

STATE BOARD OF LAND COMMISSIONERS

August 15, 2023

Consent Agenda

Subject

DI800274, Disclaimer of Interest for the former bed of Bear Lake, Bear Lake County, Idaho.

Question Presented

Shall the Land Board approve Disclaimer of Interest DI800274?

Background

Idaho holds title to the beds and banks of navigable waterways below the ordinary high water mark (OHWM). The State Board of Land Commissioners (Land Board) is the statutorily designated trustee of these lands. Meander line surveys were completed on Idaho lakes and rivers by the Government Land Office around the time of statehood. The purpose of these surveys was to generally define the banks of the lakes and rivers and establish lots with specific acreages for settlement. The OHWM of a lake is the true boundary line to determine state ownership of the lakebed and not the meander line. Uplands between the meander line and the OHWM are subject to adverse possession by the adjacent upland landowner through a quiet title action. Land Board policy directs the Idaho Department of Lands (Department) to work with landowners and pursue disclaimers of interest for clearing title to land adjacent to navigable waterways.

Discussion

Ruth H Barker and Paul E. Barker Trustees In trust of the Ruth Barker Family IVRT applied for a disclaimer of interest for one parcel of land totaling 0.4 acres, more or less. This parcel is located within the original surveyed meander lines of Bear Lake adjacent to the applicant's deeded property in Government Lot 2 of Section 11, Township 16 South, Range 43 East (Attachment 1-Map).

The Department will not be recommending a 25-foot public easement for this disclaimer. This is similar to how other lake disclaimers have been issued. The OHWM of lakes do not move or change, unlike the movement of rivers. The location of the OHWM has not been affected by artificial means such as diking or filling, so the easement is not needed to compensate the state for any uncertainty related to the OHWM. Land Board policy regarding public access easements reserves a 25-foot public use right of way along navigable rivers except in unusual circumstances. The OHWM of Bear Lake is set at elevation 5923.65 feet (Utah Power and Light datum), and a recent LiDAR survey confirms that the 0.4 acres is above the OHWM.

After the applicant paid the \$300 application fee, the Department identified the OHWM on site and the applicant's licensed surveyor completed a survey. The Department reviewed the survey, deed, and tax documents, and determined that the disclaimer was ready to move forward. Tax documents and deed are included as Attachments 2 and 3.

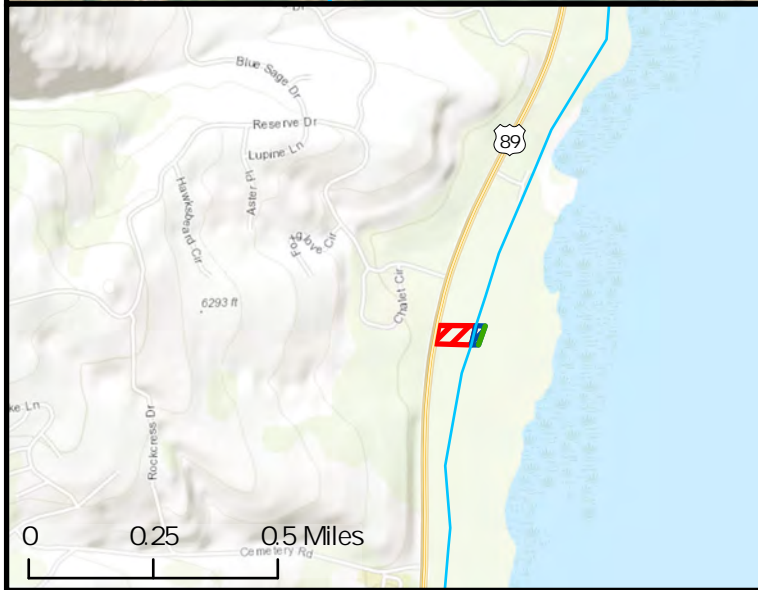
Recommendation





Direct the Department to issue a Disclaimer of Interest for one parcel totaling 0.4 acres of the former bed of Bear Lake, to Ruth H Barker and Paul E. Barker Trustees in trust of the Ruth Barker Family IVRT following their payment to the Department of the remaining processing fee of \$800.

Board Action

Attachments

1. Map
2. Tax History
3. Deed



-  High Water Line of Bear Lake Utah Power and Light Elevation 5923.65
-  Private Parcel
-  Disclaimed BY State
-  Meander Line

DI 800274
 Sec. 11
 T16S - R43E



Map Notes

Projection: Idaho Transverse Mercator, NAD 83

Map Notes and Data Sources

Disclaimer:
 This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources.

jnarducci
 2/10/2023

BEAR LAKE COUNTY TAX STATEMENT

TRICIA POULSEN
Bear Lake County Tax Collector
 P.O. Box 55
 Paris, ID 83261
 208-945-2130 x7

Tax Year: 2017 Bill Number: 121623
 AIN: 05761.02 Billing Date: 08/16/2021
 PIN: RP16S43E111280 Balance good until: 08/16/2021
 Code-Area: 031-0000 Last Payment: 11/20/2017

Bond Information: www.bearlakecounty.info
Parcel Description: T-8139 F. LOT 2; 11-16-43; 1.59; ILLEGAL SPLIT
Location: Acres: 1.5900 Mortgage:
PAYMENTS RECEIVED WITH A DELINQUENCY WILL BE APPLIED TO THE OLDEST DELINQUENT TAX YEAR. TO AVOID LATE CHARGES, PAYMENTS MUST BE RECEIVED OR POSTMARKED BY THE DUE DATE.

AUTO

 SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Values	Amount	Exemptions and Credits	Amount	Exemptions and Credits	Amount
Land Value	124,200				
			Total Taxable		124,200

Taxing District	Phone	Rate	Total	Spec. Assessments	Phone	Rate	Total
Bear Lake County	208-945-2212	0.0037352130	\$463.93				
School #33 Tort	208-945-2891	0	\$0.00				
School #33 Emergency	208-945-2891	0.0005615080	\$69.74				
School #33 Supplemental	208-945-2891	0.0008706080	\$108.13				
School #33 Judgement	208-945-2891	0	\$0.00				
Fish Haven Cemetery	208-241-7796	0.0000330990	\$4.11				
Bear Lake County Fire District	208-317-6292	0.0003032690	\$37.67				
Fish Haven Sewer	208-945-1065	0.0001134540	\$14.09				
County Library	208-847-1664	0.0003375690	\$41.93				
Fish Haven Mosquito Abatement	435-213-6300	0.0001705080	\$21.18				
				Urban Renewal	Phone	Rate	Total

Bill Summary	Prior Year	Current	Delinquent	Interest	Late Fee	Fees	Paid	Total Due
	0.00	\$760.78	\$0.00	\$0.00	\$0.00	\$0.00	\$760.78	\$0.00

YOU CAN NOW PAY WITH CREDIT/DEBIT CARDS FOR A 2.5% FEE OR BY ELECTRONIC CHECK FOR ONLY \$1.00 AT WWW.BEARLAKECOUNTY.INFO
 ALSO, NEW DRIVE UP PAYMENT DROP BOX ON THE SOUTHEAST CORNER OF THE NEW COURTHOUSE!
 THE MORTGAGE COMPANIES HAVE RECEIVED OUR TAX FILES. IF YOUR MORTGAGE PAYS FROM YOUR ESCROW ACCOUNT, PLEASE USE THIS NOTICE FOR YOUR RECORDS

Make Check Payable to: Bear Lake County Treasurer **Keep top portion for your records**

**FOR PROPER CREDIT RETURN THIS STUB WITH PAYMENT
 PERSONAL CHECKS ARE SUBJECT TO BANK CLEARANCE**

SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2017 - 121623

PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

1ST HALF

\$0.00

FULL AMOUNT

\$0.00

December 20, 2017

**FOR PROPER CREDIT RETURN THIS STUB WITH PAYMENT
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SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2017 - 121623

PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

2ND HALF

\$0.00

June 20, 2018



ATTACHMENT 2

BEAR LAKE COUNTY TAX STATEMENT

TRICIA POULSEN
Bear Lake County Tax Collector
 P.O. Box 55
 Paris, ID 83261
 208-945-2130 x7

Tax Year: 2018 Bill Number: 110715
 AIN: 05761.02 Billing Date: 08/16/2021
 PIN: RP16S43E111280 Balance good until: 08/16/2021
 Code-Area: 031-0000 Last Payment: 12/14/2018

Bond Information: www.bearlakecounty.info
Parcel Description: T-8139 F. LOT 2; 11-16-43; 1.59; ILLEGAL SPLIT
Location: Acres: 1.5900 Mortgage:
PAYMENTS RECEIVED WITH A DELINQUENCY WILL BE APPLIED TO THE OLDEST DELINQUENT TAX YEAR. TO AVOID LATE CHARGES, PAYMENTS MUST BE RECEIVED OR POSTMARKED BY THE DUE DATE.

AUTO

 SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Values	Amount	Exemptions and Credits	Amount	Exemptions and Credits	Amount
Land Value	124,200				
				Total Taxable	124,200

Taxing District	Phone	Rate	Total	Spec. Assessments	Phone	Rate	Total
Bear Lake County	208-945-2212	0.0036517800	\$453.55				
School #33 Emergency	208-945-2891	0.0005310070	\$65.95				
School #33 Supplemental	208-945-2891	0.0008164300	\$101.40				
Fish Haven Cemetery	208-241-7796	0.0000308910	\$3.84				
Bear Lake County Fire District	208-317-6292	0.0003018260	\$37.49				
Fish Haven Sewer	208-945-1065	0.0001057520	\$13.13				
County Library	208-847-1664	0.0003156210	\$39.20				
Fish Haven Mosquito Abatement	435-213-6300	0.0002130060	\$26.46				
				Urban Renewal	Phone	Rate	Total

Bill Summary	Prior Year	Current	Delinquent	Interest	Late Fee	Fees	Paid	Total Due
	760.78	\$741.02	\$0.00	\$0.00	\$0.00	\$0.00	\$741.02	\$0.00

YOU CAN NOW PAY WITH CREDIT/DEBIT CARDS FOR A 2.5% FEE OR BY ELECTRONIC CHECK FOR ONLY \$1.00 AT WWW.BEARLAKECOUNTY.INFO
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SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2018 - 110715

PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

1ST HALF	\$0.00
FULL AMOUNT	\$0.00

December 20, 2018



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SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2018 - 110715

PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

2ND HALF	\$0.00
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June 20, 2019



BEAR LAKE COUNTY TAX STATEMENT

TRICIA POULSEN
Bear Lake County Tax Collector
 P.O. Box 55
 Paris, ID 83261
 208-945-2130 x7

Tax Year: 2019 Bill Number: 110860
 AIN: 05761.02 Billing Date: 08/16/2021
 PIN: RP16S43E111280 Balance good until: 08/16/2021
 Code-Area: 031-0000 Last Payment: 12/02/2019

Bond Information: www.bearlakecounty.info
Parcel Description: T-8139 F. LOT 2; 11-16-43; 1.59; ILLEGAL SPLIT
Location: Acres: 1.5900 Mortgage:
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AUTO

 SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Values	Amount	Exemptions and Credits	Amount	Exemptions and Credits	Amount
Land Value	124,200				
				Total Taxable	124,200

Taxing District	Phone	Rate	Total	Spec. Assessments	Phone	Rate	Total
Bear Lake County	208-945-2212	0.0038562690	\$478.94				
School #33 Plant	208-945-2891	0.0004183770	\$51.96				
School #33 Tort	208-945-2891	0.0000950350	\$11.80				
School #33 Supplemental	208-945-2891	0.0006798620	\$84.44				
Fish Haven Cemetery	208-241-7796	0.0000310510	\$3.86				
Bear Lake County Fire District	208-317-6292	0.0003012570	\$37.42				
Fish Haven Sewer	208-945-1065	0.0001068920	\$13.28				
County Library	208-847-1664	0.0003189740	\$39.62				
Fish Haven Mosquito Abatement	435-213-6300	0.0002623150	\$32.58				
				Urban Renewal	Phone	Rate	Total

Bill Summary	Prior Year	Current	Delinquent	Interest	Late Fee	Fees	Paid	Total Due
	741.02	\$753.90	\$0.00	\$0.00	\$0.00	\$0.00	\$753.90	\$0.00

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SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2019 - 110860
 PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

1ST HALF	\$0.00
FULL AMOUNT	\$0.00

December 20, 2019



**FOR PROPER CREDIT RETURN THIS STUB WITH PAYMENT
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SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2019 - 110860
 PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

2ND HALF	\$0.00
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June 22, 2020




BEAR LAKE COUNTY TAX STATEMENT

TRICIA POULSEN
Bear Lake County Tax Collector
 P.O. Box 55
 Paris, ID 83261
 208-945-2130 x7

Tax Year: 2020 Bill Number: 110833
 AIN: 05761.02 Billing Date: 08/16/2021
 PIN: RP16S43E111280 Balance good until: 08/16/2021
 Code-Area: 031-0000 Last Payment: 12/18/2020

Bond Information: www.bearlakecounty.info
Parcel Description: T-8139 F. LOT 2; 11-16-43; 1.59; ILLEGAL SPLIT
Location: Acres: 1.5900 Mortgage:
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AUTO

 SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Values	Amount	Exemptions and Credits	Amount	Exemptions and Credits	Amount
Land Value	124,200				
				Total Taxable	124,200

Taxing District	Phone	Rate	Total	Spec. Assessments	Phone	Rate	Total
Bear Lake County	208-945-2212	0.0038718630	\$480.91				
School #33 Plant	208-945-2891	0.0004020400	\$49.93				
School #33 Tort	208-945-2891	0.0000944920	\$11.74				
School #33 Supplemental	208-945-2891	0.0006533150	\$81.14				
Fish Haven Cemetery	208-241-7796	0.0000317300	\$3.94				
Bear Lake County Fire District	208-317-6292	0.0003720360	\$46.21				
Fish Haven Sewer	208-945-1065	0.0001094560	\$13.59				
County Library	208-847-1664	0.0003210070	\$39.87				
Fish Haven Mosquito Abatement	435-213-6300	0.0001959300	\$24.33				
				Urban Renewal	Phone	Rate	Total

Bill Summary	Prior Year	Current	Delinquent	Interest	Late Fee	Fees	Paid	Total Due
	753.90	\$751.66	\$0.00	\$0.00	\$0.00	\$0.00	\$751.66	\$0.00

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SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2020 - 110833
 PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

1ST HALF
 \$0.00

FULL AMOUNT
 \$0.00

December 21, 2020



**FOR PROPER CREDIT RETURN THIS STUB WITH PAYMENT
 PERSONAL CHECKS ARE SUBJECT TO BANK CLEARANCE**

SMOOT MARK & CHRISTINE FAM LP
 PO BOX 480
 GARDEN CITY UT 84028

Bill Number: 2020 - 110833
 PIN: RP16S43E111280
 AIN: 05761.02

BEAR LAKE COUNTY

2ND HALF
 \$0.00

June 21, 2021



Instrument # 235020
BEAR LAKE COUNTY
04-28-2021 12:59:54 No. of Pages: 2
Recorded for: FIRST AMERICAN TITLE - MONTPELIER
Cindy Garner Fee: \$16.00
Ex-Officio Recorder Deputy: JH
Index to: WARRANTY DEED

RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL TO:
First American Title Company
469 Washington St
Montpelier, ID 83254

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: 948816-MON (ab)

Date: April 22, 2021

For Value Received, **The Mark and Christine Smoot Family Limited Partnership**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **Ruth H Barker and Paul E Barker, Trustees or their successors in trust of The Ruth H Barker Family Inter Vivos Revocable Trust, dated the 21st day of June, 2000**, hereinafter called the Grantee, whose current address is 414 South 500 East, Farmington, UT 84025, the following described premises, situated in **Bear Lake County, Idaho**, to-wit:

A parcel of land located in Section 11, Township 16 South, Range 43 East, Boise Meridian, Bear Lake County Idaho and more particularly described as follows:
Beginning at the North Quarter corner of said Section 11, from which the South Quarter corner of Section 11 bears South 00° 08' 46" East 5292.94 feet;
Thence South 00° 08' 46" East 1815.33 feet along the meridional centerline of said Section 11;
Thence North 89° 51' 14" East 387.34 feet to a point on a 5690.00 foot radius non tangent Highway 89 Easterly right of way curve concave to the Southeast whose center bears South 78° 36' 00" East, the True Point of Beginning;
Thence Northeasterly along said Easterly right of way curve through a central angle of 02° 00' 45" a distance of 200.00 feet (chord = North 12° 24' 25" East 199.99 feet) to a 5/8" rebar with cap labeled, "A.A. Hudson, PLS 13173";
Thence South 87° 54' 28" East 388.49 feet to a 5/8" rebar with cap set on the Easterly deed line of the parcel owned by Bear Lake Reserve Holdings I, LLC as described in Instrument # 208048 in the official records of Bear Lake County;
Thence South 14° 47' 20" West 207.01 feet along said East deed line to a found 5/8" rebar with cap set on an agreed upon property line as shown on the survey recorded as instrument # 213828 in the official records of Bear Lake County;
Thence North 87° 07' 21" West 378.84 feet along said agreed upon property line to True Point of Beginning.

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,

Date: 04/27/2021

Warranty Deed
- continued

File No.: 948816-MON (ab)

restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

The Mark and Christine Smoot Family Limited Partnership

By: [Signature]
Name: Mark C Smoot
Title: General Partner

By: [Signature]
Name: Christine T Smoot
Title: General Partner

STATE OF Utah)
COUNTY OF Washington) ss.

On this 27 day of April, 2021, before me, a Notary Public in and for said State, personally appeared **Mark C Smoot and Christine T Smoot**, known or identified to me to be one of the partners in the partnership of **The Mark and Christine Smoot Family Limited Partnership**, and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said partnership name.

[Signature]
Notary Public of Utah
Residing at: St George
Commission Expires: 6/22/24

