

AUG 22 2017

DEPARTMENT OF WATER RESOURCES

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*Attorneys for Gordon Sylte, Susan Goodrich,
John Sylte, and Sylte Ranch Limited Liability Company*

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF SYLTE’S PETITION
FOR DECLARATORY RULING RE
DISTRIBUTION OF WATER TO WATER
RIGHT NO. 95-0734

Docket No. P-DR-2017-001

**SECOND AFFIDAVIT OF
MICHAEL P. LAWRENCE**

State of Idaho)
) ss.
County of Ada)

MICHAEL P. LAWRENCE , being first duly sworn upon oath, deposes and states:

1. I am over the age of eighteen and I make this Affidavit based upon my personal knowledge.
2. I am an attorney licensed to practice law in the state of Idaho.
3. I am a partner in the firm of Givens Pursley LLP, which represents Gordon Sylte, Susan Goodrich, John Sylte, and Sylte Ranch Limited Liability Company in the above-captioned action.
4. Attached hereto as Exhibit A is a true and correct copy of an Idaho Department of Water Resources (“Department”) adjudication recommended water right report for water right no. 95-0876, which was obtained from the Department’s website.

5. Attached hereto as Exhibit B is a true and correct copy of the November 5, 2013 Notice of Change in Water Right Ownership filed with the Department by Colby A. Clark and Kathryn Clark, which was obtained from the Department's files.

6. Attached hereto as Exhibit C is a true and correct copy of a Warranty Deed executed July 13, 2017, and recorded on July 14, 2017 in the real property records of Kootenai County, Idaho, as instrument no. 2602733000, conveying real property in Kootenai County from Colby A. Clark and Kathryn Clark to Karin L. Walker and Martin R. Walker, as obtained from the Kootenai County Recorder's Office.

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

Respectfully submitted this 22d day of August, 2017.

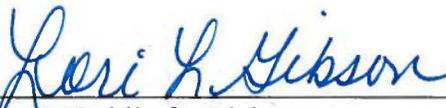
GIVENS PURSLEY LLP



Michael P. Lawrence

Attorneys for Gordon Sylte, Susan Goodrich, John Sylte, and Sylte Ranch Limited Liability Company

Subscribed and sworn to before me this 22nd day of August, 2017.



Notary Public for Idaho

Residing at: Boise

My Commission Expires: Aug. 23, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 22d day of August, 2017, I caused to be filed and served a true and correct copy of the foregoing by the method indicated below, and addressed to the following¹:

DOCUMENT FILED:

Shelley Keen, Hearing Officer,
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

<input type="checkbox"/>	U. S. Mail
<input checked="" type="checkbox"/>	Hand Delivered
<input type="checkbox"/>	Overnight Mail
<input type="checkbox"/>	Facsimile
<input checked="" type="checkbox"/>	E-mail

DOCUMENT SERVED:

Norman M. Semanko
Parsons Behle & Latimer
800 W. Main Street, Suite 1300
Boise, ID 83702
Email: NSemanko@parsonsbehle.com
ecf@parsonsbehle.com
(CONSENTED TO EMAIL SERVICE)

Representing or Spokesperson for:

Alice, Mary A.
Anderson, Mary F
Anderson, Mary F et al
Andrews, Debra
Andrews, John
Bafus, Matthew A.
Benage, Charles and Ruth
Chetlain Jr., Arthur
Clarence & Kurt Geiger Families
Clark, Kathy
Collins, Mary K./Bosch Properties
Cozzetto, Sandra
Crosby, Wes
Curb, James
DeVitis, Maureen
Ellis, Don
Ellis, Susan
Erickson, Scott

Freije, Joan
Hatrock, Amber
Herr, Barbara
Hilliard, Wendy & James
Hogan, Pat & Denise
Holmes, Steven & Elizabeth
Houkam, Leif
Jayne, Donald
Jayne, Douglas I & Bertha Mary
Kiefer, Terry
Knowles, Michael
Kremin, Adam
Kuhn, Robert
Lacroix, Rene
Lake-Ommen, Joan
Larry D & Janice A Faris Living Trust
LaLiberte, Terry
Miller, Patrick E.
Minatre, William H
Murray, Angela

Nipp, David R.
Nooney, John
Rodgers, Steve & Pam
Roth, Kimberli
Schafer, David & Lori
Schultz, Darwin R.
Seaburg, Molly
Sunday, Hal
TCRV LLC
Twin Echo Resort
Twin Lakes Improvement Assoc.
Upper Twin Lakes, LLC
Van Zandt, Rick & Corrinne
Weller, Gerald J.
Wilson, Bruce & Jamie
Ziuchkovski, Dave

¹ The certificate of service is taken from the *Order Regarding Certificate of Service*, issued July 20, 2017, by the Hearing Officer. Mr. Semanko's address and information has been updated to reflect his *Notice of Firm Name and Address Change* dated August 16, 2017. Also, as requested by Mr. Michael C. Dempsey and as indicated on his June 22, 2017 *Form Required by May 26, 2017, Order*, email is included as a method of service for Estate of Carmela G. Dempsey and Curran D. Dempsey Disclaimer Trust.

Clark, Colby
30701 N. Clagstone Road
Athol, ID 83801

Estate of Carmela G. Dempsey and
Curran D. Dempsey Disclaimer Trust
3224 S. Whipple Road
Spokane Valley, WA 99206-6310
dempseymc@comcast.net
ccdempsey@hotmail.com

Finman, Paul
pfinman@lcfamps.com
(CONSENTED TO EMAIL SERVICE)

Twin Lakes/Rathdrum Creek FDC #17
William Gumm
wm.gumm@gmail.com
bahunsinger@yahoo.com
(CONSENTED TO EMAIL SERVICE)



Michael P. Lawrence

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

8/22/2017

WATER RIGHT NO. 95-876

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	COLBY A CLARK
Current Owner	KATHRYNE CLARK 9836 W TWIN LAKES RD RATHDRUM, ID 83858 2082776822
Original Owner	CAROLEE KELLY 9836 W TWIMLAKES RD RATHDRUM, ID 83858 2086873526
Original Owner	WILLIAM KELLY 9836 W TWIN LAKES RD RATHDRUM, ID 83858 2086873526

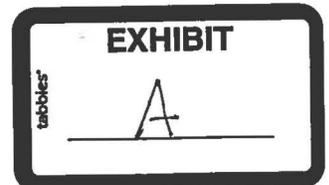
Priority Date: 05/01/1890
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
TWIN LAKES	RATHDRUM CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	01/01	12/31	0.04 CFS	1.2 AFA
Total Diversion			0.04 CFS	

Location of Point(s) of Diversion:

TWIN LAKES | NESW Lt 3 | Sec. 36 | Township 53N | Range 05W | KOOTENAI County



Place(s) of use:

Place of Use Legal Description: DOMESTIC KOOTENAI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>									
53N	05W	36	3	NESW										

Conditions of Approval:

- 1. C18 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.
- 2. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.
- 3. X01 Domestic use is for 1 home.
- 4. PIN Parcel No. 045400000020
- 5. J01 Property is also known as Lot 2, Lake Park.
- 6. TL1 This right originated as all or part of Right No. 95-0876 in the Final Decree, In the Matter of the General Determination of the Rights to the Use of the Surface Waters of Twin Lakes, Including Tributaries and Outlets, Case No. 32572 (1st Jud. Dist. Ct. April 20, 1989).

Dates:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

RECEIVED
NOV 05 2013

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

IDWR / NORTH

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
95-876	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>

2. Previous Owner's Name: William and Catherine Kelly
Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): Colby A. Clark and Kathrynne Clark
Name of each new owner as listed on the conveyance document

New owner continued Name connector and or and/or
~~20700~~ 9836 W. TWIN LAKES RD
Mailing address
Rathdrum Id 83858
City State ZIP
208-277-6822 Kat Parker 1@gmail.com
Telephone Email

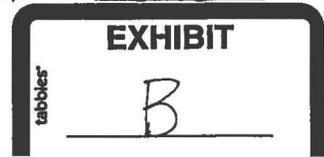
4. If the water rights and/or adjudication claims were split, how did the division occur?
 The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
 The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: 10-31-2013

6. This form must be signed and submitted with the following **REQUIRED** items:
- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
 - Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
 - Filing fee (see instructions for further explanation):
 - \$25 per undivided water right.
 - \$100 per split water right.
 - No fee is required for pending adjudication claims.

7. Signature: Colby A. Clark Signature of new owner/claimant Title, if applicable _____ Date 11-5-2013
 Signature: [Signature] Signature of new owner/claimant Title, if applicable _____ Date 11-5-2013

For IDWR Office Use Only:
 Received by N Steading Date 11-05-13 Receipt No. Void Receipt Amt. Void
 Approved by Chad Processed by Chad Date 11/5/13 Receipt Amt. \$25.00



RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL TO:
First American Title Company
1866 North Lakewood Drive
Coeur d'Alene, ID 83814

THIS IS CERTIFIED TO BE A
TRUE AND EXACT COPY OF
THE ORIGINAL

[Handwritten signature]

Subject Matter This Line for Recorder's Use Only

WARRANTY DEED

File No.: 481283-C (11c)

Date: October 28, 2013

For Value Received, William I. Kelly and Carollee I. Kelly, husband and wife, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto Colby A. Clark and Kathrynne Clark, husband and wife, hereinafter called the Grantee, whose current address is 8836 W. Twin Lakes Road, Rathdrum, ID 83858, the following described premises, situated in Kootenai County, Idaho, to-wit:

LOT 2, LAKE PARK, ACCORDING TO THE PLAT RECORDED IN BOOK C OF PLATS, PAGE 92, RECORDS OF KOOTENAI COUNTY, IDAHO.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL TO:
Karin and Martin Walker
9836 W Twin Lake Rd
Rathdrum, ID 83858

JIM BRANNON 2 P 2602733000
KOOTENAI COUNTY RECORDER
CMK 7/14/2017 1:54 PM
REQ OF FIRST AMERICAN TITLE -
KOOTENAI
RECORDING FEE: \$15.00 DD
Electronically Recorded

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: **642408-C (smc)**

Date: **July 12, 2017**

For Value Received, **Colby A. Clark and Kathryne Clark, husband and wife**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **Karin L. Walker and Martin R. Walker, wife and husband**, hereinafter called the Grantee, whose current address is **9836 W. Twin Lakes Road, Rathdrum, ID 83858**, the following described premises, situated in **Kootenai County, Idaho**, to-wit:

LOT 2, LAKE PARK, ACCORDING TO THE PLAT RECORDED IN BOOK C OF PLATS, PAGE 92, RECORDS OF KOOTENAI COUNTY, IDAHO.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

