



TETON COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA | DECEMBER 15, 2023

Special Meeting

First Floor Commissioners' Meeting Room

10:00 AM

1. Meeting Call to Order

2. Special Topics

1. **Action Item: FY23 Indigent Defense Expenditure Report**
[FY 2023 County Indigent Defense Expenditure Report_encrypted_.docx](#)
2. **Executive Session 74-206(1)(A) HIRING**
3. **Executive Session 74-206(1)(F) LEGAL**
4. **ACTION ITEM: PUBLIC DEFENSE CLAIM**
[Malek invoice.pdf](#)
5. **ACTION ITEM: DARBY CREEK NOTICE OF VIOLATION**
[vintage II_Darby Creek_NOV 12.13.2023 wd rev.pdf](#)
[Vintage II Complaint and evidence.pdf](#)
6. **ACTION ITEM: PUBLIC DEFENSE COMMISSION REPORT**
7. **ACTION ITEM: W6600S FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND ORDER**
[W6600S - Findings of Fact and Conclusions of Law and Order - Draft 12.7.2023.docx](#)
8. **ACTION ITEM: COMPASSIONATE LEAVE/ DONATION OF LEAVE TIME POLICY CHANGE**
[compassionate .png](#)
[Compassionate Leave.pdf](#)

3. Adjourn



AGENDA ACTION ITEM

DATE: December 15, 2023

TO: Board of County Commissioners

FROM: Kim Keeley

ITEM TITLE: **Action Item: FY23 Indigent Defense Expenditure Report**

End of year expenditure report for the FY23 Indigent Defense grant Teton County received, to be submitted to the Public Defense Commission.

SUGGESTED MOTION:

Approve the FY23 Indigent Defense Expenditure Report as presented.

ATTACHMENT(S):

[FY 2023 County Indigent Defense Expenditure Report_encrypted_.docx](#)

FY 2023 Indigent Defense Expenditure Report

Idaho Code 19-850(c) and IDAPA 61.01.03



County	Teton	Date Submitted	12/05/2022
Contact Person	Kim Keeley	Title	Clerk
Contact Phone	208-354-8780	Contact E-mail	kkeeley@co.teton.id.us
County has an established joint PD office per Idaho Code 19-859(2)			No

PART A.1: FY 2023 TOTAL COUNTY EXPENDITURES ON INDIGENT DEFENSE FUNDED BY THE COUNTY, STATE, OR ANY OTHER SOURCE

1. Expense item	2. County FY 2023 Amount Spent
3. Staff Attorneys (salary/benefits)	\$0 / \$0
4. Contract Primary Attorneys (salary/benefits)	\$108,041 / \$0
5. Contract Conflict Attorneys (salary/benefits)	\$68,243 / \$0
6. Support Staff (salary/benefits)	\$0 / \$0
7. Investigators (salary/benefits)	\$1,050 / \$0
8. Social Workers (salary/benefits)	\$0 / \$0
9. Consultants	\$0
10. Evaluations	\$7,713
11. Expert Witnesses	\$0
12. Office	\$0
13. Technology	\$0
14. Training	\$0
15. Transcripts	\$305
16. Capital Crimes Defense Fund Premiums	\$5,059
17. Other Expenses (specify)	\$0
18. Other Expenses (specify)	\$0
19. Other Expenses (specify)	\$0
20. Total	\$190,411.00

PART A.2: This question is to assist the State in determining how much money earmarked for public defense will remain in the counties on September 30, 2024, and how the counties could use that money for indigent defense going forward.

1. How much of the PDC Financial Assistance and State Tax Commission quarterly distributions to your county do you estimate will be remaining on September 30, 2024?

There will be no remaining funds.

PART B: FORMULA FINANCIAL ASSISTANCE INFORMATION

FY 2023 Formula Financial Assistance Received: \$26,000

Prior Years Remaining Formula Financial Assistance: \$0

1. Expense Items	2. Please input FY 2023 and/or prior years' Formula Financial Assistance amounts actually spent. DO NOT include Workload Compliance Assistance		
3. Staff Attorneys (salary/benefits)	\$0	/	\$0
4. Contract Primary Attorneys (salary/benefits)	\$20,000	/	\$0
5. Contract Conflict Attorneys (salary/benefits)	\$6,000	/	\$0
6. Support Staff (salary/benefits)	\$0	/	\$0
7. Investigators (salary/benefits)	\$0	/	\$0
8. Social Workers (salary/benefits)	\$0	/	\$0
9. Consultants	\$0		
10. Evaluations	\$0		
11. Expert Witnesses	\$0		
12. Office	\$0		
13. Technology	\$0		
14. Training	\$0		
15. Transcripts	\$0		
16. Capital Crimes Defense Fund Premiums	\$0		
17. Other Expenses (please specify)	\$0		
18. Total	\$26,000.00		

Additional Notes

The County budgeted \$165,500 for Public Defense, actual expenses were \$190,411. The unexpected increase was due to an increase in PD fees.

ATTESTATION AND SIGNATURES

Kim Keeley

Kim Keeley (Dec 9, 2023 13:48 MST)

(Acknowledgment of Form-Filler or Delegated Party)

Upon submission, this report will move on to the County Clerk for review and signature.

State of Idaho

County of Teton

On this 9 day of December, 2023, I certify that all information provided in this form and any other information provided in support thereof is true and accurate.



Kim Keeley

(Printed Name of Clerk)

Kim Keeley

Kim Keeley (Dec 9, 2023 13:57 MST)

(Signature of Clerk)

I certify (or declare) under penalty of perjury pursuant to the law of the state of Idaho that I certify that all information provided in this form and any other information provided in support thereof is true and accurate. This certification or declaration is made pursuant to IDAHO CODE § 9-1406.



AGENDA ACTION ITEM

DATE: December 15, 2023

TO: Board of County Commissioners

FROM: Daniel Reyes

ITEM TITLE: **Executive Session 74-206(1)(A) HIRING**

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

SUGGESTED MOTION:



AGENDA ACTION ITEM

DATE: December 15, 2023
TO: Board of County Commissioners
FROM: Daniel Reyes

ITEM TITLE: **Executive Session 74-206(1)(F) LEGAL**

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

SUGGESTED MOTION:



AGENDA ACTION ITEM

DATE: December 15, 2023

TO: Board of County Commissioners

FROM: Daniel Reyes

ITEM TITLE: **ACTION ITEM: PUBLIC DEFENSE CLAIM**

Invoice attached.

SUGGESTED MOTION:

approve public defense claim for hours billed between 10/17 and 11/17

ATTACHMENT(S):

[Malek invoice.pdf](#)

CR41-21-718	Cory Patrick Dinnell	Warrant for defendant was issue on 09/12 , it has not een Served. PD charged \$25.00 on 11/03 -Doc. Review.
CR41-23-177/755	Luna Nicoya Serrano	PD is billing for 2 cases, CR41-23-177 was completed on 10/30 . On 10/17 , there is 2 charges 1 for 4.5 hrs. and 5.5 hrs. a total of 10 hrs. (was it a clerical error?).
CR41-23-420	Michael Blaine Ball	PD is billing for a doc. Review on 10/17 . D got sentence and case close on 09/21 .
CR41-23-402	Michael Paether Moen	D was sentenced on 10/25 hearing lasted 19 minutes and PD is billing 3.25 = \$325.00
CR41-23-681	Angel Isaias Lopez	PD is billing 2.5 for 11/07 2.5 hrs. = \$250.00 for court Hearing, no court hearing was scheduled on 11/07
CR41-23-476/477	Jose Leal Gonzalez	D was sentenced on 11/01 hearing lasted 25 minutes and PD is billing 2.0 hrs. = \$200.00
CR41-22-1193	Brian Billotte	D was schedule for sentencing on 11/01 PD asked for a Continuance and hearing lasted 5 minutes. PD is Billing 2.0 hrs. = \$200.00
CR41-22-316/262	Steven Tousignant	D was scheduled for a motion hearing on 11/01 hearing Lasted 19 minutes. PD is billing for 5.5 hrs. - \$550.00
CR41-23-719	Dustin Larson Trosper	11/01 Prelim hearing was schedule with this defendant And co-defendant (CR41-23-720) both cases are being handle together. PD is billing 6.0 hrs. = \$600.00
CR41-23-720	Arturo M. Dewey	11/01 Prelim hearing was schedule with this defendant And co-defendant (CR41-23-719) both cases are being handle together. PD is billing 6.0 hrs. = \$600.00

CR41-23-822	Roger Dean Raudman	In-Custody Arraignment on <u>11/07</u> , hearing lasted 25 Minutes but at the beginning of the hearing maybe 3 minutes into the hearing D said he would retain counsel and PD was excuse. Hearing was by zoom. PD is billing .25 hrs for Record creation-meaning he was present in the arraignment as required but then he billed 1.50 hrs. = \$150.00 for court hearing
CR41-23-295	KC Joe Coffey	D was sentenced on <u>11/08</u> hearing lasted 30 minutes and PD is charging 3.75 hrs. = \$375.00.
CR41-22-1198	Emily M. Holden	D was sentenced on <u>11/08</u> hearing lasted 6 minutes and PD is charging 3.25 hrs. = \$325.00

John Malek Law Group PLLC

545 Shoup Ave, Ste 218
Idaho Falls, Idaho 83402

INVOICE

Invoice # 53
Date: 11/20/2023
Due On: 12/20/2023

Teton County
150 Courthouse Dr. #208
Driggs, Idaho 83422

00082-Dinnell

CR41-21-0718

Type	Date	Notes	Quantity	Rate	Total
Service	11/03/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$25.00

00083-Coffey

CR41-23-0295

Type	Date	Notes	Quantity	Rate	Total
Service	10/19/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/23/2023	Teton County Case: Client calls. Meeting with co-counsel. Evidence review.	3.50	\$100.00	\$350.00
Service	10/25/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/25/2023	Teton County Case: Hearing. Client meeting.	2.50	\$100.00	\$250.00
Service	11/04/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/08/2023	Teton County Case: Client meetings and case reviews	3.75	\$100.00	\$375.00
Service	11/13/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$1,075.00

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00085-Serrano

CR41-23-0177, CR41-23-0755

Type	Date	Notes	Quantity	Rate	Total
Service	10/17/2023	Teton County Case: Case work. Client meetings. Client calls.	4.50	\$100.00	\$450.00
Service	10/17/2023	Teton County Case: Case work. Client meetings. Client calls.	5.50	\$100.00	\$550.00
Service	10/18/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/18/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/23/2023	Teton County Case: Motion	0.50	\$100.00	\$50.00
Service	10/23/2023	Teton County Case: Case work. Client meetings. Client calls.	3.50	\$100.00	\$350.00
Service	10/25/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/26/2023	Teton County Case: Motion Drafting	0.75	\$100.00	\$75.00
Service	10/28/2023	Teton County Case: Evidence review	4.50	\$100.00	\$450.00
Service	11/01/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/02/2023	Teton County Case: Evidence Review	5.00	\$100.00	\$500.00
Service	11/04/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/06/2023	Teton County Case: Client Meeting	2.50	\$100.00	\$250.00
Service	11/07/2023	Teton County Case: Case Prep, Court Hearing, Client Meeting	2.50	\$100.00	\$250.00
Service	11/08/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/08/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/09/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/09/2023	Teton County Case: MH Phone Call	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/14/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Subtotal					\$3,225.00

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00086-Hull**CR41-22-1084**

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
			Subtotal		\$25.00

00087-Stanley**CR41-22-0222**

Type	Date	Notes	Quantity	Rate	Total
Service	10/26/2023	Teton County Case: Client consults and calls.	3.25	\$100.00	\$325.00
			Subtotal		\$325.00

00089-Morales**CR41-23-0818, CR41-23-0066 Cities**

Type	Date	Notes	Quantity	Rate	Total
Service	11/06/2023	Teton County Case: Document Review, Case Notes, Discovery	0.50	\$100.00	\$50.00
Service	11/06/2023	Teton County Case: Court Hearing	0.50	\$100.00	\$50.00
Service	11/17/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
			Subtotal		\$125.00

00091-Holden**CR41-22-1198 Cities**

Type	Date	Notes	Quantity	Rate	Total
Service	10/19/2023	Teton County Case: Client meetings. Site visit.	2.50	\$100.00	\$250.00

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Negotiations

Service	10/23/2023	Teton County Case: Pretrial Stip File	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/08/2023	Teton County Case: Client calls and court	3.25	\$100.00	\$325.00
Subtotal					\$625.00

00092-Nemeck

CR41-23-0187 Cities DUI Excessive, OC, Para.

Type	Date	Notes	Quantity	Rate	Total
Service	10/20/2023	Teton County Case: Casework. Client contact attempts.	1.25	\$100.00	\$125.00
Subtotal					\$125.00

00093-Nova

JV41-23-08 Cities

Type	Date	Notes	Quantity	Rate	Total
Service	10/19/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/06/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Subtotal					\$75.00

00103-Sullivan

CV41-23-0018 Child Protection

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/28/2023	Teton County Case: Case reviews	1.50	\$100.00	\$150.00

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Service	10/30/2023	Teton County Case: Review Hearing	0.75	\$100.00	\$75.00
Service	11/04/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Subtotal					\$275.00

00104-Billotte**CR41-22-1193 & CR41-21-0866**

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	10/25/2023	Teton County Case: Client work. Treatment provider work	1.50	\$100.00	\$150.00
Service	10/26/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Client Meeting, Curran Seli Phone Calls, Court Hearing	2.00	\$100.00	\$200.00
Service	11/06/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Subtotal					\$425.00

00106-Valdez**CR41-23-0375**

Type	Date	Notes	Quantity	Rate	Total
Service	10/20/2023	Teton County Case: Casework. Client contact attempts.	1.25	\$100.00	\$125.00
Subtotal					\$125.00

00109-Fitzgerald**CR41-23-0404, CR41-23-0638**

Type	Date	Notes	Quantity	Rate	Total
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Service	11/01/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
				Subtotal	\$25.00

00111-Ball**CR41-23-0420 - DUI**

Type	Date	Notes	Quantity	Rate	Total
Service	10/17/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
				Subtotal	\$25.00

00112-Huaynalaya**CR41-23-0364 - DUI**

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/02/2023	Teton County Case: Zoom Motion	0.25	\$100.00	\$25.00
Service	11/03/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/15/2023	Teton County Case: Filing Document	0.25	\$100.00	\$25.00
				Subtotal	\$100.00

00113-Moen**CR41-23-0402 - DUI**

Type	Date	Notes	Quantity	Rate	Total
Service	10/23/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	10/25/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/25/2023	Teton County Case: Client meetings. Licensing research. Plea. Sentencing.	3.25	\$100.00	\$325.00
Service	11/04/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00

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Service	11/16/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
				Subtotal	\$425.00

00114-Mortimer**CV41-23-0027**

Type	Date	Notes	Quantity	Rate	Total
Service	10/27/2023	Teton County Case: Visitation Coordination	0.25	\$100.00	\$25.00
Service	10/31/2023	Teton County Case: Client Meeting, Research and Writing	3.00	\$100.00	\$300.00
				Subtotal	\$325.00

00115-Montes**CR41-22-1172 - DUI**

Type	Date	Notes	Quantity	Rate	Total
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
				Subtotal	\$25.00

00117-Tousignant**CR41-22-0316 and CR41-22-0262**

Type	Date	Notes	Quantity	Rate	Total
Service	10/17/2023	Teton County Case: Case work. Client meetings. Client calls. Medical care coordination. Meeting with employer	4.50	\$100.00	\$450.00
Service	10/19/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Client Meeting, Court Hearing, Case Prep	5.50	\$100.00	\$550.00
Service	11/05/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/09/2023	Teton County Case: Client medical coordinator. Appeal research	2.50	\$100.00	\$250.00

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Service	11/14/2023	Teton County Case: Transport Order	1.00	\$100.00	\$100.00
Service	11/17/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Subtotal					\$1,425.00

00123-Melendez Lopez**CV41-23-0133**

Type	Date	Notes	Quantity	Rate	Total
Service	11/03/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$25.00

00128-Saavedra**CR41-19-463**

Type	Date	Notes	Quantity	Rate	Total
Service	11/07/2023	Teton County Case: Time Served Motion	1.00	\$100.00	\$100.00
Service	11/08/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$125.00

00131-Gonzalez**CR41-23-475, CR41-23-477**

Type	Date	Notes	Quantity	Rate	Total
Service	10/19/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: GAIN Filing	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Client Meeting, Court Hearing	2.00	\$100.00	\$200.00
Subtotal					\$250.00

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00134-Meija Sosa**Teton County Drug Court (CR10-21-349)**

Type	Date	Notes	Quantity	Rate	Total
Service	11/03/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/10/2023	Teton County Case: Client meetings and calls. Plea negotiations	3.75	\$100.00	\$375.00
Service	11/14/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Subtotal					\$450.00

00139-Conley**CR41-23-0608**

Type	Date	Notes	Quantity	Rate	Total
Service	11/01/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/07/2023	Teton County Case: Court Hearing	0.50	\$100.00	\$50.00
Service	11/08/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/08/2023	Teton County Case: Calls for client..	1.50	\$100.00	\$150.00
Subtotal					\$250.00

00150-Gankofskie**JV41-23-0011**

Type	Date	Notes	Quantity	Rate	Total
Service	10/19/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/24/2023	Teton County Case: Client calls and strategy session	2.50	\$100.00	\$250.00
Service	10/25/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	10/26/2023	Teton County Case: Document Review and Case	0.25	\$100.00	\$25.00

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		Notes			
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
				Subtotal	\$350.00

00154-Rodriguez**JV41-22-12, JV41-22-17, JV41-22-18, JV41-23-9, JV41-23-12**

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/19/2023	Teton County Case: Client calls.	3.50	\$100.00	\$350.00
Service	11/04/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/08/2023	Teton County Case: Client meeting	2.75	\$100.00	\$275.00
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/14/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
				Subtotal	\$750.00

00155-Runyan**JV41-22-13**

Type	Date	Notes	Quantity	Rate	Total
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/08/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
				Subtotal	\$75.00

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00159-Torres**JV41-23-0010, JV41-23-0020**

Type	Date	Notes	Quantity	Rate	Total
Service	10/19/2023	Teton County Case: Phone Call	0.50	\$100.00	\$50.00
Service	11/01/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Client Meeting, Court Hearing	1.00	\$100.00	\$100.00
			Subtotal		\$175.00

00162-Lepe**CR41-23-0662, CR41-20-0293**

Type	Date	Notes	Quantity	Rate	Total
Service	10/26/2023	Teton County Case: Client meetings. Drug court application work. Treatment application coord	3.50	\$100.00	\$350.00
Service	11/03/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/04/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/06/2023	Teton County Case: Client Meeting	1.25	\$100.00	\$125.00
Service	11/07/2023	Teton County Case: Treatment Court Documents	0.25	\$100.00	\$25.00
Service	11/07/2023	Teton County Case: Treatment Motion	1.25	\$100.00	\$125.00
Service	11/09/2023	Teton County Case: Phone Call with Jail and WY PD	0.25	\$100.00	\$25.00
Service	11/09/2023	Teton County Case: Motion	0.50	\$100.00	\$50.00
Service	11/10/2023	Teton County Case: Case review, client calls	2.50	\$100.00	\$250.00
Service	11/12/2023	Teton County Case: Release to Treatment Phone Calls and Emails	1.00	\$100.00	\$100.00
Service	11/13/2023	Teton County Case: Case Notes	0.25	\$100.00	\$25.00
			Subtotal		\$1,150.00

Invoice # 53 - 11/20/2023

00163-Hernandez**CR41-23-0663***CF DUI*

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Case work. Client meetings. Client calls. Coord with Feds	2.50	\$100.00	\$250.00
Subtotal					\$250.00

00164-Dvergsdal**CR41-22-1123**

Type	Date	Notes	Quantity	Rate	Total
Service	10/23/2023	Teton County Case: Case Notes	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/07/2023	Teton County Case: Case Notes	0.25	\$100.00	\$25.00
Subtotal					\$75.00

00165-Lopez**CR41-23-681**

Type	Date	Notes	Quantity	Rate	Total
Service	10/17/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	10/19/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/20/2023	Teton County Case: Casework. Plea prep	2.25	\$100.00	\$225.00
Service	11/06/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/07/2023	Teton County Case: Client Meeting, Curran Seli Calls, Court Hearing	2.50	\$100.00	\$250.00
Subtotal					\$550.00

Invoice # 53 - 11/20/2023

00169-McBride**CR41-22-263, CR41-22-250**

Type	Date	Notes	Quantity	Rate	Total
Service	10/25/2023	Teton County Case: Probation Motion	0.50	\$100.00	\$50.00
Service	10/31/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
			Subtotal		\$100.00

00170-Johnson**CR41-23-0271**

Type	Date	Notes	Quantity	Rate	Total
Service	10/17/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/02/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/10/2023	Teton County Case: Case review, investigation, plea work	3.00	\$100.00	\$300.00
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
			Subtotal		\$375.00

00171-Trosper**CR41-23-0719**

Type	Date	Notes	Quantity	Rate	Total
Service	10/19/2023	Teton County Case: Client meetings. Evidence review	5.25	\$100.00	\$525.00
Service	10/23/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Case Prep. Client Meeting. Court	6.00	\$100.00	\$600.00

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Hearing

Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$1,225.00

00173-Dewey**CR41-23-720**

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Client meetings evidence review	5.25	\$100.00	\$525.00
Service	10/23/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	10/24/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Case Prep, Hearing	6.00	\$100.00	\$600.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$1,225.00


00174-Carrillo Olvera**CR41-23-718, CR41-23-674**

Type	Date	Notes	Quantity	Rate	Total
Service	10/25/2023	Teton County Case: Client meetings. Case review and coord. Negotiations.	5.25	\$100.00	\$525.00
Service	11/01/2023	Teton County Case: Client Meeting, Court Hearing	1.00	\$100.00	\$100.00
Service	11/06/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Motion	0.50	\$100.00	\$50.00
Service	11/16/2023	Teton County Case: Phone Call and Emails	0.50	\$100.00	\$50.00
Service	11/16/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$775.00

Invoice # 53 - 11/20/2023

00188-Hansen**CR41-23-0653**

Type	Date	Notes	Quantity	Rate	Total
Service	11/02/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/02/2023	Teton County Case: Discovery Request, Zoom Motion	0.50	\$100.00	\$50.00
Service	11/08/2023	Teton County Case: Discovery	0.25	\$100.00	\$25.00
Subtotal					\$100.00

00177-Miller **CR41-23-771 (CR41-23-0713, CR41-23-712)**

Type	Date	Notes	Quantity	Rate	Total
Service	10/24/2023	Teton County Case: Case work.	4.50	\$100.00	\$450.00
Service	10/25/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/25/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/26/2023	Teton County Case: Evidence	0.25	\$100.00	\$25.00
Service	10/30/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Client Meeting, Evidence	2.00	\$100.00	\$200.00
Service	11/02/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/04/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	11/07/2023	Teton County Case: Client Meeting	0.50	\$100.00	\$50.00
Service	11/09/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/09/2023	Teton County Case: Client Meeting	2.25	\$100.00	\$225.00
Subtotal					\$1,150.00

Invoice # 53 - 11/20/2023

00178-Gamez**CR41-22-1134**

Type	Date	Notes	Quantity	Rate	Total
Service	11/05/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
			Subtotal		\$50.00

00179-Miranda**CR41-23-0749**

Type	Date	Notes	Quantity	Rate	Total
Service	10/17/2023	Teton County Case: Document Review, Discovery Request	0.50	\$100.00	\$50.00
Service	10/17/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	10/18/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Service	10/24/2023	Teton County Case: Case review. Client meeting. Plea prep.	3.50	\$100.00	\$350.00
Service	11/02/2023	Teton County Case: Phone Call	0.25	\$100.00	\$25.00
Service	11/04/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
			Subtotal		\$525.00

00182-Bones**CR41-23-0669**

Type	Date	Notes	Quantity	Rate	Total
Service	10/18/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	10/18/2023	Teton County Case: Document Review, Case Notes,	0.25	\$100.00	\$25.00

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		Discovery			
Service	11/09/2023	Teton County Case: Client emails, calls. Treatment coordination	2.25	\$100.00	\$225.00
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Subtotal					\$300.00

00194-Barton**ADMIN41-23-10**

Type	Date	Notes	Quantity	Rate	Total
Service	11/05/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$50.00

00191-Scott**(Acelin Scott) JV41-23-0016**

Type	Date	Notes	Quantity	Rate	Total
Service	11/04/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/04/2023	Teton County Case: Document Review, Case Notes, Discovery	0.25	\$100.00	\$25.00
Subtotal					\$50.00

00184-Laub**CR41-23-0807**

Type	Date	Notes	Quantity	Rate	Total
Service	10/31/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	10/31/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00

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Subtotal	\$50.00
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00185-Vences**CR41-23-0806**

Type	Date	Notes	Quantity	Rate	Total
Service	10/30/2023	Teton County Case: Court Hearing	1.00	\$100.00	\$100.00
Service	11/01/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/03/2023	Teton County Case: Document Review, Case Notes, Discovery Request	0.50	\$100.00	\$50.00
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
			Subtotal		\$200.00

00186-Michael**ADMIN41-23-10**

Type	Date	Notes	Quantity	Rate	Total
Service	11/01/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/01/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
			Subtotal		\$50.00

00189-Haslam**CR41-23-0808**

Type	Date	Notes	Quantity	Rate	Total
Service	11/03/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/03/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
			Subtotal		\$50.00

Invoice # 53 - 11/20/2023

00190-Doremus**JV41-22-0019**

Type	Date	Notes	Quantity	Rate	Total
Service	11/03/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/03/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/06/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
			Subtotal		\$75.00

00192-Scott**(Marley Scott) JV41-23-0014**

Type	Date	Notes	Quantity	Rate	Total
Service	11/04/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/04/2023	Teton County Case: Document Review, Case Notes, Discovery	0.25	\$100.00	\$25.00
			Subtotal		\$50.00

00193-Tew**CR41-23-0800**

Type	Date	Notes	Quantity	Rate	Total
Service	11/04/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
			Subtotal		\$25.00

00195-Sierra**CR41-23-764, CR41-23-710, CR41-23-709**

Type	Date	Notes	Quantity	Rate	Total
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Invoice # 53 - 11/20/2023

Service	11/05/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review, Case Notes, Discovery	0.50	\$100.00	\$50.00
Service	11/06/2023	Teton County Case: Preliminary Waiver	1.00	\$100.00	\$100.00
Service	11/06/2023	Teton County Case: Client Meeting	1.25	\$100.00	\$125.00
Service	11/07/2023	Teton County Case: Case Prep, Client Meeting	3.00	\$100.00	\$300.00
Service	11/08/2023	Teton County Case: Prelim Waiver	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.50	\$100.00	\$50.00
Service	11/14/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$700.00

00196-Good**CV41-23-0237**

Type	Date	Notes	Quantity	Rate	Total
Service	11/05/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/05/2023	Teton County Case: Document Review	0.25	\$100.00	\$25.00
Subtotal					\$50.00

00197-Bryan**CR41-23-327**

Type	Date	Notes	Quantity	Rate	Total
Service	11/06/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Subtotal					\$25.00

00198-Raudman**CR41-23-0822**

Invoice # 53 - 11/20/2023

Type	Date	Notes	Quantity	Rate	Total
Service	11/07/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/07/2023	Teton County Case: Court Hearing	1.50	\$100.00	\$150.00
			Subtotal		\$175.00

00200-Quiroz**CR41-23-812**

Type	Date	Notes	Quantity	Rate	Total
Service	11/13/2023	Teton County Case: Document Review and Case Notes	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
			Subtotal		\$50.00

00201-Ortiz**JV41-23-0019**

Type	Date	Notes	Quantity	Rate	Total
Service	11/13/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
Service	11/13/2023	Teton County Case: Document Review, Case Notes, Discovery	0.25	\$100.00	\$25.00
			Subtotal		\$50.00

00202-Turner**CV41-23-0264**

Type	Date	Notes	Quantity	Rate	Total
Service	11/17/2023	Teton County Case: Record Creation	0.25	\$100.00	\$25.00
			Subtotal		\$25.00
			Total		\$20,775.00

Invoice # 53 - 11/20/2023

Detailed Statement of Account**Other Invoices**

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
47	11/16/2023	\$16,800.00	\$0.00	\$16,800.00

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
53	12/20/2023	\$20,775.00	\$0.00	\$20,775.00
Outstanding Balance				\$37,575.00
Total Amount Outstanding				\$37,575.00

Please make all amounts payable to: John Malek Law Group PLLC

Please pay within 30 days.



AGENDA ACTION ITEM

DATE: December 15, 2023

TO: Board of County Commissioners

FROM: Daniel Reyes

ITEM TITLE: **ACTION ITEM: DARBY CREEK NOTICE OF VIOLATION**

Notice of Violation Attached.

SUGGESTED MOTION:

Approve Notice of Violation to be issued by Planning Department

ATTACHMENT(S):

[vintage II_Darby Creek_NOV 12.13.2023 wd rev.pdf](#)

[Vintage II Complaint and evidence.pdf](#)



TETON COUNTY, IDAHO

BUILDING DEPARTMENT / PLANNING DEPARTMENT

Notice of Violation

Date: December 15, 2023

Re: Vintage II, LLC
RP04N45E130601

Attn: Mr. Carl Nagel, Principle

This property has been evaluated for compliance with Teton County codes and permit requirements and has been found to be in violation of the following:

1. Teton County LDC 5-2 Grading and Erosion Control (GEC) Permit:
Development Activity had taken place along the Darby Creek area without any GEC Permit from Teton County.
2. Teton County Title 12: Flood Damage Prevention:
Work was done in a mapped Special Flood Hazard Area. Darby Creek was significantly damaged, and work has taken place within the High Water Mark. This work was done without a Permit to Develop in a Floodplain from Teton County

You are hereby notified that you must contact the Code Compliance Technician and Planning Administrator within 10 business days of the date of this notice to discuss the violation(s) listed herein. At a minimum you must:

- Pay a fine in the amount of \$1,000 for work done without proper permitting.
- Submit a Grading and Erosion Control Permit Application and Floodplain Development Permit Application. Both applications must include all work that has already been done and any future work that is proposed.
- Submit a plan, prepared by a qualified engineer, to remediate the un-permitted removal of vegetation in the Special Flood Hazard Area.

No further work may be done on the property until authorized by Teton County.

Jade Krueger
Teton County Planning Administrator

Jared Powell
Teton County Code Compliance Technician



Darby Creek Complaint

On or about October 11, 2023 Teton County Planning and Building Department was made aware through concerns that there was possibly dredging and bulldozing in the Darby Creek bed on Vintage II property (RP04N45E130601). The principal owner is Mr. Carl Nagel. It was believed this was taking place without any necessary permits Through Teton County.

On information and belief, Nagel recently hired Billy Matkin of Matkin Bro's Excavation Inc. to strip away large amounts of riparian vegetation including trees and understory vegetation in the mapped floodplain along the banks of Darby Creek within the Ordinary High Water Mark. Also on information and belief, Nagel did not apply for nor possess any of the necessary permits or authorization from Teton County, including (1.) A grading and erosion control permit LDC 5-2, (2.) A Floodplain Development Permit per Title 12 Flood Damage Prevention, (3) A remediation plan. Depending on Nagel's development plans, Stream alteration permits may also be required from the Idaho Department of Water Resources and the Army Corps of Engineers.

Nagel has removed large swaths of critical vegetation within the ordinary high water mark which includes vegetation along the banks of Darby Creek and within the mapped floodplain along Darby Creek. The end result is a long deep clear cut swath of creek corridor that is approximately 30' wide, stretches for 3,800 feet almost entirely within the OHWM. Based on evidence Nagel has completely disturbed and reshaped over 100 feet of stream channel, filled in the stream bed with sediment, and disturbed an additional 150ft of stream channel and stream banks as he crossed Darby Creek 's stream channels on multiple locations. He has removed nearly 3 acres of critical riparian vegetation from stream banks and the mapped floodplain and numerous truckloads of cottonwoods and woody vegetation are currently piled up within the mapped floodplain and within the OHWM.

Where Nagel reshaped and crossed stream channels and stream banks, he has discharged an estimated 60 tons of sediment. Where he has reshaped the channel and disturbed stream banks he has dredged an estimated 40 tons of sediment which can be seen stocked piled within the mapped floodplain and within the OHWM. Vegetation root mass is the only thing that holds Darby Creek together since there is no bedrock or other geological features to contain Darby Creek. Removing vegetation from streambanks causes the immediate destabilization and washing -away of stream banks since there is nothing left to hold the stream banks together. Dredging Darby Creek leads to destabilization as water washes away vegetation by scouring under roots causing damage to adjacent and downstream banks and causes damage upstream from the dredging activities through a process called "head-cutting". Removal of vegetation and/or dredging of the stream channel can quickly cause catastrophic damage to Darby Creek and adjacent properties. Past events have shown that without anything to hold the stream banks together, streams like Darby Creek can quickly start to move laterally back and forth, even during a small flood event. The Nagel section of Darby Creek sits on an alluvial fan. As such, the Nagel section is prone to avulsion events, which occur when disturbances such as newly formed debris jams or excessive sediment deposits cause the creek to suddenly cut out new channels or start flowing in old



remnant channels which are located across the alluvial fan. Avulsion events often occur after dredging or vegetation disturbances. Even a small amount of debris caught in a fence across the creek can block the channel and send flood waters in a completely new and unpredictable direction. These new channels can quickly wash away homes and infrastructure, especially if vegetation along the adjacent streambanks and within the floodplain has been removed. The Darby Creek Highway bridge and culverts which are located approximately 2,6000 feet downstream from the disturbance can easily plug with debris and sediment either washed downstream from the disturbed area and/or debris and sediment that is mobilized during an avulsion event. The damage done to Darby Creek poses a significant risk to the Highway even during small floods if it is not remediated prior to next spring's run-off event.

Without application materials for required permits that show the scope of a project, we have no way of knowing the intent of the owner or what the potential damages to Darby Creek are at this time. On October 12, 2023 Teton County Planning and Building Departments sent a letter to Mr. Nagel requesting that he contact the county with his overall plan for the land so we could work with him to determine what permits were needed from Teton County for the scope of work that was intended on the property. On October 18, 2023 at 15:30 PM I placed a call to Mr. Nagel's cell phone and got his answering machine. I stated my name and that I was with Teton County Planning and Building Departments and that I needed to speak with Mr. Nagel about the work being done on Vintage II property within the Darby Creek Corridor. On October 19, 2023 at 12:58 PM I received a call back from Mr. Nagel. I asked him about the work being done on his property, and he said he had hired Matkin Construction to put in a cattle fence to keep the cows in. I asked him if he was aware he needed a Grading and Erosion Control Permit, and possibly a permit to develop in the floodplain. He stated he was not aware that he needed any permits to put up a fence. I advised him an excavator disturbing the topsoil and land is more than simply putting up a fence. I advised him they needed to stop the work and contact the Teton Planning and Zoning Department to see what permits were needed before any more work was done. On belief from others the work continued on the property. I again called Mr. Nagel on October 25, 2023 at 10:47 AM and again left a message asking Mr. Nagel to call me. I called Mr. Nagel again on October 26, 2023 at 9:42 AM and again left him a message to call me. On October 27, 2023 at 9:23 AM I called Mr. Nagel again, he answered and I asked him if we could set up a meeting in person or on Zoom to discuss what work was going on and what work had been done on the property. Mr. Nagel stated he wanted his attorney present and would call me back. On October 27, 2023 at 12:06 PM Mr. Nagel called me back and stated his attorney was out of town but we scheduled a zoom meeting for October 31, 2023 at 10:00AM. Mr. Nagel emailed me on October 27, 2023 asking me to send him a copy of the letter we previously sent in the mail stating he didn't check his mail and had not received the letter. I emailed him the letter that was sent along with a copy of Grading and Erosion Land Codes (Teton County LDC).

On October 31, 2023 a Zoom meeting was held with Mr. Nagel, his attorney Preston Carter, myself, Jade Krueger (Planning Administrator), Wendy Danielson (Teton County Building Official), and Tina Shang (Teton County Prosecuting Attorney's Office). Preston advised that they had received a cease and desist letter from the Idaho Department of Water Resources and had halted all work on the property. Preston advised that IDWR intended to conduct a site visit to



visually inspect the work that had been done and assess potential damages. I requested that Teton County be notified either by phone or email when the site visit was scheduled so I could be present to see the damage and scope of work that was done. Preston asked if I could email him and Mr. Nagel a copy of the Grading and Erosion Land codes, and a copy of Title 12 pertaining to Teton County Floodplain Regulations. Preston explained that they had cleared a path with an excavator to put in a cattle fence to keep the cattle in the property. Preston advised they would let us know when the IDWR site visit was scheduled so I could be present. We thanked everyone and ended the meeting. I then emailed Preston and Mr. Nagel the requested Teton County regulations.

IDWR conducted a site visit on November 7, 2023. Teton County was not informed of the visit by Mr. Nagel or his Attorney. As IDWR is a separate entity from Teton County and was not aware of our request to be present, we weren't aware that the site visit had been conducted until a few days later. On November 15, 2023 I emailed Mr. Nagel and his attorney requesting permission for Teton County to perform a site visit to inspect the property, view the work that had been completed and assess potential damages, and to determine what violations had occurred based on Teton County Land Codes. Preston responded and denied my request stating they were in a holding pattern waiting for a Notice of Violation (NOV) from IDWR from their site visit.

It is belief from evidence collected that Vintage II did earthwork without a Grading and Erosion Control Permit, and also violated Teton County Title 12 Flood Damage Prevention Ordinance by working under the high water mark and altering a creek without the proper permits from Teton County or The Idaho Department of Water Resources. Therefore Teton County Proposes that Mr. Nagel (1.) be cited with a \$1,000.00 fine, (2.) be required to obtain the proper GEC and Floodplain Permits before any more groundwork can resume on the property or near Darby Creek and (3.) that he submit a plan, prepared by qualified engineer, to remediate the Darby Creek corridor which has been altered.

A handwritten signature in blue ink that reads "Wendy Danielson".

Wendy Danielson

Building Official

208-354-2593 x201

wdanielson@co.teton.id.us

A handwritten signature in blue ink that reads "Jared Powell".

Jared Powell

Code Compliance Tech

208-915-2151

jpowell@co.teton.id.us



Darby Creek Area of Disturbance: (Red Line=Approximate Area of Disturbance; Green Shading=Effective FEMA Floodplain Map Zone A)



Photo Credit, Mike Lein / Friends of Teton River



Photo Credit, Mike Lein / Friends of Teton River



Photo Credit, Mike Lein / Friends of Teton River



Photo Credit, Mike Lein / Friends of Teton River



Photo Credit, Mike Lein / Friends of Teton River



Photo Credit, Mike Lein / Friends of Teton River



Photo Credit, Mike Lein / Friends of Teton River



November 22, 2023

Carl Nagel
Vintage II, LLC
970 W. Broadway Ste. E
PMB81
Jackson WY, 83001

CERTIFIED MAIL

**NOTICE OF VIOLATION AND ORDER TO CEASE AND DESIST
THE UNAUTHORIZED ALTERATION OF DARBY CREEK**

Case No. E2023-2967

Dear Mr. Nagel:

The purpose of this letter is to notify you that a violation of State Law is hereby attributed to you by the Idaho Department of Water Resources (“Department”). This Notice of Violation (“NOV”) is issued pursuant to Idaho Code §§42-1701B and 42-3809(2). Specifically, the NOV is associated with alterations of Darby Creek caused by using heavy machinery in the channel, clearing vegetation, and creating crossings at multiple locations. During an onsite inspection conducted on November 7, 2023 with the Department, you communicated the work was associated with construction of a fence along the northern property boundary. The unauthorized work occurred at a location within Section 13, Township 04 North, Range 45 East, Teton County, Idaho (“subject land”).

The violations of Title 42, Idaho Code attributed to you are listed below:

1. Idaho Code §§42-3801 and 42-3803(a) – Altering a stream channel without the required approval and permit.

As authorized by Idaho Code §42-3809(2), and in accordance with Idaho Code §42-1701B, the Department requires the following immediate redress and payment of civil penalties associated with the violations:

1. Cease and desist all work below the Ordinary High Water Mark (“OHWM”) at the subject land within Darby Creek.
2. On or before December 15, 2023, prepare and submit a Joint Application for Permits (“Application”) that describes the work that has already occurred and includes a proposal to restore the bed and banks of Darby Creek. The Application must propose to restore and revegetate all disturbed areas of Darby Creek at the subject land and include measures to restore fish and wildlife habitat. The Application shall include professional design plans and must be approved by the Department, and you must obtain a stream channel alteration permit prior to implementing construction of the project.

3. Pay a civil penalty in the amount of \$10,000 on or before December 31, 2023.

You may submit any objections to the provisions of this NOV at a compliance conference. Pursuant to Idaho Code §42-1701B, **a compliance conference must be requested in writing within 14 days of receiving this notice.**

The compliance conference provides the recipient of a NOV the opportunity to explain the alleged violations and present a plan to assure future compliance through an agreement. Resolution of this NOV will be formalized through a Consent Order and Agreement.

Failure to comply with these requirements may be cause for the Department to seek curtailment of the unauthorized activity and/or initiate a civil action through the attorney general's office in district court.

Please contact me at (208) 287-4941 or aaron.golart@idwr.idaho.gov if you have questions regarding this notice or to schedule a compliance conference.

Respectfully,



Aaron Golart
Water Compliance Bureau

Cc Preston Carter, Givens Pursley LLP, Boise
 Meghan Carter, Deputy Attorney General, Boise
 Brendan Jones, U.S. Army Corps of Engineers, Idaho Falls
 Eric Anderson, Idaho Department of Fish and Game, Idaho Falls
 Heath Hancock, Idaho Department of Lands, Idaho Falls
 Alex Bell, Idaho Department of Environmental Quality, Idaho Falls
 Cherie Palmer, Idaho Department of Water Resources, Boise
 Scott Stosich, Idaho Department of Water Resources, Idaho Falls
 Wendy Danielson, Teton County, Driggs



AGENDA ACTION ITEM

DATE: December 15, 2023

TO: Board of County Commissioners

FROM: Daniel Reyes

ITEM TITLE: **ACTION ITEM: PUBLIC DEFENSE COMMISSION REPORT**

Report attached

SUGGESTED MOTION:

Approve public defense commission report



AGENDA ACTION ITEM

DATE: December 15, 2023

TO: Board of County Commissioners

FROM: Darryl Johnson, Public Works Director

ITEM TITLE: **ACTION ITEM: W6600S FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND ORDER**

A public hearing was held on 10/10/2023 and continued to 10/23/2023 for the validation/vacation of the road identified as "W6600S" under Idaho Code §40-203A and §40-203. At the close of the public hearing, this matter was taken under advisement for staff to prepare written findings of fact and conclusion of law based on the record for commissioner review. Attached is the draft Findings of Fact and Conclusions of Law and Order for the W6600S road validation/vacation public hearing for your review.

Once a decision has been reached in this matter, Idaho Code §40-203A and § 40-203 require a written Findings of Fact and Conclusions of Law and Order be issued and recorded.

Note: The final decision rests with the Board of County Commissioners after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

SUGGESTED MOTION:

Having concluded that the right-of-way known as "W6600S" was not created as a public road or right-of-way, I move to:

a. Approve the Findings of Fact and Conclusions of Law and Order as presented.

OR

b. Approve the Findings of Fact and Conclusions of Law and Order with the following changes:

- i. ...
- ii. ...

ATTACHMENT(S):

[W6600S - Findings of Fact and Conclusions of Law and Order - Draft 12.7.2023.docx](#)

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF TETON,
STATE OF IDAHO

IN RE: Resolution for Validation and/or
Vacation of the Road or Right-of-Way known
as “W6600S” located in Teton County, Idaho

FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND ORDER

This matter came before the Teton County Board of County Commissioners (the “Board”) pursuant to Idaho Code § 40-203 and § 40-203A for a public hearing that was held on October 10, 2023 and continued on October 23, 2023. The following findings of fact and conclusions of law and order are based on the record of the aforementioned hearings.

I. PROCEDURAL BACKGROUND

1. On May 26, 2023, JT Trees, LLC filed a quiet title action, Case No. CV41-23-0108, in the Teton County District Court asserting ownership of the road-or-right or way identified on the Teton County road map as W 6600 S (the “Road”).
2. Pursuant to Idaho Code § 40-208(7), the road validation/vacation process under Idaho Code § 40-203 and 40-203A and judicial review thereof is the prescribed process for the evaluation and determination of legal status or width of a public road.
3. JT Trees, LLC agreed to stay its pending suit for the Board to initiate these proceedings under Idaho Code § 40-203 and 40-203A. By Teton County Resolution 2023-0724 dated July 25, 2023, the Board initiated these proceedings to (1) validate the Road either as a public highway or public right-of-way under Idaho Code § 40-203A and/or (2) abandon, vacate, or reclassify a road, pursuant to Idaho Code § 40-203, where county staff were unable to locate records establishing the adoption of the Road as a county road or public right of way.

4. Notice of public hearing on this matter was published in the Teton Valley News on September 27, 2023 and October 4, 2023 and notice to adjacent landowners was mailed on September 11, 2023.
5. A public hearing was held on October 10, 2023 at approximately 9:00 AM.
6. At the public hearing, the Board accepted testimony and evidence from all interested persons. Max Bratrud, an adjacent property owner, Brad Booke, counsel for JT Trees, LLC, and Jamie Walters, an adjacent property owner, gave public comment. The Board continued the public hearing to October 23, 2023.
7. Minutes of the public hearing were taken and placed in the official minutes of the Board.
8. At the continued public hearing, on October 23, 2023 at approximately 9:00 AM, the Board took testimony and accepted evidence from all interested persons. Max Bratrud and Brad Booke, counsel for JT Trees, LLC gave public comment. The Board moved to close the record and take the matter under advisement for further review and deliberation of the record.
9. Minutes of the public hearing were taken and placed in the official minutes of the Board.

II. FINDINGS OF FACT

Based on the testimony and evidence presented at public hearings and made part of the record, the Board makes the following findings of fact:

1. The Road is currently shown on the county GIS Map marked as W 6600 S. It is located at Section 35 T4N R45, Teton County and lies within a 50 foot strip of land along the southern boundary of Teton County Parcel No. RP04N45E357801 (the "Property").
2. The property owner of record for the Property is JT Trees, LLC.
3. The Road is shown on the Official Road Map of Teton County adopted on December 18, 2006 and all county road maps since that time, including the current county GIS map.

4. Beginning July 17, 2006, the Teton County Board of County Commissioners held a series of public hearings to validate all roads in Teton County prior to adoption an official County Road Map (“the 2006 Road Hearings”).
5. The Road is shown on the Quadrant D exhibit as part of the 2006 Road Hearings. However, minutes of the 2006 Road Hearing do not contain any record of discussion of the Road or provide any evidence that the Road was formally validated as a county road during the 2006 Road Hearings.
6. At the time of the 2006 Road Hearings, the Property was owned by Teton County (the “County”).
7. The County granted “[a] moving easement over and across the County gravel pit” to David Z. Walters and Charlene B. Walters on February 4, 2000, recorded as Teton County Instrument No. 136702 on February 9, 2000 (the “Easement”).
8. In 2008, the Property was sold and conveyed to JT Trees, LLC by warranty deed, recorded as Teton County Instrument No. 198031. The County’s interest in the Easement was also assigned to JT Trees, LLC by an Assignment of Interest, records as Teton County Instrument No. 198032. In these records, the County did not maintain a reservation of any public rights in the Road.
9. The County is not in possession of, nor has it found, any records documenting the use of public funds to maintain the Road.
10. A One Time Only Lot Split Plat recorded as Teton County Instrument No. 262870 on September 40, 2020 created Teton County Parcel No. RP04N45E358100 that lies south of the Road. Max Bratrud is the property owner of said Teton County Parcel No. RP04N45E358100

(the “Bratrud Property”). When the Bratrud Property was created, no express easement through the adjoining parcel to the south was granted.

11. The County granted Mr. Bratrud a Permit to Work Within County Right-of-Way No. 2022-AC007 dated and approved March 3, 2022, and Teton County Building Permit No. 22-0506-007 relating to proposed improvements on the Bratrud Property.

12. Approval of the One Time Only Lot Split, the two permits, as well as emails from Darryl Johnson, Public Works Director, dated January 12, 2021 and May 11, 2021 asserting that W6600S is a county road, show that County staff have operated under the assumption or represented to Mr. Bratrud that W6600S is a county road.

13. Idaho Transportation Department (“ITD”) has indicated that while the Bratrud Property abuts State Highway 33 on its east side, the Bratrud Property cannot receive separate access off of State Highway 33 because such access would be too close to the Road.

14. The parcel to the south of the Bratrud Property is currently the subject of a subdivision application.

15. JT Trees, LLC previously granted permissive use of the Road to Mr. Bratrud as a single-family home owner but considers the permissive use greatly exceeded. It was this permissive use being exceeded that gave rise to the need for the quiet title action.

16. Mr. Bratrud does not believe JT Trees, LLC is interested in granting him an easement. He is using the Bratrud Property as a home and home business, relatives and employees have lived temporarily on the property in campers, which may have contributed to the perceived excess use of the Road.

17. Mr. Bratrud currently contributes to maintenance of the Road.

18. None of the aforementioned facts was contested at the hearing.

III. CONCLUSIONS OF LAW

After due consideration of the testimony and evidence presented at the public hearing and made part of the record, and based on the Findings of Fact above, the Teton County Board of County Commissioner issue the following Conclusions of Law:

1. These proceedings were validly initiated by resolution of the Board of County Commissioners pursuant to I.C. § 40-203A(1).
2. Notice of public hearing was duly prepared and provided in accordance with the requirements of I.C. § 40-203A(2)(c) and I.C. § 40-203(1)(d), (e), and (f).
3. At the time of the public hearing, the Board considered all information in the record and testimony from all persons or entities having an interest in the proposed validation pursuant to I.C. §§ 40-203A(2)(e) and 40-203(1)(g).
4. Road Validation: Does a public right-of-way exist? A public road or right-of-way must be found to exist before it can be abandoned. Creation of a road generally occurs under one of the two classifications: (1) creation by formal action or (2) creation by prescription.
 - a. Creation by Formal Action: Under state statute and common law, creation by formal action can take place in a number of ways, including the following: formal declaration and recording by the county or highway district, blanket legislative declaration, common law dedication, dedication by plat, conveyance by the landowner, or condemnation. In this case, County staff were unable to locate any records establishing the formal creation of the Road as a county road. While the Road has been shown on the county road map since the adoption of the Official Road Map of Teton County adopted on December 18, 2006 and all county road maps since that time, there is no evidence that the Road was formally validated as a county road during the 2006 Road Hearings.

Designation of a road on an official county road map in and of itself does not validate or create a public road. *Homestead Farms, Inc. v. Bd. of Comm'rs of Teton Cty*, 141 Idaho 855, 860, 119 P.3d 630, 635 (2005) (“[I]f a road is not properly created as a public highway, its inclusion on an official county highway system map does not make it so....”). Therefore, the Road does not appear to have been created as a public road or right of way through formal action.

b. Creation by Prescription: In Idaho, a public road or right of way may be created if it is used by the public and maintained at public expense for a period of five (5) years. § I.C. 40-202(3). There is no statutory requirement that the five years of use or maintenance be consecutive or continuous, nor that it be for the entire length of the road. *Id.* See also *Tomchak v. Walker*, 104 Idaho 446, 448, 700 P. 2d 68, 70 (1985). In this case, the County is in possession of no records documenting the use of public funds to maintain the Road and received no testimony that the Road has ever been publically maintained. There is also no evidence of public use of the Road. Evidence that the County granted an easement over the Road to a neighboring parcel while the Property was used as a County gravel pit and the fact that the County did not maintain a reservation of any public rights in the Road when it sold the property, tends to show that there has not been public use of the Road. Therefore, there is no evidence that the Road was created as a public road or right-of-way through prescriptive means.

5. Road Vacation/Abandonment: If a public right-of-way exists, should it be abandoned?

a. In this case, the Board has not found any grounds upon which to validate the Road as a public road or right-of-way. Therefore, it does not reach discussion of whether abandonment or vacation of the Road is in the public interest, or whether such

abandonment or vacation would leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way.

b. The Board notes that Mr. Bratrud has raised the concern that his parcel will be “landlocked” by this decision, despite being abutted by State Highway 33 on the east side of the parcel. However, without finding that a public road or right-of-way has been created, the County does not have authority to validate the road as a public road based on this concern. Counsel for JT Trees, LLC has indicated that Mr. Bratrud was previously given permissive use of the Road but JT Trees, LLC considers the permissive use exceeded. The County does not have jurisdiction to adjudicate easements or property rights issues between neighboring landowners. See *Jasso v. Camas Cty.*, 151 Idaho 790, 797, 264 P. 3d. 987, 904 (2011). However, the Board encourages the parties to consider negotiating an easement to allow access on mutually acceptable terms.

IV. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Teton County Board of Commissioners hereby orders as follows:

1. The Road as herein described and shown on the county road map as “W6600S” is NOT VALIDATED.
2. The Road shall be removed from the official county road map of Teton County and the county GIS map.
3. These Findings of Fact and Conclusions of Law and Order shall be entered into the official minutes of the Teton County Board of County Commissioners.
4. These Findings of Fact and Conclusions of Law and Order shall be recorded in the office of the Teton County Recorder.

DATED:

TETON COUNTY BOARD OF COUNTY
COMMISSIONERS

Cindy Riegel, Commissioner

Bob Heneage, Commissioner

Mike Whitfield, Commissioner

Attest: _____
Kim Keeley, Teton County Clerk

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2023, I served a true and correct copy of the foregoing document upon the following:

Bradley L. Boone PO Box 13160 260 Veronica Lane #204 Jackson, Wyoming 83002 702-241-1631 866-297-4863 (fax) brad.booke@lawbooke.com	<input type="checkbox"/> Mailing <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Courthouse Box
Maxwell Bratrud PO Box 708 Victor, ID 83455 max.batrud@gmail.com timberhouseconstruction@gmail.com	<input type="checkbox"/> Mailing <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Courthouse Box

Clerk



AGENDA ACTION ITEM

DATE: December 15, 2023

TO: Board of County Commissioners

FROM: Daniel Reyes

ITEM TITLE: **ACTION ITEM: COMPASSIONATE LEAVE/ DONATION OF LEAVE TIME
POLICY CHANGE**

Policy changes attached

SUGGESTED MOTION:

Approve changes to Compassionate Leave/Donation of Leave Time Policy

ATTACHMENT(S):

[compassionate .png](#)

[Compassionate Leave.pdf](#)

4. Compassionate Leave/Donation of Leave Time

Who May Donate:

Employees may donate their Sick, PTO or Comp time to other employees upon approval of the donating and receiving employee's Elected Official(s)/Department Head(s), and approval of the Commissioners.

Employees who wish to donate must leave a minimum of 80 hours in their PTO and 80 hours in their Sick. There is no minimum requirement for Comp, an employee may donate all if they wish. A maximum of 40 hours of Sick pay may be donated by any one employee.

~~The minimum donation from any category is 4 hours.~~

Hours are converted to an hourly rate on donation and then withdrawn at the recipient's hourly rate.

Who May Receive Donations: Eligibility and Criteria

If a full-time regular employee, their immediate family member, or a person living in their household has a serious medical condition (not applicable to maternity leave unless there is a medical emergency) and that employee is exhausting his/her Sick, PTO and Comp time, the employee may ask his/her supervisor, Elected Official or department head that a donation be requested.

The supervisor and the BOCC have a right to deny a request for donated hours based on several factors, including but not limited to an employee's performance, absence history, disciplinary actions, etc.

To be eligible to establish a donation account the following criteria must be met:

- a. ~~The recipient must be employed with the County for twelve months or more prior to request.~~
- ~~b. The recipient must be exhausting all paid time. An employee who is receiving Workers Compensation, short term or long-term disability benefits is not eligible to receive donations at the same time since alternate forms of income are available.~~
- c. ~~The anticipated uncompensated absence must be longer than one week.~~
- ~~d. The County may require that the employee provide a physician's statement documenting the medical condition and required period of absence for the employee.~~
- e. No more than 480 hours may be received by the recipient of donated time during a 12 month rolling period of time.
- f. Donated time may be used either on a continuous or intermittent basis.
- g. The employee is obligated to advise the County when other sources of income are available.
- h. Donated time will not be paid when the serious medical condition ends.
- i. Personal and sick leave will not accrue while donated time is being used.

Administration:

Human Resources is responsible for reviewing requests for donated leave, publicizing the need for donations, and overseeing the operation of the compassionate leave program. Human Resources will maintain documentation and verify whether the employee's situation qualifies and meets all requirements to receive leave under this policy.

The names of employees' donating time and requesting time will be kept private. There is no entitlement to compassionate leave. The County reserves the right to deny any compassionate leave request. The County also reserves the right to make changes to or to cancel this benefit at any time.

4. Compassionate Leave/Donation of Leave Time

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