TO: ACHD Board of Commissioners &
Bruce S. Wong, Director

FROM: David Serdar
Right-of-Way Supervisor

DATE: May 9, 2013

SUBJECT: Vacation of Public Right-of-Way - Public Hearing and acceptance of Resolution 1098 regarding an application for the Vacation of the portion of Mace Road lying easterly of W. Island Wood Drive and west of Eagle Road, in Exchange and Dedication to the public, a portion of Mace Road lying westerly of W. Island Wood Drive.

Regular Agenda / Public Hearing for Board of Commissioners meeting May 22, 2013

EXECUTIVE SUMMARY

This vacation/exchange is to vacate a portion of Mace Road lying easterly of W. Island Wood Drive and west of Eagle Road, 2.20 acres, more or less. In exchange, the proponent offers dedication to the public portion of Mace Road lying westerly of W. Island Wood Drive, 2.15 acres, more or less.

FACTS & FINDINGS

1. ACHD has received a petition and application for the vacation and exchange of the above referenced right-of-way from the adjacent landowner, Gardner Mace Ranch, L.C., a Utah limited liability company.

2. The area being proposed for vacation contains approximately 2.20 acres and the right-of-way proposed to be dedicated contains approximately 2.15 acres. The value of the right-of-way to be vacated in exchange for the new right-of-way to be to be dedicated is considered comparable.

3. The pros of the vacation/exchange are: Owning road in fee versus prescriptive easement; routing traffic to existing signal on W. Island Woods Dr. & Eagle Rd.

4. As required by Idaho Code, section 40-1309 a public hearing is to be held, of which hearing notice shall be published in accordance with the provisions of section 40-206. N00000

5. Notice of the public hearing is being published in the Idaho Statesman on May 7, 8 and 15, 2013
with the last date of publication at least five (5) days before the hearing.

6. In accordance with Idaho Law and ACHD policy, comments were requested from the following public and private agencies and public utilities, regarding their plans for the area of the proposed vacation. In addition, ACHD staff has been notified and comments were requested concerning the requested vacation.

A. ACHD Staff had no objections.

B. The following agencies had no response:
   - Intermountain Gas Company
   - City of Eagle
   - Eagle Fire Department
   - Eagle Sewer District
   - Ballantyne Ditch Company
   - Boise Project Board of Control
   - Eagle Water Company
   - Farmers Union Irrigation District
   - Integra Telecom
   - Thurman Mill Ditch Company
   - AT&T Communications
   - Cable One Television
   - Ada County Development Services

C. The following agencies responded and had no objection:
   - Chevron Pipeline

D. The following agencies responded and made comments:

**Qwest Corp. dba Centurylink QC:** Commented they have aerial copper and fiber optic cables on joint poles with Idaho Power with the area requested for vacation. They object to the vacation unless an easement is executed with Centurylink as grantee granting permanent private easement rights covering existing and any future communications facilities. An alternative to this would be if
Gardner Mace Ranch, L.C. agreed to reimburse Centurylink for the total cost of rerouting the existing facilities to a location acceptable to both parties.

**Idaho Power Company**: Commented that it does maintain facilities within the parcel and must retain all rights related thereto. It also requested a copy of the recorded resolution and conveyance document, in the event ACHD approves the vacation.

**twtelecom**: Commented that they own a continuous fiber optic line underground and aerial along Mace Rd. The vacation would eliminate the continuous pathway for this fiber line from the beginning & end point. They object to the vacation unless the utility easement covers their existing underground facilities and allows them unhampered access for future maintenance and repair.

7. There is no access to Federal or State lands or waters that will be denied if the requested vacation is approved.

8. On April 25, 2013 a letter was sent out notifying all property owners, within 300 feet of the requested vacation/exchange, of the public hearing date.

9. The public hearing for the vacation and abandonment of the above referenced public Right-of-Way will be conducted on May 22, 2013.

10. Attached for Commission review and consideration is Resolution No. 1098 (Attachment 3).

11. Approval of the vacation and abandonment is subject to retention of the public and private utility easements, drainage easements, irrigation easements, and/or other easements of record or not of record or in use upon or under said described public right-of-way and/or the provisions for the relocation or replacement of existing facilities.

12. Costs associated with relocation or replacement of existing easements and facilities shall be borne by the applicant with approval of the applicable utility or agency.

**FISCAL IMPACT**

1. Application fees in the amount of $1000 to cover administrative costs of this vacation have been paid to ACHD.

2. The land values for the rights to be exchanged are considered comparable.

**POLICY IMPLICATIONS**

None. The public hearing and the vacation procedures were accomplished according to current ACHD policies.

**RECOMMENDATIONS**
Staff recommends that the Board of Commissioners approve and sign Resolution No. 1098 and the president of the board sign the quitclaim deeds (Attachment 4) to vacate and declare the public right-of-way as a portion of known Mace Road lying easterly of W. Island Wood Drive and west of Eagle Road, Eagle, Idaho as no longer useful to the Districts of Ada County.

ATTACHMENTS:

1. Application for vacation/exchange
2. Depiction of proposed vacation/exchange parcels
3. Resolution 1098
4. Quitclaim Deed to Gardner Mace Ranch, L.C., a Utah limited liability company.

cc: Right-of-Way File

Gardner Mace Ranch, L.C.
850 W. Main Street
Boise, ID 83702
NOTICE

Application has been condensed to:


If you would like to review the full application (approx. 100+ pages) one is available. The application contains the following information:

2. ACHD Approved Staff Report for the Mace River Ranch Subdivision.
3. Maps and legal descriptions of Vacation & Exchange parcels (included in this report).
5. Record of Survey 306.
6. Record of Survey 425.
7. Plat for Two Rivers Subdivision No. 4.
8. Depiction of Maintenance Easement for Lot 33, Block 11, Two Rivers Subdivision No. 4.
10. Neighborhood Meeting Information.
11. Petition.
12. Idaho Power Submission.
March 14, 2013

VIA HAND DELIVERY

David Serdar
Ada County Highway District
Right of Way and Development Services Department
3775 Adams Street
Garden City, Idaho 83714

Re: Vacation and Exchange of Right of Way – Mace Road

Dear Mr. Serdar:

We serve as counsel to Gardner Mace Ranch, L.C., a Utah limited liability company ("Gardner Mace Ranch"), the owner of approximately 192 acres of real property to be platted as Mace River Ranch Subdivision, located in Ada County, Idaho, on the northern side of Eagle Island, immediately west of Eagle Road ("Project").

Mace Road is an Ada County Highway District ("ACHD") Prescriptive Easement which is located solely within the boundary lines of the Project. As you know, ACHD and Gardner Mace Ranch have had discussions regarding the exchange and dedication to the public of the portion of Mace Road lying westerly of W. Island Wood Drive ("Exchange Parcel"), for the vacation of the portion of Mace Road lying easterly of W. Island Wood Drive and west of Eagle Road ("Vacation Parcel"). The Commission Approved Staff Report for the Project attached as Exhibit A, sets forth the purpose for such vacation and the imposition of the condition of approval requiring this application to vacate the Vacation Parcel.

The City of Eagle has, as of February 26, 2012, approved Gardner Mace Ranch’s development applications, referenced as Case No. RZ-05-12/CU-04-12/PPUD-02-12/PP-04-12. As part of the conditions of approval related to that matter, the City of Eagle has required the closure of Mace Road, over the Vacation Parcel, as a through street and required Gardner Mace Ranch to comply with the conditions imposed by ACHD.
As such, Gardner Mace Ranch submits this application to vacate the portion of Mace Road lying easterly of W. Island Wood Drive. The parcels to be exchanged are roughly equivalent in area and in value. The map depicting both Vacation Parcel and its legal description is attached as Exhibit B-1 with the map depicting the Exchange Parcel attached as Exhibit B-2. It is anticipated that the right of way to be exchanged will be dedicated at the point that each segment will be platted. Gardner Mace Ranch is amenable to a development agreement irrevocably committing to dedicate that right of way upon each plat. However, if required Gardner Mace Ranch is willing to dedicate the right of way now.

It is anticipated that some concern will be raised, in particular by residents to the south objecting to the elimination of access from Mace Road to Eagle Road as opposed to it being retained in its current location. It is important to note that both ACHD and ITD have envisioned the closure of the Mace Road/Eagle Road intersection ever since Two Rivers was first developed and in particular since signalization was permitted at Island Woods and Eagle Road. The history of the intended closure of this access is summarized below and is addressed in more detail in Exhibit C, the November 27, 2012 Letter to the City of Eagle regarding the PUD Application and the history of the Mace Access.

It is clear that both ACHD and ITD envisioned the closure of the Mace Road/Eagle Road intersection for well over ten years. Attached for reference to Exhibit C are the original 1998 ACHD staff report addressing Mace Road and ITD’s documentation relating to the approval of permits and access for Two Rivers. As indicated in the ACHD materials, Mace Road was intended to be disconnected as access to Eagle Road. The new Mace Road/Island Woods Drive was designed as a collector to carry present and future Eagle Island traffic to what is now the signalized Island Woods/Eagle Road intersection. ITD had imposed as a condition to realigning access from Two Rivers to Eagle Road the elimination of the existing Mace Road intersection at the Boise River. ITD is presently planning for the placement of a median along this segment of Eagle Road further limiting the functionality of the existing Mace intersection, consistent with this plan.

The internal circulation plan for Gardner Mace Ranch as well as the ultimate disconnect of the original Mace Road at some point in the future are consistent with the transportation plans and policies of both ACHD and ITD.

It is also anticipated that some question will be raised as to the history of Mace Road. Mace Road and the Vacation Parcel are located on a prescriptive easement located wholly within the Mace Ranch Property. Mace Road has never been platted and it has never been dedicated.
In 1981, Leonard Mace and Quarter Circle DJ Ranch executed a property line agreement as part of a record of survey, whereby, they established the agreed upon boundary as the surveyed fence line between their respective properties. That agreement and accompanying survey, ROS 306, copy of which is attached hereto as Exhibit D, established the fence line, which became the agreed upon boundary between the properties as well as mapped and depicted Mace Road as being located wholly to the north of the fence line on the Mace Ranch property.

In 1982 another survey was done to establish the boundaries of Mace Ranch, properties owned by the state of Idaho and to confirm the location of the fence line, ROS 425, a copy of which is attached hereto as Exhibit E. Pursuant to that survey, the Vacation Parcel is located entirely north of the agreed upon boundary and fence line to the south.

In 2002, the plat for Two Rivers Subdivision No. 4 was recorded, a copy of which is attached hereto as Exhibit F. In that plat, which was signed and accepted by ACHD for the dedication of other public rights of way, Mace Road was depicted as lying somewhere north of the northern boundary of Two Rivers Subdivision No. 4. No right of way was dedicated by the plat for Two Rivers Subdivision No. 4 in relation to Mace Road. A common lot was platted parallel to the northern boundary of Two Rivers Subdivision No. 4, Lot 33, Block 11. From the Two Rivers Subdivision No. 4, it is clear that neither ACHD nor Two Rivers’ developer believed, claimed, or asserted that any portion of the prescriptive easement for Mace Road was located within Two Rivers Subdivision No. 4, otherwise ACHD would have required dedication of the previously prescriptive right of way.

Gardner Mace Ranch has had discussions with the Two Rivers Subdivision HOA regarding its access to and maintenance of Lot 33, Block 11, which contains a landscaped berm. Historically the Two Rivers Subdivision HOA has accessed that area for maintenance from Mace Road over the property now owned by Gardner Mace Ranch. Recognizing the need to continue to access Lot 33, Block 11, Gardner Mace Ranch has agreed to grant and the Two Rivers Subdivision HOA has agreed to accept a ten foot wide easement for maintenance of Lot 33, Block 11, which will be parallel to the existing northern boundary of Lot 33, Block 11 and which will be located over common lots within the Project as depicted in Exhibit G. Granting this easement over common lots within the Project will ensure that Two Rivers Subdivision HOA can access and maintain Lot 33, Block 11, while ensuring that Mace Road will be disconnected and obliterated over the Vacation Parcel. The easement depicted in Exhibit G will be planted with native low maintenance ground cover. Moreover, the existing power line and new power service will be placed within an easement within the easement area depicted in Exhibit G. This will permit all utility service to be placed underground. The
easement will be granted to the Two Rivers Subdivision HOA in the form attached hereto as Exhibit H.

In addition to the foregoing identified documents, Gardner Mace Ranch is submitting the following information in accordance with requirements of ACHD:

1. **Pre-Application Neighborhood Meeting Sign-in Sheet.** A neighborhood meeting was held on Tuesday, February 26, 2013 in relation to this application. We have included for your records the sign-in sheet for that meeting; a copy of the notice that was sent in accordance with ACHD’s requirements; the mailing list that was utilized; evidence of mailing; and a copy of the materials made available that night to attendees. This is Exhibit I.

2. **Application Fee.** The required application fee of $1,000.00 is enclosed herewith.

3. **Petition of Adjoining Property Owners.** The formal petition of Gardner Mace Ranch for vacation is enclosed. Gardner Mace Ranch has not sought the vacation of Mace Road or any portion of Mace Road adjacent to any property not owned by Gardner Mace Ranch. As discussed above, the Mace Road Vacation Parcel is entirely within the parcel owned by Gardner Mace Ranch (Assessor Parcel Number S0517141807). This is Exhibit J.

4. **Legal Description of the Vacation Parcel.** The legal description of the proposed vacated right of way as well as a depiction of the same is enclosed in Exhibit B.

5. **Appraisal.** Based upon our prior discussion, due to the fact that the parcels being exchanged following the vacation are of comparable area and value, no appraisal has been required.

6. **Contact Information for Applicant.** Gardner Mace Ranch can be contacted through this firm. Additionally, as set forth in the Petition for Vacation, Gardner Mace Ranch’s contact information is as follows:

   Telephone:  (208) 246-8909

   Mailing Address:  850 W. Main Street
                    Boise, ID  83702

7. **Statement of Reasons for Request.** This letter constitutes and contains the statement of Gardner Mace Ranch for the request for this vacation and exchange.
8. **Depiction of the right of way to be vacated.** As noted above, the legal description of the proposed vacated right of way as well as a depiction of the same is enclosed.

9. **Description of how the right of way is to be vacated.** As the Vacated Right of Way is wholly within the boundaries of the Mace River Ranch, Gardner Mace Ranch proposes that the vacated right of way as described and depicted herein be conveyed to Gardner Mace Ranch in exchange for Gardner Mace Ranch's dedication to the public of that portion of Mace Road lying westerly of W. Island Wood Road.

10. **Idaho Power Submission.** Simultaneously with this submission, Gardner Mace Ranch has made the required submission to Idaho Power. As such, this letter includes the following materials that are part of this vacation request. A complete copy of the application submitted to Idaho Power is enclosed herewith. It consists of the following attached to a transmittal letter authored by me:

   a. Completed Application Form;
   b. Map of the Vacation Parcel;
   c. Fee of $150.

That submission is attached as Exhibit K and is made in accordance with the relevant provisions of ACHD's policies and procedures and the Idaho Code. All responses from Idaho Power will be forwarded to ACHD upon receipt. We recognize that once this request is processed, additional notice will be required to be mailed to the required neighbors.

Gardner Mace Ranch respectfully requests that this matter be processed in an expeditious manner. If you have any questions, please do not hesitate to contact me directly. If there is any additional information required, then please let me know.

Sincerely,

HAWLEY TROXELL ENNIS & HAWLEY LLP

Geoffrey M. Wardle

Enclosures
cc: Mike Williams, City of Eagle Planner (w/encs.)
    Gardner Mace Ranch (w/encs.)
Mace River Ranch Subdivision
Mace Road Dedication Description
Project No. 10-12-108

A parcel of land situated in Government Lots 5 & 6 and the bed of the 1867 North Channel of the Boise River of Section 17; Township 4 North; Range 1 East; Boise Meridian; Eagle City; Ada County; Idaho; and being more particularly described as follows:

Commencing at the east quarter-section corner of Section 17, Township 4 North, Range 1 East, Boise Meridian, from which the northeast corner of Section 17 bears N00°55'42"E, 2640.97 feet; Thence S00°55'56"W, 42.86 feet along the east line of Government Lot 8; Thence, at a right angle, N89°04'04"W, 52.72 feet to the west right-of-way line of South Eagle Road (Highway 55) and the Mace/Warren property line per agreement (Record of Survey 306 Instrument Number 8151134, Quitclaim Deed Instrument Number 98076971, Record of Survey 2500 Instrument Number 9342159, and Record of Survey 425 Instrument Number 8251977, records of Ada County, Idaho) and the boundary of Two Rivers Subdivision (Book 80 of Plats at Pages 8661 thru 8665, records of Ada County, Idaho); Thence N45°56'11"W, 361.20 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision to the boundary of Two Rivers Subdivision No. 4 (Book 84 of Plats at Pages 9314 & 9315, records of Ada County, Idaho); Thence N36°57'13"W, 409.15 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4; Thence N53°06'35"W, 205.76 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4; Thence S81°27'28"W, 944.68 feet along the Mace/Warren property line, boundary of Two Rivers Subdivision to the POINT OF BEGINNING:

Thence continuing S81°27'28"W, 715.32 feet along the Mace/Warren property line, boundary of Two Rivers Subdivision No. 5 (Book 85 of Plats at Pages 9522 thru 9524, records of Ada County, Idaho), and boundary of Two Rivers Subdivision No. 9 (Book 89 of Plats at Pages 10360 thru 10362, records of Ada County, Idaho);

Thence S84°27'18"W, 922.76 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 9;
Mace Road Dedication Description continued...

Thence N85°18'46"W, 518.87 feet along the Mace/Warren property line, boundary of Two Rivers Subdivision No. 9, and boundary of Two Rivers Subdivision No. 10 (Book 89 of Plats at Pages 10370 thru 10373, records of Ada County, Idaho);

Thence N84°25'41"W, 236.28 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 10 to the boundary of the Knickrehm parcel (Bargain and Sale Deed Instrument Number 8658959, and the aforementioned Record of Survey 425, records of Ada County, Idaho);

Thence N01°32'26"W, 26.93 feet along the boundary of the Knickrehm parcel;

Thence N83°56'52"W, 409.03 feet along the boundary of the Knickrehm parcel;

Thence S35°15'43"W, 338.73 feet along the boundary of the Knickrehm parcel to the boundary of the Rambo parcel (Warranty Deed Instrument Number 8709454, and the aforementioned Record of Survey 425, records of Ada County, Idaho);

Thence S43°46'37"W, 296.29 feet along the boundary of the Rambo parcel;

Thence 83.99 feet on a non-tangent curve to the right, concave southeasterly, having a radius of 620.00 feet, a central angle of 7°45'43", a chord bearing of N39°36'40"E, and a chord length of 83.93 feet;

Thence N43°29'32"E, 155.75 feet;

Thence 105.39 feet on a curve to the left, having a radius of 695.00 feet, a central angle of 8°41'17", a chord bearing of N39°08'54"E, and a chord length of 105.29 feet;

Thence N34°48'15"E, 294.03 feet;

Thence S83°37'44"E, 414.65 feet;

Thence S84°25'37"E, 240.00 feet;

Thence S85°18'46"E, 502.40 feet, parallel with and 34.00 feet from the Mace/Warren property line, boundary of Two Rivers Subdivision No. 9, and boundary of Two Rivers Subdivision No. 10;
Mace Road Dedication Description continued...

Thence 26.79 feet on a curve to the left, having a radius of 150.00 feet, a central angle of 10°13'56", a chord bearing of N89°34'16"E, and a chord length of 26.75 feet;

Thence N84°27'18"E, 884.73 feet, parallel with and 34.00 feet from the Mace/Warren property line and boundary of Two Rivers Subdivision No. 9;

Thence 41.33 feet on a curve to the left, having a radius of 790.00 feet, a central angle of 2°59'50", a chord bearing of N82°57'23"E, and a chord length of 41.32 feet;

Thence N81°27'28"E, 693.76 feet, parallel with and 34.00 feet from the Mace/Warren property line, boundary of Two Rivers Subdivision No. 9, the boundary of Two Rivers Subdivision No. 5;

Thence 171.93 feet on a curve to the right, having a radius of 428.92 feet, a central angle of 22°58'00", a chord bearing of S87°03'32"E, and a chord length of 170.78 feet, to the corner between Two Rivers Subdivision and Two Rivers Subdivision No. 4 on the Mace/Warren property line;

Thence S81°27'28"W, 167.36 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision to the POINT OF BEGINNING.

The above-described parcel contains 2.15 acres, more or less.
Mace River Ranch Subdivision
Mace Road Vacation Description
Project No. 10-12-108

A parcel of land situated in Government Lot 8 and the bed of the 1867 North Channel of the Boise River of Section 17; Township 4 North; Range 1 East; Boise Meridian; Eagle City; Ada County; Idaho; and being more particularly described as follows:

Commencing at the east quarter-section corner of Section 17, Township 4 North, Range 1 East, Boise Meridian, from which the northeast corner of Section 17 bears N00°55′42″E, 2640.97 feet; Thence S00°55′56″W, 42.86 feet along the east line of Government Lot 8; Thence, at a right angle, N89°04′04″W, 52.72 feet to the west right-of-way line of South Eagle Road (Highway 55) and the Mace/Warren property line per agreement (Record of Survey 306 Instrument Number 8151134, Quitclaim Deed Instrument Number 98076971, Record of Survey 2500 Instrument Number 9342159, and Record of Survey 425 Instrument Number 8251977, records of Ada County, Idaho) and the boundary of Two Rivers Subdivision (Book 80 of Plats at Pages 8661 thru 8665, records of Ada County, Idaho), the POINT OF BEGINNING:

Thence N45°56′11″W, 361.20 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision to the boundary of Two Rivers Subdivision No. 4 (Book 84 of Plats at Pages 9314 & 9315, records of Ada County, Idaho);

Thence N36°57′13″W, 409.15 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence N53°06′35″W, 205.76 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence S81°27′28″W, 944.68 feet along the Mace/Warren property line, boundary of Two Rivers Subdivision No. 4, and the boundary of the aforesaid Two Rivers Subdivision;

Thence, at a right angle, N08°32′32″W, 50.00 feet;

Thence N81°27′28″E, 965.62 feet, parallel with and 50 feet from the Mace/Warren property line, the boundary of Two Rivers Subdivision, and the boundary of Two Rivers Subdivision No. 4;
Mace Road Vacation Description continued...

Thence S53°06'35"E, 233.79 feet, parallel with and 50 feet from the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence S36°57'13"E, 412.31 feet, parallel with and 50 feet from the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence S45°56'11"E, 297.13 feet, parallel with and 50 feet from the Mace/Warren property line and Two Rivers Subdivision to the west right-of-way line of South Eagle Road (Highway 55);

Thence S00°58'07"W, 7.15 feet along the west right-of-way line of South Eagle Road (Highway 55) to the aforesaid Mace/Warren property line and boundary of Two Rivers Subdivision;

Thence S06°55'04"E, 71.12 feet along the west right-of-way line of South Eagle Road (Highway 55), the Mace/Warren property line, and boundary of Two Rivers Subdivision to the POINT OF BEGINNING.

The above-described parcel contains 2.20 acres, more or less.
Vicinity Map (Mace Road and Eagle)
RESOLUTION NUMBER 1098

AUTHORIZING AN ABANDONMENT/VACATION OF PUBLIC RIGHT-OF-WAY AND THE EXCHANGE OF LAND BY AND BETWEEN THE ADA COUNTY HIGHWAY DISTRICT AND Gardner Mace Ranch, L.C., a Utah limited liability company, WITH OTHER CONSIDERATIONS BETWEEN THE PARTIES.

WHEREAS, by its Resolution Number 1093 adopted and approved at its regular meeting held on April 24, 2013, the Ada County Highway District Commission, in accordance with the requirements of Idaho Code, section 40-1309 and 40-203, found that a parcel of land situated in Government Lot 8 and the bed of the 1867 North Channel of the Boise River of Section 17, Township 4 North, Range 1 East, Boise Meridian, Eagle City, Ada County, Idaho, and more particularly described in Exhibit "A" (hereinafter “subject public right-of-way”) was no longer useful to ACHD, and set a public hearing before the Commission for 6:00 pm, on May 22, 2013, at which time any person could appear to show cause why the subject public right-of-way should not be abandoned/vacated and exchanged for the real property owned by Gardner Mace Ranch, L.C., a Utah limited liability company, described on Exhibit “B” attached hereto (the Exchange Parcel”) as an even exchange in value as per the Petition of Gardner Mace Ranch, L.C., a Utah limited liability company ("Petitioner"); and

WHEREAS, in accordance with Idaho Code, sections 40-203 and 40-1309, the Commission does hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. Date of Application: March 14, 2013.

2. Upon the filing of a petition by the Petitioner for the abandonment/vacation and exchange of the subject public right-of-way for the Exchange Parcel, the following organizations and agencies were notified on March 28, 2013:
   A. Ada County Highway District Staff members;
   B. All appropriate local agencies and utilities were contacted and comments requested.

3. On April 24, 2013 a public hearing date was set by the Board of Commissioners for May 22, 2013.

4. Following the filing of the petition for the abandonment/vacation and exchange of the subject public right-of-way for the Exchange Parcel, property owners within 300 feet of the subject right-of-way were notified by certified mail on April 25, 2013, of the time, date and place of the public hearing.

5. In accordance with Idaho law, a Notice of Public Hearing was published in the Idaho Statesman a daily newspaper published in Ada County, Idaho, on the 7th, 8th and 15th of May, 2013, and an affidavit of publication was received by the Ada County Highway District and is on file in the office of the Right-of-Way and Development Services Department.
6. Any and all comments received from the March 28, 2013 notification of Ada County Highway District Staff members and all applicable local agencies are on file in the office of the Right-of-Way and Development Services Department and are included within the Public Hearing staff memo dated May 9, 2013.

7. Any and all comments, received from those property owners of real property within 300 feet of the subject right-of-way are on file in the office of the Right-of-Way and Development Services Department and are included within the Public Hearing staff memo dated May 9, 2013.

8. At the public hearing on Wednesday, May 22, 2013, oral and or written testimony was presented and at the conclusion of which, President Sara M. Baker, closed the public hearing for testimony. After discussion, the Commission found the abandonment/vacation and exchange was in the public’s best interest and voted to approve the abandonment/vacation and exchange of the subject public right-of-way for the Exchange Parcel as an even exchange in value.

CONCLUSIONS OF LAW:

It is the opinion of the Board of Commissioners of the Ada County Highway District, per President Sara M. Baker, and Commissioners, John S. Franden, Rebecca W. Arnold, Mitchell A. Jaurena, and Jim Hansen that the subject right-of-way is no longer needed by the Ada County Highway District and that it is the best interest of the traveling public, the adjacent property owners, and the Ada County Highway District that the abandonment/vacation of a parcel of land situated in Government Lot 8 and the bed of the 1867 North Channel of the Boise River of Section 17, Township 4 North, Range 1 East, Boise Meridian; Eagle City; Ada County, Idaho, and more particularly described in Exhibit “A” be approved and the subject public right-of-way abandoned/vacated and that the abandoned/vacated subject public right-of-way be exchanged for the Exchange Parcel as an even exchange in value. Subject to the following:

Retention of public and private utility easements, drainage easements, irrigation easements and/or other easements of record or not of record or in use upon or under said described public right-of-way and/or the provisions for the relocation or replacement of existing facilities.

NOW, THEREFORE, BE IT RESOLVED, pursuant to Idaho Code section 40-203 and 40-1309 that the proposed abandonment/vacation of the public right-of-way and the exchange of the abandoned/vacated subject public right-of-way for the Exchange Parcel is hereby authorized, and ACHD staff is hereby directed to negotiate a contract of exchange of the Parcels at their respective values, and on such other terms and conditions as are appropriate, and that the President of the Commission and the Director be, and are hereby, authorized and directed to execute such exchange contract on behalf of the Ada County Highway District and an appropriate Quitclaim deed for the abandoned/vacated subject public right-of-way and such closing instructions and other instruments and documents as are required by such contract of exchange, and deliver the same, together with the deed and any boot that may be payable by ACHD, to the closing agent.

1. Subject to retention of public and private utility easements, drainage easements,
irrigation easements and/or other easements of record or not of record or in use upon or under said described public right-of-way and/or the provisions for the relocation or replacement of existing facilities.

2. The exchange is considered to be comparable in value.

Costs associated with relocation or replacement of existing easements and facilities shall be borne by the Petitioner with approval of the applicable utility or agency.

BE IT FURTHER RESOLVED, that only upon the District's receipt of full payment of all applicable charges, costs and fees and any other amounts owning and the deed for the Exchange Parcel from the Petitioner within ninety (90) days of the date of approval, shall this Resolution be recorded in the county records.

BE IT FURTHER RESOLVED, that if District has not received full payment of all applicable charges, costs and fees and any other amounts owing and the deed for the Exchange Parcel from the Petitioner within one hundred twenty (120) days of the date of approval, the Board of Commissioners may, at a public hearing and upon thirty (30) days notice of said public hearing to the Petitioner by certified mail and adjacent property owners by regular mail, declare the abandonment/vacation and exchange void and issue a resolution declaring the same.

ADOPTED AND APPROVED by the Board of Commissioners of the Ada County Highway District at its regular meeting held on this ____, day of _________, 20__. 

ADA COUNTY HIGHWAY DISTRICT
BOARD OF COMMISSIONERS

By: __________________________
SARA M. BAKER, President

By: __________________________
JOHN S. FRANDEN, Vice President

By: __________________________
REBECCA W. ARNOLD, Commissioner

By: __________________________
MITCHELL A. JAURENA, Commissioner

By: __________________________
JIM D. HANSEN, Commissioner

ATTEST:

____________________________________________________
Bruce S. Wong, Director
STATE OF IDAHO

County of Ada

On this 22nd day of May, 2013, before me, a notary public in and for said State, personally appeared President, Sara M. Baker, Commissioners, John S. Franden, Rebecca W. Arnold, Mitchell A. Jaurena, and Jim Hansen, and known to me to be the Board of Commissioners, respectively, of the Ada County Highway District and that they executed this instrument on behalf of said Highway District for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for the State of Idaho
Residing at Boise, Idaho
My Commission Expires: [Signature]

The Ada County Highway District (ACHD) is committed to compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives. ACHD assures that no person shall on the grounds of race, color, national origin, gender, disability or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any ACHD service, program or activity.
Gardner Mace Ranch, L.C. Vacation/Exchange
Resolution No.: 1098
Township/Range/Section: T4N, R1E, Sec17

QUITCLAIM DEED CONVEYING PUBLIC RIGHT-OF-WAY

THIS INDENTURE, made this ______ day of ________________, 2013, by
and between ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the
State of Idaho, the "GRANTOR", and GARDNER MACE RANCH, L.C., a Utah limited
liability company, the "GRANTEE";

WITNESSETH:

FOR VALUE RECEIVED, GRANTOR does by these presents convey, remise,
release and forever quitclaim unto GRANTEE all right, title and interest of GRANTOR in
the real property situated in the COUNTY OF ADA, STATE OF IDAHO, as more
particularly described on Exhibit "A" attached hereto and by this reference made a part
hereof (hereinafter the "Right-of-Way").

SUBJECT TO easements of record, statutory rights of utilities and districts to be in
the public right-of-way which rights are being exercised in the Right-of-Way as of the date
of this Indenture (for sewer, gas, water or similar pipelines and their appurtenances, for
electrical and telephone lines and for irrigation and drainage ditches), and subject to
licenses for telecommunications lines which are in place in the Right-of-Way as of the date
of this Indenture. GRANTEE is responsible for costs of any relocation or replacement of
such pipelines, lines and ditches.

TO HAVE AND TO HOLD the same unto the GRANTEE and to Its successors and
assigns forever.

The current address of GRANTEE is:

Gardner Mace Ranch, L.C.
850 W. Main Street
Boise, ID 83702
Gardner Mace Ranch, L.C. Vacation/Exchange
Resolution No.: 1098
Township/Range/Section: T4N, R1E, Sec17

IN WITNESS WHEREOF, this Quitclaim Deed has been duly executed by and on behalf of GRANTOR this 6TH day of FEBRUARY, 2013.

ADA COUNTY HIGHWAY DISTRICT

By: _______________________
   Sara M. Baker, President

Attest:

__________________________
Bruce S. Wong, Director

STATE OF IDAHO )
 ) ss.
County of Ada )

On this 22nd day of MAY, 2013, before me, a notary public in and for said State, personally appeared, Sara M. Baker, President, of the Board of Commissioners of the Ada County Highway District and she executed this instrument on behalf of said Highway District for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

__________________________
Notary Public for the State of Idaho
Residing at Boise, Idaho
My Commission Expires:
A parcel of land situated in Government Lot 8 and the bed of the 1867 North Channel of the Boise River of Section 17; Township 4 North; Range 1 East; Boise Meridian; Eagle City; Ada County; Idaho; and being more particularly described as follows:

Commencing at the east quarter-section corner of Section 17, Township 4 North, Range 1 East, Boise Meridian, from which the northeast corner of Section 17 bears N00°55'42"E, 2640.97 feet;

Thence S00°55'56"W, 42.86 feet along the east line of Government Lot 8;

Thence, at a right angle, N89°04'04"W, 52.72 feet to the west right-of-way line of South Eagle Road (Highway 55) and the Mace/Warren property line per agreement (Record of Survey 306 Instrument Number 8151134, Quitclaim Deed Instrument Number 98076971, Record of Survey 2500 Instrument Number 9342159, and Record of Survey 425 Instrument Number 8251977, records of Ada County, Idaho) and the boundary of Two Rivers Subdivision (Book 80 of Plats at Pages 8661 thru 8665, records of Ada County, Idaho), the POINT OF BEGINNING:

Thence N45°56'11"W, 361.20 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision to the boundary of Two Rivers Subdivision No. 4 (Book 84 of Plats at Pages 9314 & 9315, records of Ada County, Idaho);

Thence N36°57'13"W, 409.15 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence N53°06'35"W, 205.76 feet along the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence S81°27'28"W, 944.68 feet along the Mace/Warren property line, boundary of Two Rivers Subdivision No. 4, and the boundary of the aforesaid Two Rivers Subdivision;

Thence, at a right angle, N08°32'32"W, 50.00 feet;

Thence N81°27'28"E, 965.62 feet, parallel with and 50 feet from the Mace/Warren property line, the boundary of Two Rivers Subdivision, and the boundary of Two Rivers Subdivision No. 4;

Thence S53°06'35"E, 233.79 feet, parallel with and 50 feet from the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence S36°57'13"E, 412.31 feet, parallel with and 50 feet from the Mace/Warren property line and boundary of Two Rivers Subdivision No. 4;

Thence S45°56'11"E, 297.13 feet, parallel with and 50 feet from the Mace/Warren property line and Two Rivers Subdivision to the west right-of-way line of South Eagle Road (Highway 55);
Thence S00°58'07"W, 7.15 feet along the west right-of-way line of South Eagle Road (Highway 55) to the aforesaid Mace/Warren property line and boundary of Two Rivers Subdivision;

Thence S06°55'04"E, 71.12 feet along the west right-of-way line of South Eagle Road (Highway 55), the Mace/Warren property line, and boundary of Two Rivers Subdivision to the POINT OF BEGINNING.

The above-described parcel contains 2.20 acres, more or less.