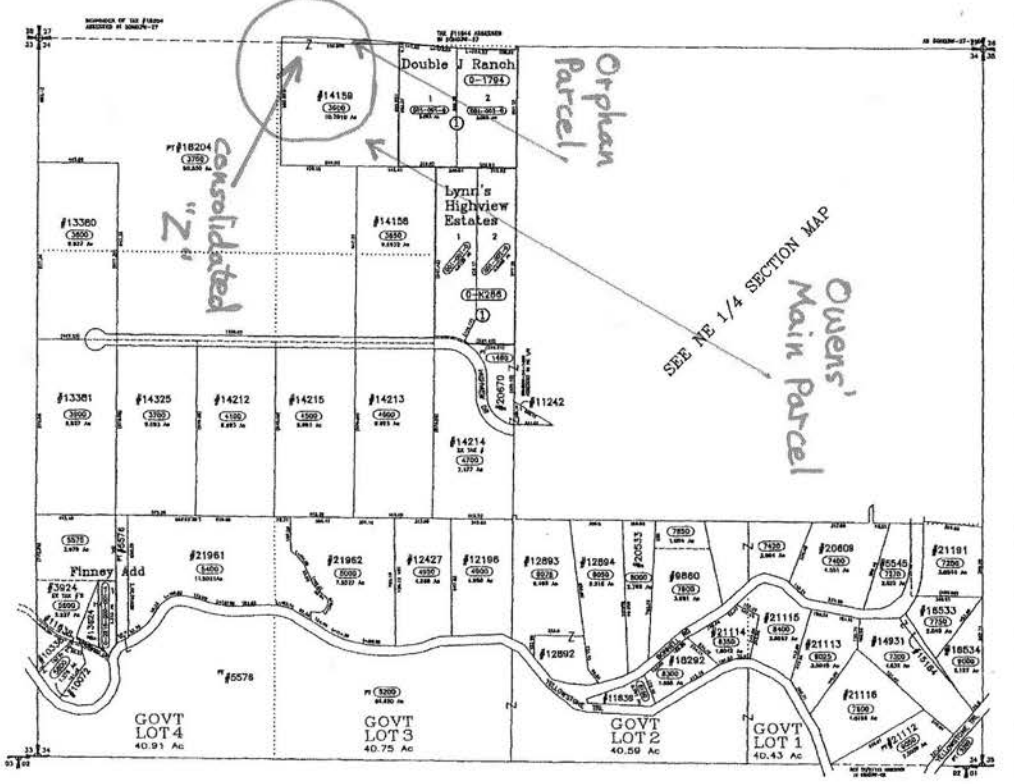
All lots of parcels are shown bearing and distance from adjacent parcels. All lots are shown with bearings and distances from adjacent parcels. All lots are shown with bearings and distances from adjacent parcels.

LOCUS OF ROAD FROM LOT 40.91 AC TO 40.75 AC AND 40.55 AC.

Records of Survey used:  
BY: [Signature] REVISION: [Signature]

Sec.34 Twp. 50 N. R.3 W.B.M.

50N03W-34



SEE NE 1/4 SECTION MAP  
Owens' Main Parcel

#18204 (700) MEAN 2  
Consolidated  
"Z"

Exhibit " F " Page 1 of 1

SCALE: 1 INCH = 400 FEET

Sec.34 Twp.50N. R.3W.B.M.

Circled Note of  
 Consolidation  
 Ex.C (p. 6 of 6)

FILENAME: 502V34(external)

TAX # 23482 PAGE 1 OF 1  
DOCUMENT TYPE JUDGEMENT  
INSTRUMENT # 2396459  
DOCUMENT DATE 02/11/2013

All that portion of the Northwest quarter of Section 34, Township 50 North, Range 3 W.B.M., Kootenai County, State of Idaho, more particularly described as follows:

Commencing at the Northeast corner of the Northwest quarter of said Section 34, thence South 00°25'26" West along the East line of the Northwest quarter, a distance of 680.98 feet to a point distant North 00°25'26" East 1955.43 feet from the Southeast corner of the Northwest quarter of said Section 34, thence North 89°22'06" West a distance of 660.00 feet to the True Point of Beginning of this description; thence continue North 89°22'06" West, a distance of 660.00 feet; thence North 00°25'26" East a distance of 680.00 feet more or less to a point on the North line of said Northwest quarter; thence South 89°07' 48" East along the North line of said Northwest quarter, a distance of 660.00 feet more or less to a point of intersection with a line drawn North 00°25'26" East from the point of beginning; thence South 00°25'26" West, a distance of 680.00 more or less to the Point of Beginning.

TOGETHER WITH:

That certain part of South half of Southwest quarter of Section 27, Township 50 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, lying South of a parcel of land as described in a Warranty Deed recorded March 24, 1988 as Instrument No. 1112028, records of Kootenai County, Idaho, and also lying South of a parcel of land described in a Warranty Deed recorded June 5, 1989 as Instrument No. 1150484, records of Kootenai County, Idaho and lying East of a parcel of land described in a Warranty Deed recorded April 30, 1999 as Instrument No. 1586858, records of Kootenai County, Idaho. EXCEPTING THEREFROM that parcel of land as described in a Warranty Deed recorded December 28, 1988 as Instrument No. 1137749, records of Kootenai County, Idaho.

THIS TAX # REPLACES TAX#14159  
DEPUTY INITIALS VMW DATE 05/21/2013

Ex. D