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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

COURT OF APPEALS, STATE OF WASHINGTON
DIVISION III

No. 362345

BARRY MOORE and DANNA MOORE, husband and wife,

Plaintiffs-Appellants,

v.

CAROL HANSON, individually, and CAROL HANSON, SUCCESSOR
TRUSTEE OF THE LLOYD O. LUEDECKE and DORIS L.
LUEDECKE LIVING TRUST,

Defendant-Respondent.

RESPONDENT'S BRIEF

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I. INTRODUCTION

Appellants, the Moores, and Respondent, Carol Hanson, are neighbors. The Moores' property sits at a slightly higher elevation than Ms. Hanson's property. Ms. Hanson (and her predecessors) has long maintained a rock wall that provides a minimal degree of lateral support to the Moores' property. Above this rock wall is a row of overgrown juniper bushes (planted on Ms. Hanson's property), and a chain link fence (constructed by the Moores' predecessors). In an effort to improve her property, Ms. Hanson sought to replace the rock wall with an engineered retaining wall and to remove the juniper bushes. Ms. Hanson attempted to work collaboratively with the Moores, but the Moores contested Ms. Hanson's plan to remove the bushes and did not approve of the retaining wall she intended to build.

The Moores sued Ms. Hanson. The Moores alleged, *inter alia*, that Ms. Hanson had caused a loss of lateral support to their property, committed timber trespass, and created a nuisance. Ms. Hanson filed a Motion for Partial Summary Judgment seeking dismissal of these claims. The only evidence the Moores could put forward in opposition to summary judgment was:

- Ms. Hanson removed one juniper bush, which allegedly exposed a footing of a fence post owned by the Moores.

- The fence did not fall, but apparently a gap appeared under the fence such that the cement footing of the fence floated in mid-air.
- At some point in time, Ms. Hanson allegedly cut a branch of a juniper bush that grew from a root on the Moores' side of the fence leaving a four-inch "stump."

The trial court found this evidence insufficient to create genuine issues of material fact, and granted summary judgment in Ms. Hanson's favor.

On appeal, the Moores make the same arguments as they made before the trial court. The Moores argue that their speculative testimony, and the non-germane opinions of their engineer, present genuine issues of material fact that preclude summary judgment. The Moores stack inference upon inference, but fail to put forth admissible evidence establishing, by a preponderance of the evidence, that Ms. Hanson caused a loss of lateral support or committed a timber trespass or nuisance. This Court should affirm the trial court's summary judgment dismissal of these claims.

II. STATEMENT OF FACTS

Ms. Hanson resides in a home located at 312 NW True Street, Pullman, Washington. CP at 50 (Decl. of C. Hanson at ¶ 2). The Moores

are Ms. Hanson's next door neighbors to the north. *Id.* On the northern portion of Ms. Hanson's property, there is a dilapidated rock wall with juniper shrubs planted in the soil behind the wall. *Id.* Ms. Hanson's parents (who owned the property before Ms. Hanson) planted the juniper bushes around 1965 or 1966 at about the same time they built the rock wall. *Id.* (Decl. of C. Hanson at ¶ 2). The root balls and a majority of the branches of the juniper bushes are on Ms. Hanson's property. *Id.* (Decl. of C. Hanson at ¶ 4). Just to the north of the juniper bushes is a chain link fence that was installed by the former owners of the Moores' property. *See* CP at 51 (Decl. of C. Hanson at ¶ 2), 55-56 (photographs); *see also* Appendix A (reproducing, in color, CP at 55-56).

In recent years, the rock wall on Ms. Hanson's property has deteriorated through natural erosion and possibly from the weight and roots of the juniper bushes. CP at 51 (Decl. of C. Hanson at ¶ 3). Ms. Hanson has wanted to replace the rock wall for many years. *Id.* Ms. Hanson also wanted to remove the overgrown juniper bushes. *Id.* (Decl. of C. Hanson at ¶ 4). In May 2014, Ms. Hanson removed one juniper bush by sawing through the branches and stem and pulling the bush onto her lawn. *Id.*

In December 2015, Ms. Hanson ordered a survey of her property. CP at 58. This survey revealed that the Moores' fence encroached several

inches onto Ms. Hanson's property in various places. *Id.* As the rock wall is to the south of the fence, the rock wall is entirely on Ms. Hanson's property.

In May 2017, Ms. Hanson sought a bid from contractor Mega D Excavations to install a new retaining wall. *Id.* (Decl. of C. Hanson at ¶ 5). Ms. Hanson also hired an engineer to design the wall. *Id.* In an effort to appease the Moores, Ms. Hanson shared her plans with the Moores, who had hired their own engineer. CP at 51-52 (Decl. of C. Hanson at ¶ 5). Although a number of designs were considered, Ms. Hanson and the Moores disagreed about what design to implement. *Id.*

Ms. Hanson then hired a second engineer, Paul T. Nelson, P.E., to design a suitable wall. CP at 52 (Decl. of C. Hanson at ¶ 6). Mr. Nelson prepared a design, which Ms. Hanson submitted to the City of Pullman on or about November 2, 2017 together with an application for a building and storm water services permit. *Id.* The City approved Mr. Nelson's wall design. *Id.* Ms. Hanson also retained an engineering and survey company to create a site plan necessary to obtain such permits from the City. *Id.* (Decl. of C. Hanson at ¶ 7).

As Ms. Hanson was preparing to rebuild her retaining wall, the Moores commenced litigation. The Moores filed a Complaint in Whitman County Superior Court alleging claims of (1) adverse possession, (2) loss

of lateral support; (3) an injunction; (4) timber trespass; and, (5) nuisance. CP at 3-9.

Ms. Hanson filed a Motion for Partial Summary Judgment seeking dismissal of all of the Moores' claims except for the adverse possession claim. The trial court granted Ms. Hanson's Motion. The trial court ordered that "[Ms.] Hanson shall proceed with the building of her engineered retaining wall." CP at 165-67. The trial court further ordered that Ms. Hanson could "remove all the juniper bushes, including the bushes' root systems, which are south of the fence situated between Hanson's property and the Moores'." *Id.* Soon after the Court's order, Ms. Hanson removed the juniper bushes, and, on or about September 29, 2018, contractors retained by Ms. Hanson constructed the retaining wall according to her engineered plan. *See* Appendix B.

III. COUNTERSTATEMENT OF ISSUES

- A. Whether the Moores' loss of lateral support claim fails as a matter of law when their claim is not ripe, they cannot prove that they have been damaged, and Ms. Hanson's actions have actually increased the lateral support to the Moores' property.
- B. Whether the Moores' timber trespass claim fails as a matter of law when the only evidence the Moores can put forth is speculative testimony and ambiguous photographs of a single juniper bush

branch that was allegedly on the Moores' property and which was cut by Ms. Hanson.

- C. Whether the Moores' nuisance claim fails as a matter of law when the Moores put forth no evidence that Ms. Hanson has intruded on their property, and when the Moores themselves are responsible for securing their property (and pool) and for maintaining a privacy barrier.

IV. STANDARD OF REVIEW

This Court reviews a trial court's grant of summary judgment de novo. *Scrivener v. Clark Coll.*, 181 Wn.2d 439, 444, 334 P.3d 541, 545 (2014). Summary judgment is proper if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." CR 56(c). When reasonable minds can reach but one conclusion, questions of fact may be determined as a matter of law. *Ruff v. King County*, 125 Wn.2d 697, 704, 887 P.2d 886, 889 (1995). The purpose of summary judgment is to avoid a useless trial. *Balise v. Underwood*, 62 Wn.2d 195, 199, 381 P.2d 966, 968 (1963).

V. ARGUMENT

A. The Moores' Loss of Lateral Support Claim Fails as a Matter of Law and is Moot.

The Moores allege that their loss of lateral support claim should not have been dismissed. App. Br. at 12-14. The Moores argue that there are genuine issues of material fact regarding whether their fence has been damaged, and what has caused the “lateral support of the embankment to fail.” *Id.*¹ The trial court properly dismissed this claim because the Moores failed to present a ripe dispute, and failed to show that they were damaged. Further, since the trial court’s grant of summary judgment on this claim, Ms. Hanson has constructed her engineered retaining wall, mooting the Moores’ claim for loss of lateral support.

1. The Moores’ loss of lateral support claim is moot.

The issue of loss of lateral support is moot. Since the time of the trial court’s order, Ms. Hanson constructed the retaining wall engineered by Mr. Nelson. *See* Appendix B. The wall secures lateral support of the Moores’ property.

¹ The Moores appear to have abandoned their arguments that the alleged loss of lateral support endangers their pools or evergreen trees. *Cf.* CP at 8 (Complaint at ¶ XVII), 107 (Cease and desist letter).

2. The Moores' loss of lateral support claim was never ripe.

The Moores' loss of lateral support claim was not, and is not, ripe for adjudication. Before the jurisdiction of a court may be invoked, there must be a justiciable controversy, i.e., a controversy

(1) which is an actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement, (2) between parties having genuine and opposing interests, (3) which involves interests that must be direct and substantial, rather than potential, theoretical, abstract or academic, and (4) a judicial determination of which will be final and conclusive.

Diversified Indus. Dev. Corp. v. Ripley, 82 Wn.2d 811, 815, 514 P.2d 137 (1973).

The Moores fail to show an actual, present and existing dispute about their allegations of loss of lateral support. Ms. Hanson has never disputed that she is obliged to provide lateral support to the Moores' property. For several years, prior to the Moores' lawsuit, Ms. Hanson sought to build an engineered retaining wall that would improve her property and increase the lateral support to the Moores' property. CP at 51 (Decl. of C. Hanson at ¶ 3). Ms. Hanson hired Mr. Nelson to design a suitable wall, and, in an effort to be neighborly, shared Mr. Nelson's design with the Moores. CP at 51-52 (Decl. of C. Hanson at ¶¶ 5-6). The

parties agreed that work on the wall needed to be accomplished. They may have disagreed with the best design, but this is a speculative/moot disagreement because the decision regarding what wall design to implement was Ms. Hanson's decision to make.

Ms. Hanson and the Moores did not, and do not, have opposing interests regarding the provision of lateral support to the Moores' property. Ms. Hanson would not benefit from any portion of the Moores' property collapsing into her yard. The Moores similarly do not want this to occur.

The Moores fail to establish a direct and substantial interest affected by the alleged loss of lateral support. At the time they filed suit, the Moores had not been damaged, and they were actively opposing the work proposed by Ms. Hanson to secure the lateral support of their property. Alleging that their property would be immediately and irreparably damaged absent court intervention, the Moores sought an injunction allowing them to enter onto Ms. Hanson's property and to construct a retaining wall to their specifications, but at Ms. Hanson's expense. CP at 7-8 (Complaint). The Court denied the requested injunction, and the Moores concede that their request for an injunction is moot. App. Br. at 3. At the time they filed suit and sought an injunction, the Moores failed to establish an immediate and irreparably injury

necessitating the issuance of an injunction. Moreover, as discussed *infra* the damages alleged by the Moores are not substantial—their alleged injuries are an exposed fence post and a broken branch.

Finally, the Moores cannot establish that they were damaged or that the alleged dispute is subject to a final judicial determination. The only evidence of damage caused by a loss of lateral support that the Moores put forth was the exposure of one of their fence footings caused by a deterioration of the rock wall. App. Br. at 13 (citing CP at 89). The Moores do not explain how the exposure of a single footing has caused their fence to “fail” other than to state that the erosion has “[left] the fence post and fence hanging in mid-air, supported only by adjacent fencing.” *Id.* The Moores’ fence is still standing. See Appendix B. The Moores cannot establish, by a preponderance of the evidence, that loss of lateral support damaged their fence.

3. Differing opinions regarding the cause of the alleged loss of lateral support do not create an issue of material fact.

The Moores attempt to create an issue of fact by citing to the declarations of the parties’ engineers who offer differing opinions on what caused the rock wall to deteriorate. App. Br. at 13-14. The cause of the deterioration of the rock wall is not material given that the Moores cannot show that they were damaged. Also, questions of causation are moot

because Ms. Hanson has constructed a new engineered retaining wall. Further, other than speculation, the Moores do not submit admissible evidence that Ms. Hanson was responsible for exposing the footing. The rock wall was over 50 years old and had been deteriorating for years due to weather and the growth of the juniper bushes. When two or more causes of a particular event are equally plausible, the plaintiff does not meet his or her burden of proof to establish causation by a preponderance of the evidence. *See Gardner v. Seymour*, 27 Wn.2d 802, 809, 180 P.2d 564 (1947) (observing that summary judgment is appropriate “if there is nothing more tangible to proceed upon than two or more conjectural theories under one or more of which a defendant would be liable and under one or more of which a plaintiff would not be entitled to recover.”).

In sum, the trial court properly dismissed the Moores’ loss of lateral support claim. The claim is moot, not ripe and questions of what caused the wall to deteriorate are not material to the claim.

B. The Moores’ Timber Trespass Claim Fails as a Matter of Law.

The Moores allege that their timber trespass claim should not have been dismissed. App. Br. at 14 – 16. In arguing that the trial court improperly dismissed their claim, the Moores stack inference upon inference to try to show that there is a genuine issue of material fact about whether the juniper bushes removed by Hanson were growing from roots

on the Moores' side of the fence. *Id.* The Moores overstate the facts in their favor, and their inferences and speculation do not defeat summary judgment.

1. The evidence does not support that Ms. Hanson removed a substantial amount of juniper bushes.

The Moores argue that “substantial removal of junipers occurred in the spring or early summer of 2015.” App. Br. at 15. This is an overstatement. Ms. Hanson removed one juniper bush growing on her property. *See* CP at 51 (Decl. of C. Hanson at ¶ 4) (Ms. Hanson attesting that she removed the bush in 2014). Ms. Hanson performed this work from her own property by sawing through the trunk of the bush and pulling the pieces onto her lawn. *Id.* To the extent that Ms. Hanson may have trimmed foliage growing on her own property from time to time, she had a right to do so. *See, e.g., Herring v. Pelayo*, 198 Wn. App. 828, 835-37, 397 P.3d 125 (2017) (holding that in the case of the boundary line tree, one neighbor may trim branches on his or her side of the tree so long as the trimming does not destroy the tree). Ms. Hanson did not remove a “substantial” amount of junipers until the trial court ordered that such work should proceed. *See* CP at 159-61 (Order); *see also* Appendix B.

2. The Moores' photographs do not establish a genuine issue of material fact regarding the alleged timber trespass.

The Moores claim that “[p]ictures show that the junipers are rooted on both sides of the fence.” App. Br. at 15. The pictures relied upon by the Moores (App. Br. at 15-16 (citing CP at 100, 101, 102, 110, 113, 114, 116, and 117)) do not establish the position of any roots, much less roots on the Moores’ property that Ms. Hanson cut.

The photographs contained at page 101 and 102 of the Clerk’s Papers are unclear in subject and perspective. The photograph at page 101 of the Clerk’s Papers shows a ruler touching a piece of wood on a dirt/gravel surface. The Moores argue that this is a juniper bush “stump” on their side of the fence, which evidences roots growing on their side of the fence. App. Br. at 16. But it is not clear what this photograph shows. It is not clear if the piece of wood is actually a “stump,” whether it was cut (as opposed to breaking or dying), what side of the fence it is on, and, if it was cut, who cut it. Similarly, the photograph contained at page 102 of the Clerk’s Papers appears to show a gap under the fence, but does not establish that there were juniper bushes growing on the Moores’ property that Ms. Hanson cut. These photographs do not establish the existence of a genuine issue of material fact that Ms. Hanson committed a timber trespass.

The other photographs relied upon by the Moores also do not create a genuine issue of material fact concerning the alleged timber trespass. The photographs contained at pages 100, 110, and 114 of the Clerk's Papers shows that the foliage, growing from Ms. Hanson's property, has grown up, around, and through the chain link fence. The photographs contained in the Clerk's Papers at 116 and 117 do not show the juniper bushes at all; rather, they are photographs of the placement of a pin apparently at the corner of the Moores' property. The position of this pin in isolation means nothing, and the perspective of the photograph makes the subject, and relevance, of the photographs unclear. And the Moores do not explain how the photograph at page 113 of the Clerk's Papers relate to their timber trespass claim, and it appears redundant of the photographs at pages 101 and 102.

3. Mr. Moore's testimony that he saw cut foliage on Ms. Hanson's lawn does not create a genuine issue of material fact concerning the alleged timber trespass.

The Moores argue that they establish a genuine issue of material fact through Mr. Moore's testimony that "[b]oth in 2015, again in 2017, and most recently within the past month, Ms. Hanson has removed junipers on both our side of the property line and on her side." App. Br. at 16 (citing CP at 95:10-18). Mr. Moore testifies that he has seen piles of

trimmed foliage on Ms. Hanson's yard, but does not attest to facts that support that bushes were actually removed from *his* property by Ms. Hanson. Mr. Moore can do nothing more than speculate that the branches and foliage he saw on Ms. Hanson's lawn came from the Moores' property. This speculation is insufficient to defeat summary judgment. *See, e.g., Seven Gables Corp. v. MGM/UA Entm't Co.*, 106 Wn.2d 1, 13, 721 P.2d 1 (1986) ("A nonmoving party in a summary judgment may not rely on speculation, argumentative assertions that unresolved factual issues remain, or in having its affidavits considered at face value . . .").

Again, Ms. Hanson had a right to trim the foliage growing on her own property. *Herring*, 198 Wn. App. at 835-37. And, further, the fact that some branches or foliage might have existed on the Moores' property and been pulled through the fence, from bushes growing on Ms. Hanson's property, does not establish a timber trespass. *See* RCW 64.12.030 (to prove timber trespass, plaintiff must show defendant "cut down . . . any tree . . . or shrub **on the land of another person** . . . without lawful authority . . .") (Emphasis added).

4. The Moores cannot establish that the juniper bushes are boundary line shrubs.

The Moores support their timber trespass argument by citation to *Happy Bunch, LLC v. Grandview N., LLC*, 142 Wn. App. 81, 93, 173 P.3d 959, 965 (2007). App. Br. at 15-16. *Happy Bunch* is distinguishable from this case because *Happy Bunch* involved boundary line trees and this case does not. In *Happy Bunch*, the plaintiff put forth sufficient evidence (two surveys superimposing trees on boundary line) to show that the property line passed through the majority of the trees that defendant cut. *Id.* at 86. The Moores fail to make such a showing, despite having the burden to do so. The undisputed facts are that the juniper bushes were planted by Ms. Hanson's parents and grew from Ms. Hanson's property (CP at 51-52), the fence is on Ms. Hanson's property (CP at 58), and the boundary line lies behind the fence (*Id.*). The Moores have not established their adverse possession claim, and cannot put forth admissible evidence disputing Ms. Hanson's claim that any cuts she made to the juniper bushes were made on her side of the boundary line.

Moreover, the facts of *Happy Bunch* are egregious: the defendant possessed a survey that established the boundary line passed through the trunks of most of the trees, plaintiff adamantly protested defendant's plan to log the trees, but defendant proceeded anyway, at one point waiting

until the plaintiffs left their property before removing the final trees. *Happy Bunch*, 142 Wn. App. at 86-87. The parties in *Happy Bunch* stipulated that the value of the trees was over \$40,000. *Id.* at 87. In comparison, in this case, the Moores point to a single twig/stump allegedly on their side of the fence cut by Ms. Hanson (although, again, the evidence of this allegation is unclear in subject and perspective).

The Moores fail to establish a genuine issue of material fact necessitating a trial on their timber trespass claim. Ms. Hanson is entitled to judgment as a matter of law because the juniper trees are on her property and she has a right to cut them.

C. The Moores' Nuisance Claim Fails as a Matter of Law.

The Moores allege that their nuisance claim should not have been dismissed. App. Br. at 18 – 21. The Moores argue that there is a genuine issue of material fact about whether removal of a juniper bush was necessary. *Id.* at 20 – 21. The Moores further argue that removal of a juniper bush damaged their ability to use and enjoy their property, specifically their swimming pool. App. Br. at 18. The Moores' arguments fail as a matter of law, and Ms. Hanson is entitled to judgment in her favor.

1. The case law relied upon by the Moores is distinguishable from this case.

The Moores cite generally to *Jones v. Rumford*,² *MJD Properties, LLC v. Haley*,³ and *Grundy v. Thurston County*⁴ but do not discuss how these cases support their argument. App. Br. at 18 – 20. The facts of each of those cases are distinguishable from the case at bar. *Rumford* concerned the odors of a chicken ranch offending a neighbor; *MJD* concerned the position of a security light shining into the neighbor’s bedroom window; and, *Grundy* concerned the height of a seawall which forced seawater onto the neighbor’s property. Each case involved one neighbor’s intrusion onto another neighbor’s property. In this case, however, the evidence establishes only that Ms. Hanson removed a single juniper bush, which was growing from, and on, her property. She did not add or create something on her property that *intruded* onto the Moores’ property so as to interfere with their use or enjoyment of said property.

2. A debate of necessity does not create a genuine issue of material fact regarding the Moores’ nuisance claim.

The Moores argue that a properly constructed retaining wall, in accordance with the City of Pullman’s regulations, would have made

² *Rumford*, 64 Wn.2d 559, 392 P.2d 808 (1964).

³ *MJD*, 189 Wn. App. 963, 358 P.3d 476 (2015).

⁴ *Grundy*, 155 Wn. 2d 1, 117 P.3d 1089 (2005).

removing the junipers unnecessary. App. Br. at 20. The Moores further rely on the declaration of their engineer, Evan Laubach, P.E., discussing rock placement on the slope of Ms. Hanson's property. App. Br. at 20. The Moores allege that this declaration, along with the City of Pullman's building requirements establish that removal of the juniper was not necessary, and, therefore, a nuisance. *Id.* at 20-21.

In Washington, an actionable nuisance is something "injurious to health or indecent or offensive to the senses, or an obstruction of the free use of property, so as to essentially interfere with the comfortable enjoyment of the life a property." RCW 7.48.010; *see also* RCW 7.48.120 (a nuisance is "unlawfully doing an act . . . which . . . in any way renders other persons insecure in life, or in the use of property."). Ms. Hanson's removal of her juniper bush was lawful. Nothing requires Ms. Hanson to undertake only "necessary" work on her property (especially work believed by someone else to be "necessary"). The question of whether Ms. Hanson's acts were "necessary" is not a material fact, and does not defeat summary judgment dismissal of the Moores' nuisance claim.

3. Ms. Hanson is not responsible for securing the Moores' pool area and for ensuring the Moores' privacy; any alleged failure in this regard does not create a nuisance.

The Moores assert that Ms. Hanson's juniper bushes provided protection to their pool area and the removal of the juniper bush interferes with use and enjoyment of their property. App. Br. at 21. Specifically, the Moores allege that the removal of the juniper bush has "invaded their right to privacy"; diminished their ability to "enjoy their patio and swimming pool area"; interfered with "their comfort"; and, resulted in a safety hazard. *Id.* at 8-9. These arguments fail to establish a nuisance as a matter of law.

Ms. Hanson is not responsible for maintaining the safety and security measures of a swimming pool that is not on her property. The boundary fence between the Moores and Ms. Hanson's property is intact. *See* Appendix B. If the Moores do not feel confident in the fence's ability to ensure safety around their pool, they can add to, repair, or replace it. As the owners of property with a pool, it is the Moores' duty to ensure its security, not Ms. Hanson's.

Moreover, the Moores cannot compel Ms. Hanson to maintain a "privacy barrier" on her own property to benefit the Moores. *Cf.* App. Br. at 8. In Washington, "a person has no property right in the view across

their neighbor's land," and a nuisance claim based on a view obstruction fails to state a claim upon which relief can be granted. *Asche v. Bloomquist*, 132 Wn. App. 784, 802, 133 P.3d 475 (2006). If a landowner does not have a right to an unobstructed view, it follows that a landowner does not have a right to an obstructed view. The Moores may create a privacy barrier on their own property; but they cannot compel Ms. Hanson to maintain a privacy barrier for them.

In sum, the Moores' nuisance claim fails as a matter of law, and summary judgment dismissal of this claim was appropriate.

VI. CONCLUSION

For the foregoing reasons, this court should affirm the trial court's summary judgment dismissal of the Moores' claims of loss of lateral support, timber trespass, and nuisance.

RESPECTFULLY SUBMITTED this 29th day of January, 2019.

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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that a true and accurate copy of the document to which this declaration is affixed was filed and served, on this day, electronically through the Court of Appeals' online Portal. The document was also sent via regular mail, postage prepaid, to:

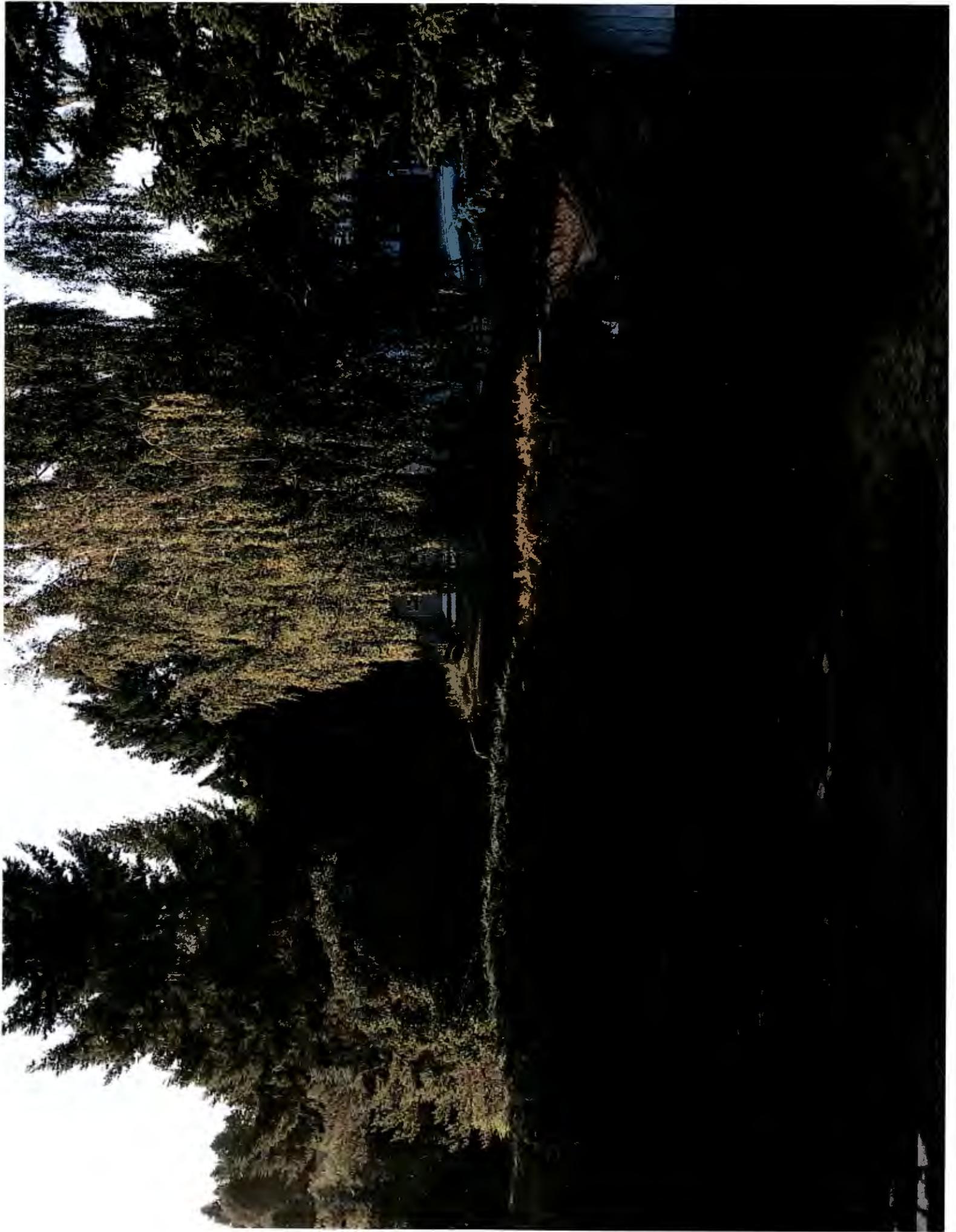
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Dated this 29th day of January, 2019, at Spokane, Washington.


Paul S. Stewart

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Appendix A





Appendix B



