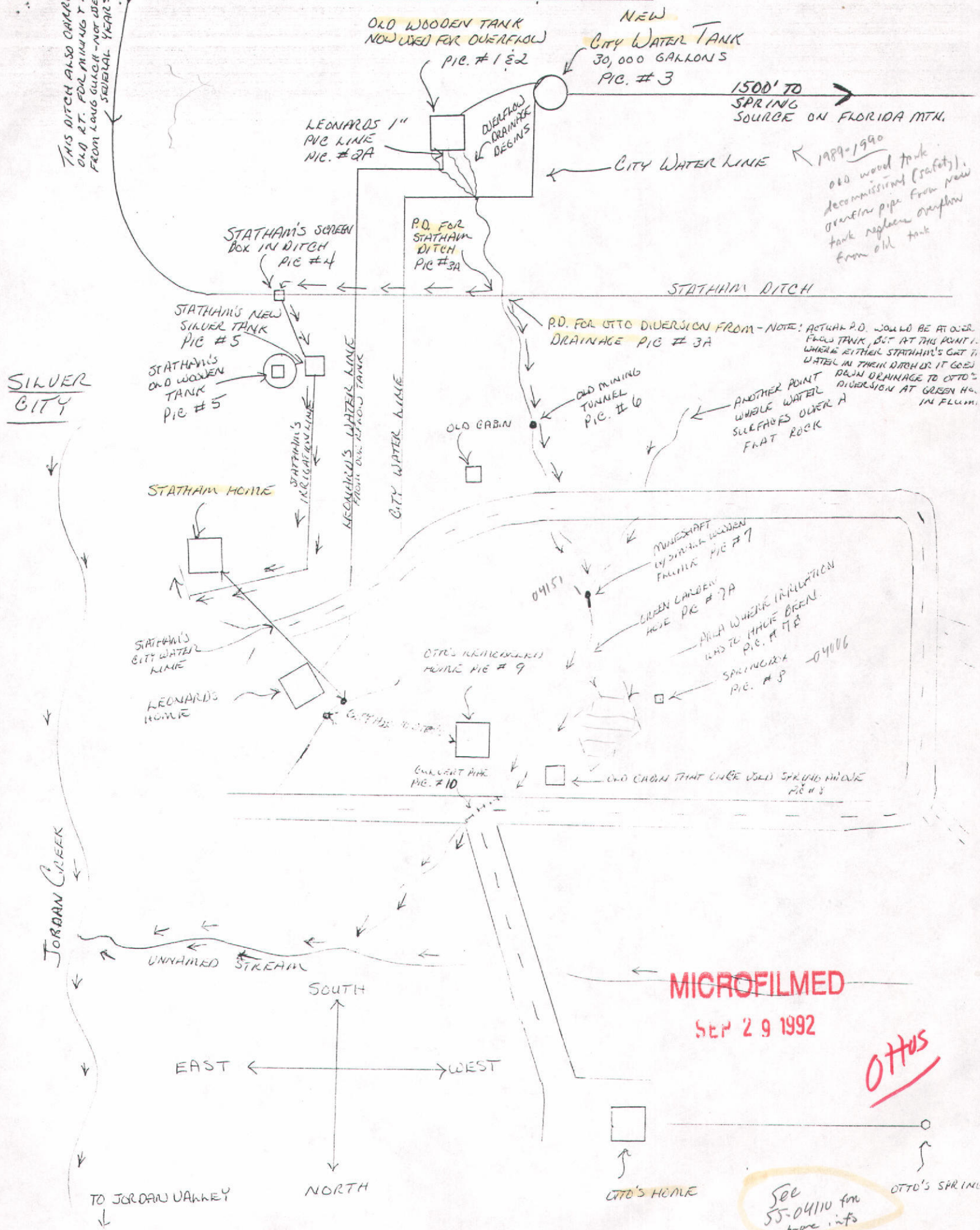
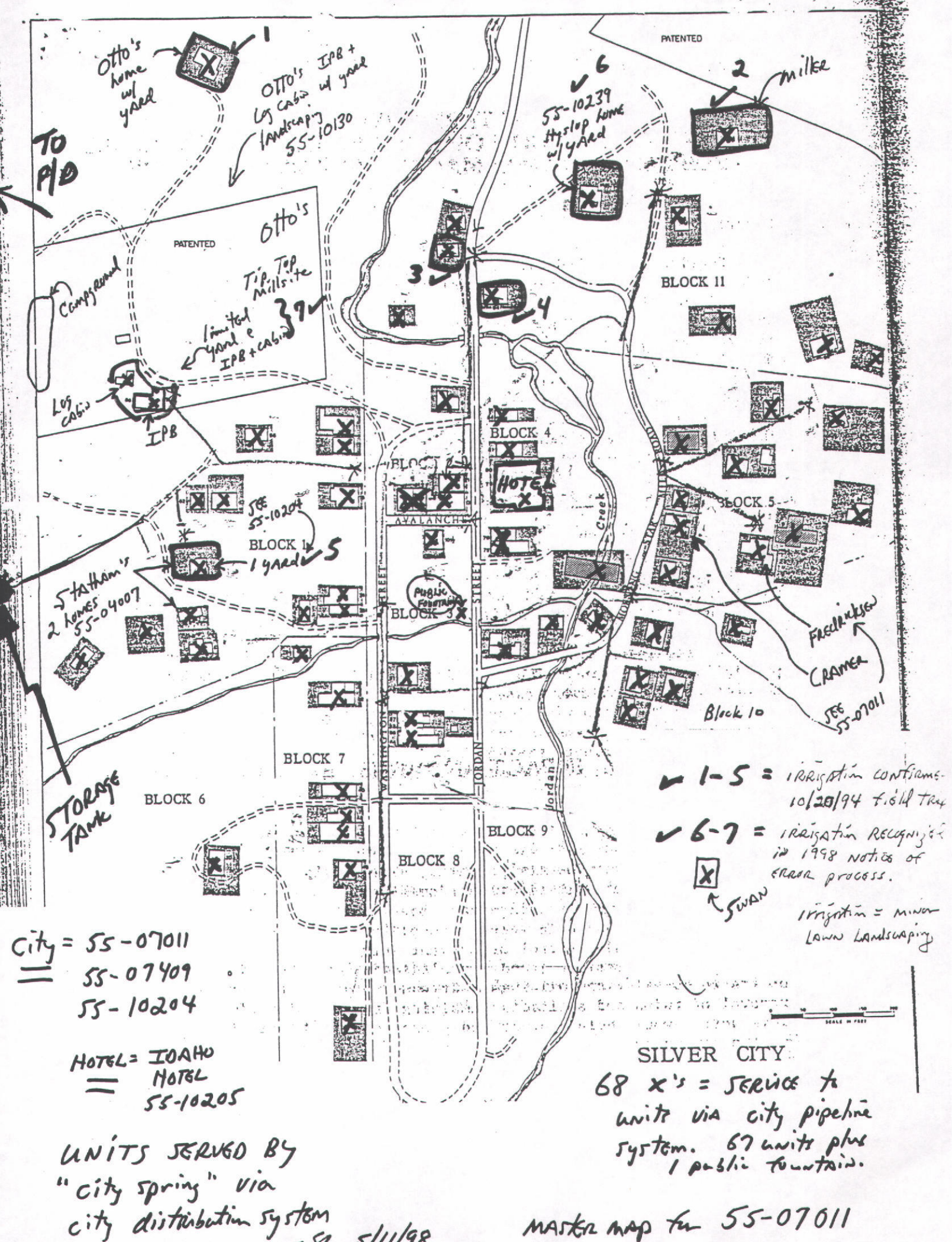


THIS DITCH ALSO CARRIED AN OLD RT. FOR MINING & DOMESTIC FROM LANG GUICH - NOT USED FOR SEVERAL YEARS.





QUITCLAIM DEED

THIS INDENTURE, Made this ninth day of July

in the year of our Lord one thousand nine hundred and Fifty six
M. Ned Williams and Floribel Williams

between

of Boise, Idaho

County of Ada

State of Idaho

the parties

of the first part, and

Gloria Otto

of Palo Alto

County of

State of California

the party

of the second part.

WITNESSETH That the said parties of the first part, for and in consideration of the sum of
One DOLLARS.lawful money of the United States of America, to Them in hand paid by the said party of
the second part, the receipt whereof is hereby acknowledged, does by these presents remise, release
and forever QUITCLAIM, unto the said party of the second part, and to their heirs and
assigns, all certain lot, piece or parcel of land, situate, lying and being inSilver City, County of Owyhee, State of Idaho, bounded and particularly
described as follows, to-wit:

Beginning at the Quarter section corner common to sections
5 and 6, T 58, R 3 W, S 4; thence North 76° 35' West 1412.8 feet; thence
South 41° 35' West 476.2 feet to corner No 1, which is the real point of
beginning, and from which point said Quarter corner common to said Section
5 and 6 bears North 84° 23' East 1831.6 feet; thence continuing North
24° 35' West 212.0 feet to corner No 2; thence South 65° 23' West 226.6
feet to corner No 3; thence South 24° 35' East 300 feet to corner No 4;
thence North 65° 23' East 371.3 feet to corner No 5; thence North 24° 35'
West 81.0 feet to corner No 6; thence South 65° 23' West 226.6 feet to corner
No 1, enclosing a tract with a total area of 2.182 acres;

Book 48, page 289

EXHIBIT 1a

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the part of the second part, and to her heirs and assigns forever.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

M. Ned Williams [Seal]
Floribel Williams [Seal]
[Seal]
[Seal]

STATE OF IDAHO

County of Ada

ss.

On this 12th day of July, 1956, before me

in and for said State, personally appeared M. Ned Williams and Floribel Williams, a Notary Public

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Marie Markowski
Notary Public for the State of Idaho.
Residing at _____, Idaho.

QUITCLAIM DEED

No.

M. Ned Williams, et ux

-TO-

Gloria Otto

Dated July 9, 1956

STATE OF IDAHO

ss.

By _____, Notary Public

In my office, and duly recorded in Book _____

Deeds at page 289

NICK IHLI

By _____, Ex-Officio Recorder.

Fls. \$1.00 Deputy.

Mail to

NEW SYMB-YONE COMPANY, BOISE



OVERFLOW PASSING THROUGH FLUME
(eight inches wide)
- Holidays, Fourth of July 1985 -



FLUME with HEADGATE and ONE HOSE
SERVING UNIVERSITY OF IDAHO 'DIG'
- Summer 1988 -



OVERFLOW WHEN SPRING WAS AT
LOW POINT OF WATER PRODUCTION
- Labor Day 1991 -

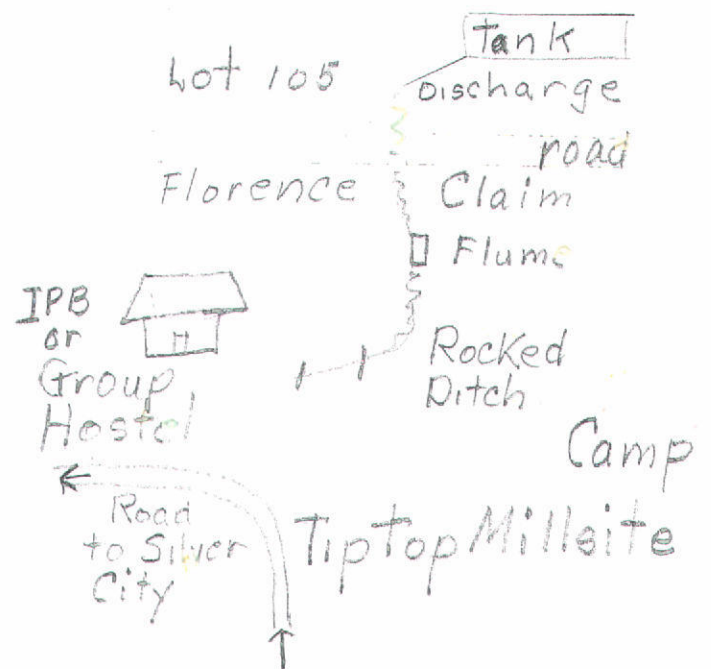
Diversion
of
Overflow



OVERFLOW IN DITCH
(lower right in photo)
COOLING DRINKS FOR
FOURTH GRADERS
- 1987 -



ROCK-LINED DITCH
CHANNELS OVERFLOW
(for location, see lower
right in photo above)



Permit # 55-04151



1. City Tank & Overflow



2. Upper Tunnel Spring



3. Overflow



4. Culverts

MICROFILMED
SEP 29 1992

Permit 55-04151



5. Culvert for Spring



6. Overflow Culvert



7. Flume - 1995

MICROFILMED

Permit 55-04151



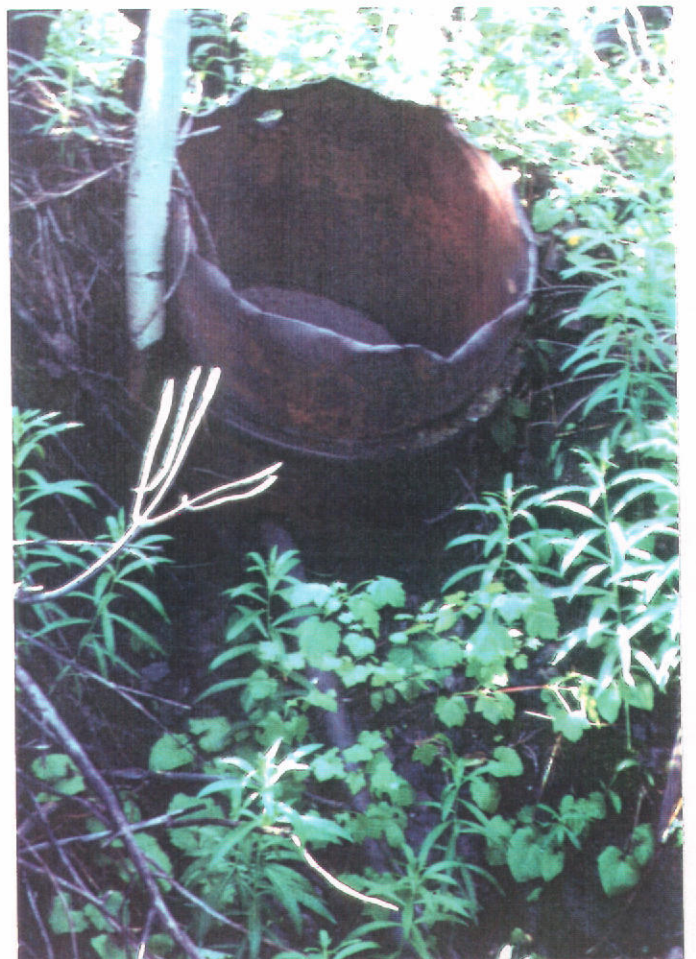
8. Culvert-
Hose from
overflow.
1987



9. Buried Culvert

MICROFILMED

SEP 29 1992



12. Old drum

Permit 55-04151



21. Flume & Hose
1988 University
of Idaho "dig"

MICROFILMED
SEP 29 1992

Permit 55-04151



28. Cooking &
Hose

MICROFILMED
SEP 29 1992

29. Trees
Below
Tank



Permit # 55-04151



1. City Tank & Overflow



2. Upper Tunnel Spring



3. Overflow



4. Culverts

MICROFILMED

SEP 29 1992

Permit 55-04151



5. Culvert for
Spring

MICROFILMED

SEP 29 1992



6. Overflow Culvert



7. Flume-1985

Permit 55-04151



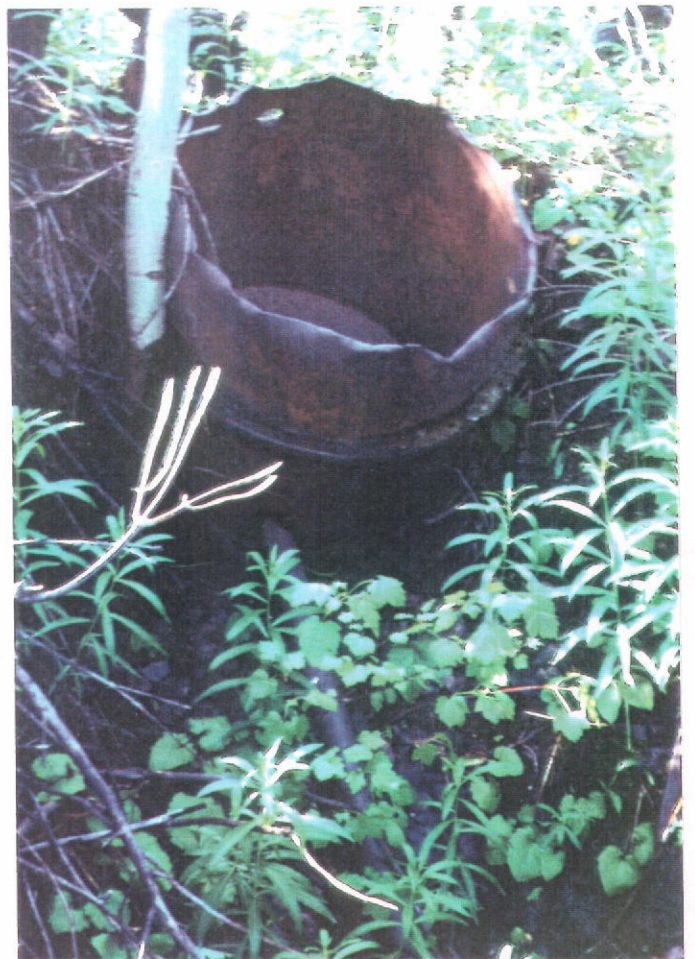
8. Culvert-
Hose from
overflow.
1987



9. Buried Culvert

MICROFILMED

SEP 29 1992



12. Old drum

Permit 55-04151



28. Cooking &
Hose

29. Trees
Below
Tank



MICROFILMED
SEP 20 1992

Permit 55-04151



21. Flume & Hose
1988 University
of Idaho "dig"

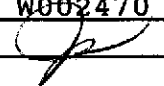
MICROFILMED

SEP 29 1992

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A55-04151
Date Received: 1/19/1989
Receipt No: W002470
Received By: 

AMENDED NOTICE OF CLAIM TO A WATER RIGHT AMENDED
ACQUIRED UNDER STATE LAW

1. Name: GLORIA W OTTO 208-583-4111
Address: PO BOX 56
MURPHY ID 83650

2. Date of Priority: JAN 1, 1903

3. Source: WILLOW SPRING Trib. to: JORDAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	03W	6	NE	NW	SE		OWYHEE

5. Description of diverting works:
SEE REMARKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	05/15	10/15	0.040		
DOMESTIC	01/01	12/31	0.020		
COMMERCIAL	01/01	12/31	0.040		

7. Total Quantity Appropriated is:
0.080 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 7.0 Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC, ONE HOME; COMMERCIAL, ONE GROUP HOSTEL.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	03W	6	NW	SE		DOMEST	
			NW	SE		COMMER	

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	03W	6	NW	SE		IRR	2.0
Section Acres							2.0
Total Acres							2.0

11. Place of use in counties: OWYHEE

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
55-7011, 55-4006

14. Remarks:
USE OF "INDUSTRIAL" IN FIRST CLAIM WAS INADVERTENT ERROR,
"COMMERCIAL" IS MORE ACCURATE.
SOURCE IS AKA CITY SPRING.
DESC. OF DIVERTING WORKS - SPRING BOX WITH PIPELINE TO BUILDINGS,
FLUME FROM CITY WATER TANK OVERFLOW TO VARIOUS PLACES OF USE.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

RECEIVED

DEC 22 1994

WATER RESOURCES
WESTERN REGIONIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER:

39576

Ident. Number

A55-04151-AMENDED

Date Received

12-22-94

Receipt Number

AMENDED

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Gloria W. Otto Phone (208) 583-4111Mailing Address P.O. Box 56, Murphy, Idaho Zip 836502. Date of Priority (Only one (1) per claim) January 1, 19033. Source of water supply (a) Willow Spring a.k.a City Spring
which is tributary to (b) Jordan Creek4. a. Location of existing point of diversion is: Township 5S Range 3W Section 6,
NE 1/4 of NW 1/4 of SE 1/4, Govt. Lot, B.M., County of Owyhee

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Spring box with pipeline to
buildings, flume from City water tank overflow to various
places of use.

RECEIVED

DEC 5 1988

STANDARD FORM NO. 64

HOW YOU WILL RECEIVE NOTICES IN THE SNAKE RIVER BASIN ADJUDICATION

All documents filed in the Snake River Basin Adjudication other than notices of claims are filed with the court. Notices of claims to water rights filed in the Snake River Basin Adjudication are filed with the Idaho Department of Water Resources. Copies of all documents filed in the Snake River Basin Adjudication will not be mailed to all parties (claimants) in the adjudication.

By order of the court, any document filed with the court will be mailed only to those parties who may be directly affected by it. A monthly docket sheet will be prepared by the department which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Snake River Basin in Idaho. Copies of the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying. If you wish to receive a copy of the docket sheet each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee to cover the cost of copying and mailing. Copies of any document listed on the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying.

Copies of all notices of claims filed with the department will be available for inspection from all offices of the department. Copies of the notices of claims may be obtained in person or by mail, but you will be charged for the cost of copying and mailing. (A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.)

After the notices of claims have been reviewed, the director will prepare and file a report with the court. Part 1 of the report will contain the director's recommendations as to each water right claimed under state law. Part 2 of the report will list each federal reserved water right claimed. A number of reports will be prepared, one or more for each sub-basin in the Snake River Basin. When the report for your sub-basin is filed with the court, you will be mailed a notice informing you that the report for your sub-basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection. The notice of filing for each sub-basin report will also be published state-wide in local newspapers.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 5/15 to 10/15 amount .04 or _____

For Domestic purposes from 1/1 to 12/31 amount .02 or _____

For Commercial purposes from 1/1 to 12/31 amount .04 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.080 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 7.0 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) one domestic household; one group hostel

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6S	3W	6														2DC			

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Owyhee

12. Do you own the property listed above as place of use? Yes x No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

55-07011, 55-4006 or None (x)

14. Remarks: Use of "industrial" in first claim was inadvertent error,
"commercial" is more accurate.

Last Name Otto Ident No. A55-04151

Copies: White -State, Yellow-Claimant

It is very important that you inform the department in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

If you are acquiring property with water rights in the Snake River Basin water system in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of the department whether a notice of claim has been filed. If not, you must file a notice of claim or the water right may be declared by the court to no longer exist. If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with the department. The notice of change in ownership must be accompanied by some evidence of the change in ownership, such as a copy of the deed or a property tax statement showing the name of the new owner. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

The cost of the subscription to the docket sheet is \$7.50 for calendar year 1988. The cost of the subscription may increase a small amount for calendar year 1989 if the cost of copying and/or mailing should increase.

If you are planning to file a motion or other pleading (not a notice of claim) with the court (not IDWR), the court has issued an order setting a special procedure that is different from the usual civil rules. A copy of the order may be obtained from any office of IDWR; you may be charged for the cost of mailing and/or copying.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

3W

6

X

POINT OF DIRECTION

PLACE OF USE

55

6

POINT OF DIVERSION

PLACE OF USE

PLACE OF USE

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

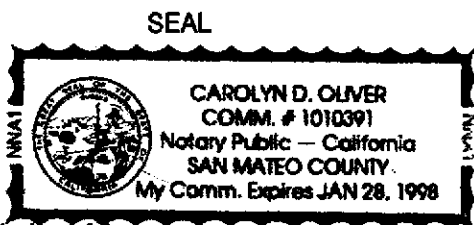
Signature of Claimant (s) Gloria H. Otto Date Dec 14, 1994
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of ~~Idaho~~ California)
County of San Mateo) SS.

Subscribed and sworn (or affirmed) before me this 14th day of December 19 94



Notary Public Carolyn D. Oliver
Residing at 800 Oak Grove Ave., Menlo Park, Ca
My Commission Expires Jan. 28, 1998
Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Scott L. Campbell will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature Scott L. Campbell

Address Elam & Burke, P.O. Box 1539, Boise, ID 83701

Date December 1, 1994

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A55-04151
Date Received: 1/19/1989
Receipt No: W002470
Received By: DE JAL

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: GLORIA W. OTTO 208-495-2868
Address: P.O. BOX 56
MURPHY, ID 83650

2. Date of Priority: JAN 01, 1903

3. Source: SPRING Trib. to: JORDAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	03W	6	NE	NW	SE		OWYHEE

5. Description of diverting works:
SPRING BOX W/PIPE TO BUILDINGS, FLUME W/LINES TO VARIOUS POU

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	05/15	10/15	0.040		12.00
DOMESTIC	01/01	12/31	0.020		14.00
INDUSTRIAL	05/01	10/31	0.010		7.00

7. Total Quantity Appropriated is:
0.070 C.F.S. (and/or) 33.00 A.F.A.

8. Total consumptive use is 7.0 Acre Feet Per Annum.

9. Non-irrigation uses:
I/MILLING OPERATION, D/1 HOUSEHOLD

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	03W	6				STOCK	

A55-04151

Page 1

Date: 04/10/89

MICROFILMED
SEP 29 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05S	03W	6	NW	SE	INDUST IRR	2.0
Section Acres						2.0
Total Acres						2.0

11. Place of use in counties: OWYHEE

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
55-7011, 55-4006

14. Remarks:

THIS CLAIM IS FILED TO AMEND THE EARLIER STATUTORY AND ADJUDICATION CLAIM FILED, NUMBERED 55-04151. THE DEEDS TO PROPERTY AND ORAL REPORTS INDICATE A MUCH EARLIER BENEFICIAL USE THAN EARLIER SUBMITTED. AFFIDAVITS SUBMITTED WITH THIS CLAIM AND DEED RECORDS ARE INTENDED TO SHOW: (1) THE FIRST DATE OF BENEFICIAL USE, AND (2) THE CONTINUING USE OF WATER AT THIS SITE.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A55-04151
Date Received: 1/19/1989
Receipt No: W002470
Received By: DE JH

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GLORIA W. OTTO 208-495-2868
Address: P.O. BOX 56
MURPHY, ID 83650

2. Date of Priority: JAN 01, 1903

3. Source: SPRING Trib. to: JORDAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	03W	6	NE	NW	SE		OWYHEE

5. Description of diverting works:
SPRING BOX W/PIPE TO BUILDINGS, FLUME W/LINES TO VARIOUS POU

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	05/15	10/15	0.040		12.00
DOMESTIC	01/01	12/31	0.020		14.00
INDUSTRIAL	05/01	10/31	0.010		7.00

7. Total Quantity Appropriated is:
0.070 C.F.S. (and/or) 33.00 A.F.A.

8. Total consumptive use is 7.0 Acre Feet Per Annum.

9. Non-irrigation uses:
I/MILLING OPERATION, D/1 HOUSEHOLD

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	03W	6				STOCK	

A55-04151

Page 1

Date: 03/29/89

MICROFILMED

SEP 29 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	03W	6	NW	SE		INDUST IRR	2.0
						Section Acres	2.0
						Total Acres	2.0

11. Place of use in counties: OWYHEE

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
55-7011, 55-4006

14. Remarks:

THIS CLAIM IS FILED TO AMEND THE EARLIER STATUTORY AND ADJUDICATION CLAIM FILED, NUMBERED 55-04151. THE DEEDS TO PROPERTY AND ORAL REPORTS INDICATE A MUCH EARLIER BENEFICIAL USE THAN EARLIER SUBMITTED. AFFIDAVITS SUBMITTED WITH THIS CLAIM AND DEED RECORDS ARE INTENDED TO SHOW: (1) THE FIRST DATE OF BENEFICIAL USE, AND (2) THE CONTINUING USE OF WATER AT THIS SITE.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A55-04137Date Received 1-19-89Receipt Number W002470

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED CLAIM

Please type or print clearly

1. Name of Claimant (s) Gloria Otto Phone (208) 415 368-5004
495-2868

Mailing Address P. O. Box 56, Murphy, Idaho Zip 83650

2. Date of Priority (Only one (1) per claim) May 1, 1903

3. Source of water supply (a) Springs
which is tributary to (b) Jordan Creek

4. a. Location of existing point of diversion is: Township 5S Range 3W Section 6,
NE 1/4 of NW 1/4 of SE 1/4, Govt. Lot, B.M., County of Owyhee

Additional points of diversion if any: None

b. If instream flow, beginning point of claimed instream flow is: N/A

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Spring box and associated piping to
buildings and flume with lines to various points of use.

MICROFILMED

SEP 29 1992

HOW YOU WILL RECEIVE NOTICES IN THE SNAKE RIVER BASIN ADJUDICATION

All documents filed in the Snake River Basin Adjudication other than notices of claims are filed with the court. Notices of claims to water rights filed in the Snake River Basin Adjudication are filed with the Idaho Department of Water Resources. Copies of all documents filed in the Snake River Basin Adjudication will not be mailed to all parties (claimants) in the adjudication.

By order of the court, any document filed with the court will be mailed only to those parties who may be directly affected by it. A monthly docket sheet will be prepared by the department which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Snake River Basin in Idaho. Copies of the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying. If you wish to receive a copy of the docket sheet each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee to cover the cost of copying and mailing. Copies of any document listed on the docket sheet may be obtained from any of the offices of the department either in person or by mail; a small fee will be charged to cover the cost of mailing and/or copying.

Copies of all notices of claims filed with the department will be available for inspection from all offices of the department. Copies of the notices of claims may be obtained in person or by mail, but you will be charged for the cost of copying and mailing. (A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.)

After the notices of claims have been reviewed, the director will prepare and file a report with the court. Part 1 of the report will contain the director's recommendations as to each water right claimed under state law. Part 2 of the report will list each federal reserved water right claimed. A number of reports will be prepared, one or more for each sub-basin in the Snake River Basin. When the report for your sub-basin is filed with the court, you will be mailed a notice informing you that the report for your sub-basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection. The notice of filing for each sub-basin report will also be published state-wide in local newspapers.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 5/15 to 10/15 amount .04 or 12

For Domestic purposes from 1/1 to 12/31 amount .02 or 14

For Industrial purposes from 5/1 to 10/31 amount .10 or 7

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .07 (cfs) and/or (b) 33 (acre feet)

8. Total consumptive use claimed is 7 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Single family domestic, washing gold and silver ore, washing archeological artifacts.

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6S	3W	6														2			2
6S	3W	6														D/I			

Total number of acres irrigated 2

11. In which county (ies) are lands listed above as place of use located? Owyhee

12. Do you own the property listed above as place of use? Yes X No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

55-7011; 55-4006

or None ()

14. Remarks:

This claim is filed to amend the earlier statutory and adjudication claim filed, numbered 55-04151. The deeds to property and oral reports indicate a much earlier beneficial use than earlier submitted. Affidavits submitted with this claim and deed records are intended to show: (1) the first date of beneficial use, and (2) the continuing use of water at this site.

MICROFILMED

SEP 29 1992

Last Name Otto Ident No. _____

Copies: White -State, Yellow-Claimant

It is very important that you inform the department in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

If you are acquiring property with water rights in the Snake River Basin water system in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of the department whether a notice of claim has been filed. If not, you must file a notice of claim or the water right may be declared by the court to no longer exist. If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with the department. The notice of change in ownership must be accompanied by some evidence of the change in ownership, such as a copy of the deed or a property tax statement showing the name of the new owner. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by the department.

The cost of the subscription to the docket sheet is \$7.50 for calendar year 1988. The cost of the subscription may increase a small amount for calendar year 1989 if the cost of copying and/or mailing should increase.

If you are planning to file a motion or other pleading (not a notice of claim) with the court (not IDWR), the court has issued an order setting a special procedure that is different from the usual civil rules. A copy of the order may be obtained from any office of IDWR; you may be charged for the cost of mailing and/or copying.

MICROFILMED

Information Sheet No. 42-1400 a 2/88

SEP 3 1988

Scale: 2 inches equals 1 mile

[illegible]

SEP 29 1992

Last Name Otto Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 55-04151
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments 14

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s) X Gloria H. Otto Date X Jan 10, 1989

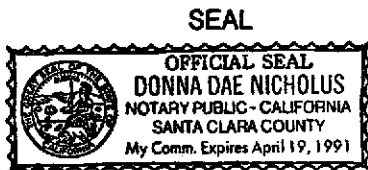
Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or CALIFORNIA)
County of SANTA CLARA) SS.

Subscribed and sworn (or affirmed) before me this 10th day of JANUARY 19 89



Notary Public Donna Dae Nicholas
Residing at 250 Lytton Ave. Palo Alto, Ca.
My Commission Expires 4/19/91
Please Print Name DONNA DAE NICHOLUS

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

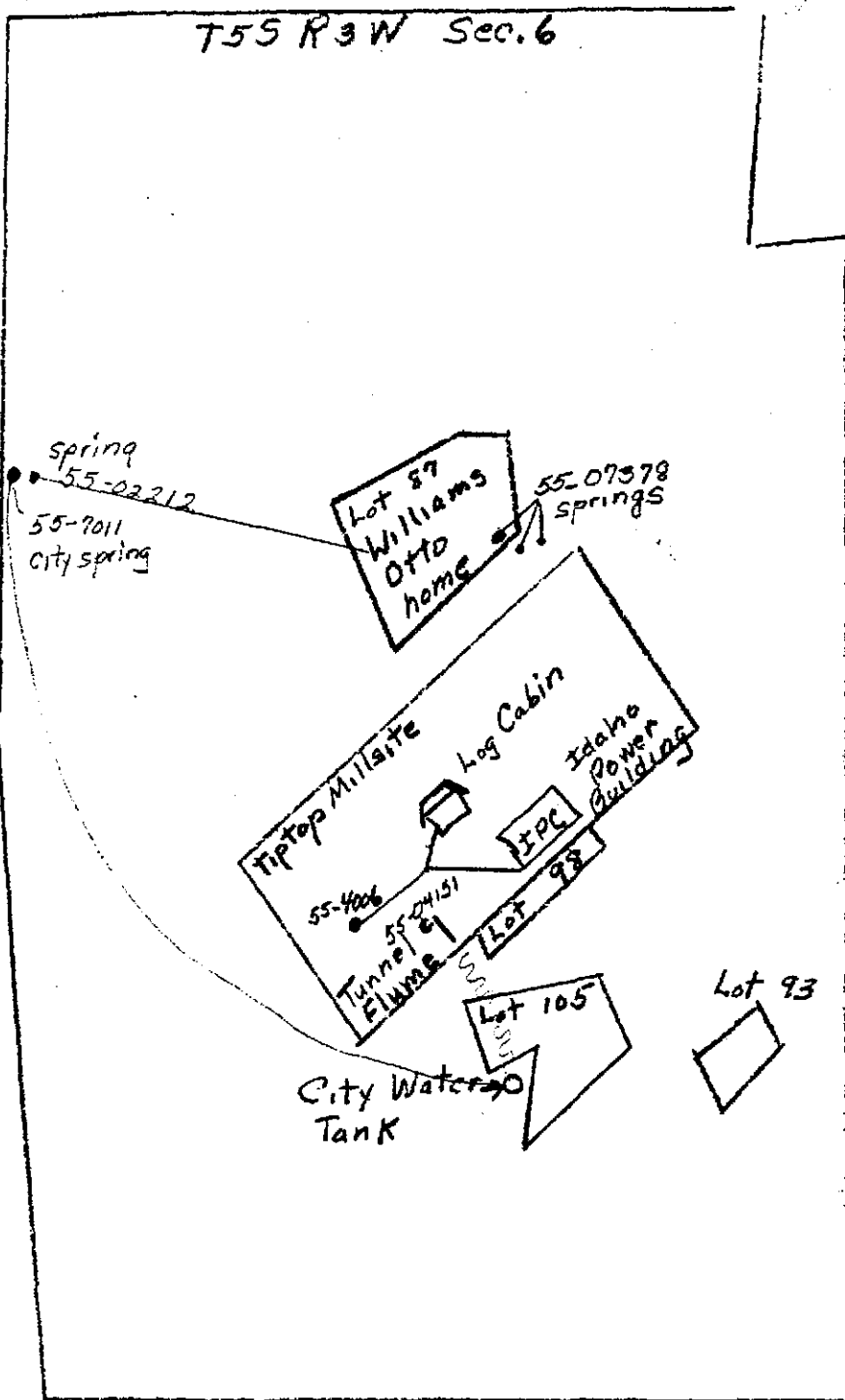
MICROFILMED
SEP 29 1992

Last Name Otto Ident. Number _____

Copies White-State, Yellow-Claimant

OTTO PROPERTY & WATER FILINGS

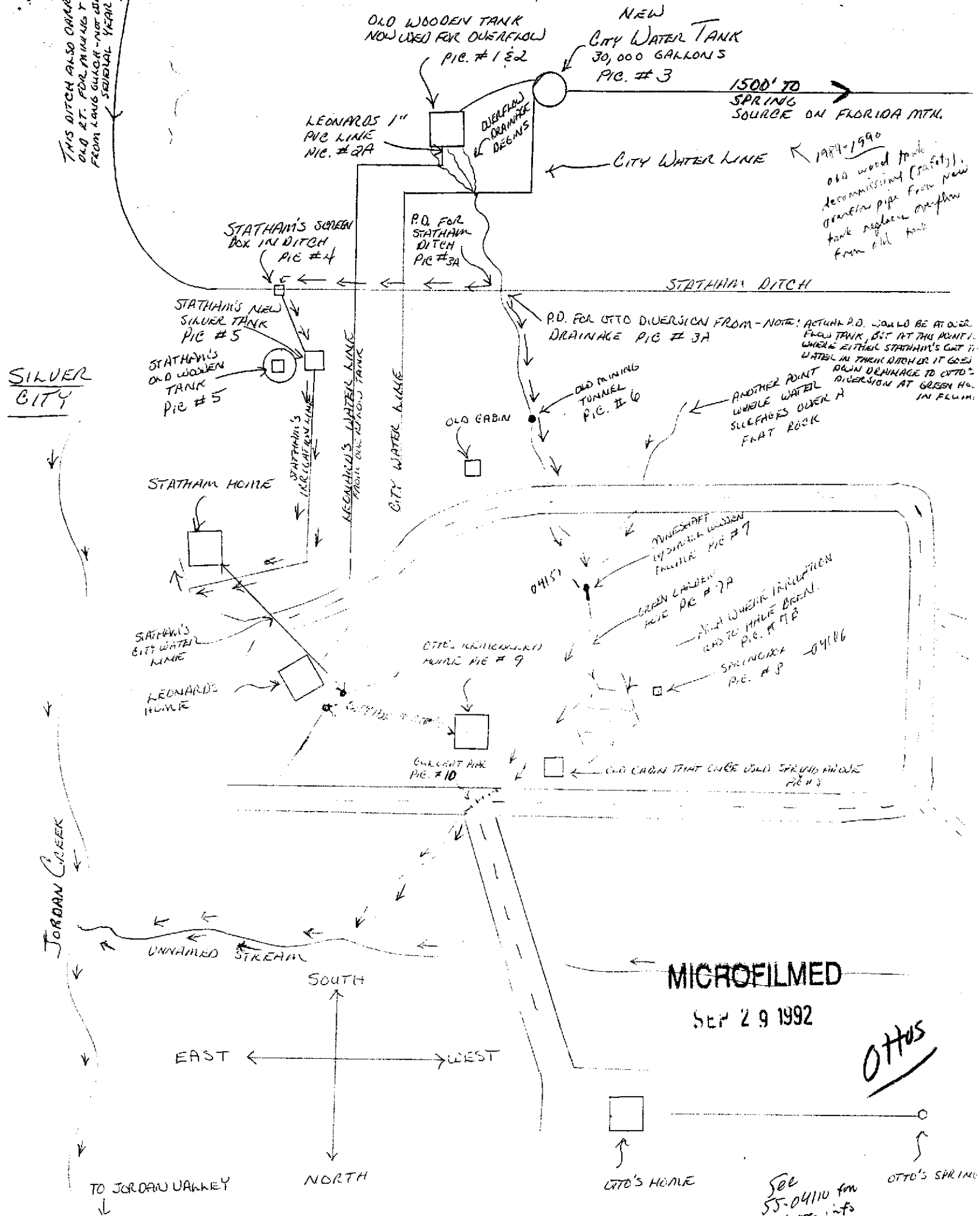
- 55-02212 Williams-Otto residence
Licensed Private Water Line
- 55-4006 Log Cabin & Idaho Power Building
(IPC)
Private spring, storage box & lines
- 55-04151 Campgrounds
Private springs, tunnel, flume.
Some water from lost water of
city tank and overflow.
(File number was 57-4058)
- 55-07378 Otto residence and Campground.
Building same as Williams-Otto
residence. To be developed.
- City water Lot 93. Small house for rent.
- No water. Lot 105. Small non-resident
building.



MICROFILMED

SEP 29 1992

DIAGRAM OF AREA OF STATHAM & OTTO DIVERSION OF OVERFLOW DRAINAGE FROM SILVER CITY WATER TANK CLAIM NO'S 55-4110 & 57-4058



Water Right Number - 55-04151

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
OTTO

GLORIA W.

1 - P.O. BOX 56

2 -

3 -

City- MURPHY

State- ID Zip- 836500000

Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
01/01/1937 14 WESTERN S - STATUTORY CLAIM

+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
SPRING JORDAN CREEK

+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

05S 03W 6 NW SE (73) OWYHEE

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01 - IRRIGATION		05/15	10/15	0.040	
43 - DOMESTIC		01/01	12/31	0.020	
07 - INDUSTRIAL		05/01	10/31	0.010	

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
0.070

TwN	Rng	Sec	Tract	Lot	Acres	Code	Description	County
05S	03W	6	NW SE		2.0	01	IRRIGATION	(73) OWYHEE

Total Acres: 2.0

+ - - Diversion Means -

+ - - Non-Irrigation Use - 1/MILLING OPERATION.

+ - - Other Rights for Same Use -

+ - - - - Remarks - - - - - +
No Remarks found.

+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

MICROFILMED
SEP 29 1992

1/30/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME

Otto, Gloria

CLAIM IDENT. NO.

A55-04151

DATE RECEIVED

1-19-89

CK #

263

AMOUNT \$

53

YES

NO

Required
Info?

1. Is the name and address complete with zip code?

☒☐

*

2. Is a priority date entered?

Is the priority date acceptable in view of mandatory filing dates?
See Adjudication Memos #1 and #4 to determine if a Permit is required.☒☐

*

3. (a) Is a source entered?

☒☐

*

(b) Is a tributary to entered? (if required)

N/A

☒☐

*

4. Is the legal description of the p.d. sufficient?

☒☐

*

5. Is there a description of the diverting works?

☒☐

*

6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.

☒☐

*

Is the period of use included?

☒☐

*

Is a quantity claimed for each use?

☒☐

*

7. Is a total quantity claimed entered?

☒☐

*

8. If required is a consumptive use entered?

N/A

☒☐

*

Is the consumptive use correct?

N/A

☒☐

*

9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.

N/A

☒☐

*

10. Is (are) the place(s) of use and purpose(s) indicated?

☒☐

*

11. Is (are) the county(ies) entered?

☒☐

*

12. Is the ownership of p.u. checked?

☒☐

*

13. Are other water rights listed or "none" indicated?

☒☐

*

14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)

N/A

☒☐

*

15. Is the basis of the claim indicated?

☒☐

*

16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.)

N/A

☐☒

*

17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.

☒☐

*

18. Has the claim been signed, sealed, and dated by a notary?

☒☐

*

19. Was this claim filed on time, or was an extension granted?

☒☐

*

20. Is the fee enclosed correct?

Exempt

☒☐

*

21. If this claim is based on an existing water right, has the identification number been entered?

N/A

☒☐

*

22. Should this claim be receipted and data entered?

☒☐

*

Claim checked by: [Signature]Date: 3/27/89Claim must be returned to claimant: (Yes) (No)Claimant must be notified of modification: (Yes) (No)

MICROFILMED

Receipt Prepared by: [Signature]Claim data entered by: [Signature]Sent to claimant by: [Signature]Date: 3/27/89Date: [Signature]Date: [Signature]Checked by: SEP 29 1992Comments: Note - priority date moved back to1903 from 1937 originally claimed - affidavit submitted to support this.

AJ0749NP
No. R55-04151

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 05/01/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GLORIA W OTTO 250 AUSTIN AVE ATHERTON CA 940274006 (650) 368-5004	01/01/1922	COMMERCIAL DOMESTIC	01-01 12-31 01-01 12-31	0.04 CFS 0.02 CFS	
TOTAL DIVERSION:					0.06 CFS	

Water Source: SPRING

Tributary to: JORDAN CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion:

T05S R03W S06 Lot19(NWNWSE)

OWYHEE County

Place of use Legal Description for: COMMERCIAL

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
05S	03W	6	:																	:

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
05S	03W	6	:																	:

POU County: OWYHEE

Non-Irrigation Uses: CAMPGROUND, HOTEL (IPB) AND LOG CABIN

Other Rights: 55-4006, 55-10130, 55-10237 AND 55-13689

Conditions of Approval:

- N10 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
- DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N12 - THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL
- NOT EXCEED 13,000 GALLONS PER DAY.

Remarks: POD 2 POINTS OF DIVERSION LOCATED IN T05S, R03W, S06, LOT 19
(NWNWSE).

USE COMMERCIAL USE IS FOR HOTEL AND PRIVATE CAMPGROUND.
DOMESTIC USE IS FOR A PRIVATE CAMPGROUND AND 2 HOMES, INTERNAL
AND EXTERNAL USES.

EXP SOURCE INCLUDES OVERFLOW FROM THE CITY TANK AND WATER FROM A
MINING TUNNEL/SHAFT LOCATED BELOW THE CITY TANK AND ROAD.
PROPERTY ALSO KNOWN AS TIP TOP MILL SITE.
WATER IS COMMINGLED WITH WATER IN RIGHT 55-13689.

*Final
R
file - SK*

AJ0749NP
No. R55-04151

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 05/01/98
PAGE: 2

=====

Dates: Exam Made Date: 07/16/1991 Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Comments: Date: 03/02/1998 User-ID: LHARRIS Subject: COPIED FROM REMARKS
WATER IS CONVEYED VIA DITCHES AND FLUME.
DUAL USES DEPEND ON ARRANGEMENT WITH GUESTS (DOMESTIC IS FOR NON-
PAYING GUESTS, COMMERCIAL IS FOR PAYING GUESTS).

Date: 05/01/1998 User-ID: SLESTER Subject: ADDITIONAL INFORMATION PER NOTICE OF ERROR
EXTERNAL USE AT .2 ACRE CAMPGROUND AND IPB & LOG CABIN UNITS
INCLUDES MINOR LANDSCAPING OF NON-NATIVE AND NATIVE VEGETATION.
CLAIMANT AND ATTORNEY ADDRESSES UPDATED PER CLAIMANTS 4/22/98
LETTER FILED IN A55-04006.

Audit: 05/01/98 SLESTER

ADDITIONAL INFO / PHOTOS

IN FRONT OF DRAWER 3 - GRAY CABINET

NEXT TO SUPPLY CABINET

WESTERN REGION OFFICE



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

August 19, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GLORIA OTTO
PO BOX 56
MURPHY ID 83650

RE: SRBA ADJUDICATION CLAIMS

Dear Gloria:

Today you called and requested copies of department letters sent after you filed your notices of error for Basin 55 adjudication claims in the Silver City area. You also requested that your attorney be provided with such copies. Your concern was that perhaps some information had not been mailed to you and/or your attorney.

You and your attorney filed the notices of error on April 3, 1998 at this office. I checked all of your SRBA claim files plus Mrs. Hyslop's claim file no. A55-10239, for which you filed a notice of error on that same date.

Enclosed please find copies of all Western Region letters or faxes sent after April 3, 1998 regarding your and Mrs. Hyslop's claims. Copies of fax notes are normally not provided to other parties, although fax information is included in today's mailing for your and your attorney's convenience.

The records indicate that only two letters are involved. The May 5 letter sent to your California address was copied to your attorney's office at that time. The May 6 letter to Mrs. Hyslop regarding the notice of error you filed against that claim apparently was not copied to you or your attorney. I regret that oversight.

The enclosed information is being sent to your attorney as you requested. A copy is also provided to Mrs. Hyslop since her claim is included in this discussion. As you know, all matters related to the adjudication claims are now before the Court but not the department.

Sincerely,

Steve Lester
Water Rights Supervisor

Enclosure

c (w/ enclosure): Scott Campbell, Attorney
Julie Hyslop, claimant

A55-04151

CONVERSATION MEMORANDUM

DATE 8/19/98FILE Jee Sch

NAME OF PARTY

Gloria Otto

EMPLOYEE

82

RE:

REQUEST for copies

Gloria called & asked for CE's to be sent to her (c. Murphy* address) + attorney of all docs mailed by IRL (Western office only) since filed her 4/13/98 notice of error w/ her attorney.

I checked all her SRBA files + Hyshp's ASS-10239 (Gloria's notice of error re Hyshp claim) & cc'd Gloria & attorney w/ letters & forms from me dated 4/7 - 5/6 1998.

Info was from files:

ASS-04151

10130

13689

↑

Otto

ASS-10239

↑

Hyshp

* PO Box 56
Murphy 83650

SUPPLEMENT TO RECOMMENDED RIGHTS FROM CITY SPRING AT SILVER CITY

PREPARED BY STEVE LESTER *SL*
IDWR WESTERN REGION
~~MARCH 4~~ MAY 8, 1998

NOTE - THIS REPLACES THE 3/4/98 MEMO FOR RIGHTS FROM CITY SPRING & A FEW MISC. RELATED FILINGS. UPDATE BASED ON FINAL CONCLUSIONS FROM NOTICE OF ERROR PROCEDURE. OUT OF DATE INFO IS SHOWN IN ~~STRIKEOUT~~ FORMAT WHILE NEW INFO IS SHOWN IN UNDERLINE FORMAT.

~~This explanation is provided to all claimants whose Snake River Basin Adjudication Claims identify the "city spring" in Silver City as a source. The explanation is provided for the claimants because it may be confusing to receive a recommended right without a complete explanation of all uses from the city spring.~~

The following terms are used:

CAMPGROUND = Ottos' private campground uphill from IPB site

CITY = Silver City Property Owners Association

CITY SYSTEM = City's diversion works and delivery pipelines

IDWR = Idaho Department of Water Resources

IPB = Ottos' hostel at Idaho Power building

LOG CABIN = Ottos' secondary structure near the IPB site

SRBA = Snake River Basin Adjudication.

STORAGE TANK = the new City tank that replaced the old wooden tank.

~~The claims have been recommended by IDWR as shown in this mailing. The recommended rights are subject to corrections per the claimant response period provided under Idaho law. IDWR recommendations are based on a review by IDWR legal and other staff. The recommendations result from a thorough review of all the evidence provided by the claimants plus IDWR field exams conducted from 1987 through 1994.~~

If a use for an individual owner is recommended under that owner's older claim, that use has been deleted from the City's younger claims to avoid duplication. Supplemental information shown below is arranged alphabetically by ownership.

CITY RIGHT NOS. 55-10204, 55-07011 AND 55-07409

55-10204 - recommended with 1968 priority date for domestic use for 16 homes where 2 of the homes include lawn irrigation. This right results from

*from file 55-07011 → Attachment 2
(6 pgs)*

combining a number of single family domestic uses, previously unrecorded until the SRBA, under a single priority date. The latest priority date for the combined uses must be used in such situations. The right lists the lot numbers served by this right.

55-07011 - recommended with 1971 priority date for 22 homes where 2 of the homes include lawn irrigation. ~~Also covers commercial use at the Idaho Hotel.~~ The lot numbers are not completely known for this right so have been omitted. The recommendation is based on a pending license. The right now exists as a permit which was field examined in 1987 before SRBA claims were filed. Licensing has been complicated by competing SRBA claims. It is assumed that the license can be issued ~~before the IDWR Director's Report is submitted to the SRBA Court (later this year after the claimant response period is completed).~~ in a timely manner while the SRBA Director's Report is being considered by the court.

55-07409 - this permit includes a 1990 priority date to cover those uses initiated after the November 1987 field exam of 55-07011. This right is outside of the SRBA scope and therefore will not be included in the Director's Report nor will it be decreed by the SRBA Court. The permit can be licensed for domestic use for 23 homes (includes 1 home with lawn irrigation) and a public drinking fountain assuming that the other two City rights are decreed as above.

City Summary - the 3 City rights will cover domestic use for 61 homes including lawn irrigation at 5 of those homes ~~(that is all of the irrigation found by 1994 field verification)~~ plus drinking water at the public fountain. ~~and commercial water for the Idaho Hotel.~~ All other uses via the City System are covered under individuals' rights.

FREDRICKSON RIGHT NO. 55-13655

Recommended to be disallowed based on insufficient evidence of priority date. IDWR legal staff determined that a contentious situation such as the City Spring requires better documentation to support SRBA claims. This use is recommended for 1 home (in-house use only) in City right 55-07011.

HYSLOP RIGHT NO. 55-10239

This right is recommended with a 1874 priority date for 1 home ~~(in-house use only)~~ for Lot 50. Use includes in-house and limited yard landscaping.

IDAHO HOTEL RIGHT NO. 55-10205

This right is recommended ~~for disallowal based on evidence of forfeiture from 1942-1968. This commercial use is recommended in City right 55-07011, with a 1868 priority for inside commercial use at the Idaho Hotel.~~

OTTO RIGHT NOS. 55-04151 and, 55-10130 & 55-13689

55-04151 - recommended with a ~~1937~~ 1922 priority date for 2 sources: overflow from the storage tank plus any additional water provided from the old shaft/tunnel located below the tank and the road (shaft/tunnel is near the flume by the Campground). The points of diversion include the overflow collection at

the storage tank plus the shaft/tunnel. This is not water from the City Spring except insofar as captured overflow from the Storage Tank is involved. Uses include commercial use at the campground and the IPB site plus and domestic use at the private Campground, Log Cabin and IPB sites (note dual uses depend on arrangement with guests at the site; domestic for non-paying but commercial for paying guests). This is not water piped into the IPB, rather it is water delivered via a ditch to the IPB site. Uses do not include any lawn etc. irrigation. Internal and limited yard landscaping uses are included. Landscaping of up to 1/2 acre includes non-native plants plus native plants, the latter case in which water is applied to refresh plants after campers depart so a beneficial use is derived from this practice.

55-10130 - recommended with a 1922 priority date for domestic and commercial water for the IPB and Log Cabin delivered by the City system. This is water piped into the two units and does not include lawn etc. irrigation. This right includes the dual use arrangement noted in 55-04151. The same internal and external uses occur (except not at the Campground) in this right as in 55-04151.

Additional right? - another filing is needed to cover a spring that contributes water to the delivery system in 55-04151. An old mining shaft is located above the road not far from the storage tank overflow diversion. This additional source cannot be included in any of the current Otto rights. If the use started before 5-20-1971, a late SRBA claim can be filed along with evidence to support the beneficial use claim. If the use started on or after 5-20-1971, an application for permit should be filed to establish a 1998 priority date. The appropriate filing should be made without delay. Result shown in next paragraph.

55-13689 - A 1937 beneficial use right has been recommended as claimed as a result of the claimant's notice of error action. This right is recommended for the same uses as in 55-04151. This is not water from the City Spring but is commingled with water from 55-04151.

STATHAMS' RIGHT NOS. 55-04007 AND 55-04110

55-04007 - recommended with a 1909 priority for in-house domestic use at 2 homes, Lots 91 and 92. Does not include lawn irrigation (see next right).

55-04110 - recommended to be disallowed per 1994 withdrawal of claim. This claim was for lawn irrigation at 1 of the Statham homes but has been recommended in City right 55-10204.

All of the uses regarding the City Spring are covered by the above recommendations to the extent that the uses have been verified by claimants' evidence and/or IDWR field examinations.

ADDITIONAL RIGHT NOT FROM CITY SPRING

Included in this explanation is another right not from the City Spring but serving homes also served under the City rights.

55-04000 - recommended with a 1948 priority for an unnamed stream (flow from old mining tunnel) located uphill from the homes. IDWR has been informed that this right serves Lots 36 and 44 for Cramer and Fredrickson homes. The claim lists Cramer and Statham, but IDWR has learned that Statham property is not

involved. The home owners served by this right ~~should file a change in ownership with IDWR to replace Statham with Fredrickson assuming that IDWR has the correct information for this situation.~~ filed the proper change in ownership to record the right in the names of Cramer and Fredricksen.

Original filed in permit 55-07011 with copies in all other water right and adjudication files at region and state office.

Silver City Master Plot Map

5/11/68

Attached plot replaces 1990 version. The 1990 map was best estimate then. Now, following SRBA Director's Report recommendation, this new map is the final word.

Not possible to indicate which units are covered by which city ^{1/}

Right - no master list has been found to correlate to this map.

Key point is that uses are covered by city rights or by separate rights under separate ownership.

No duplication occurs in coverage.

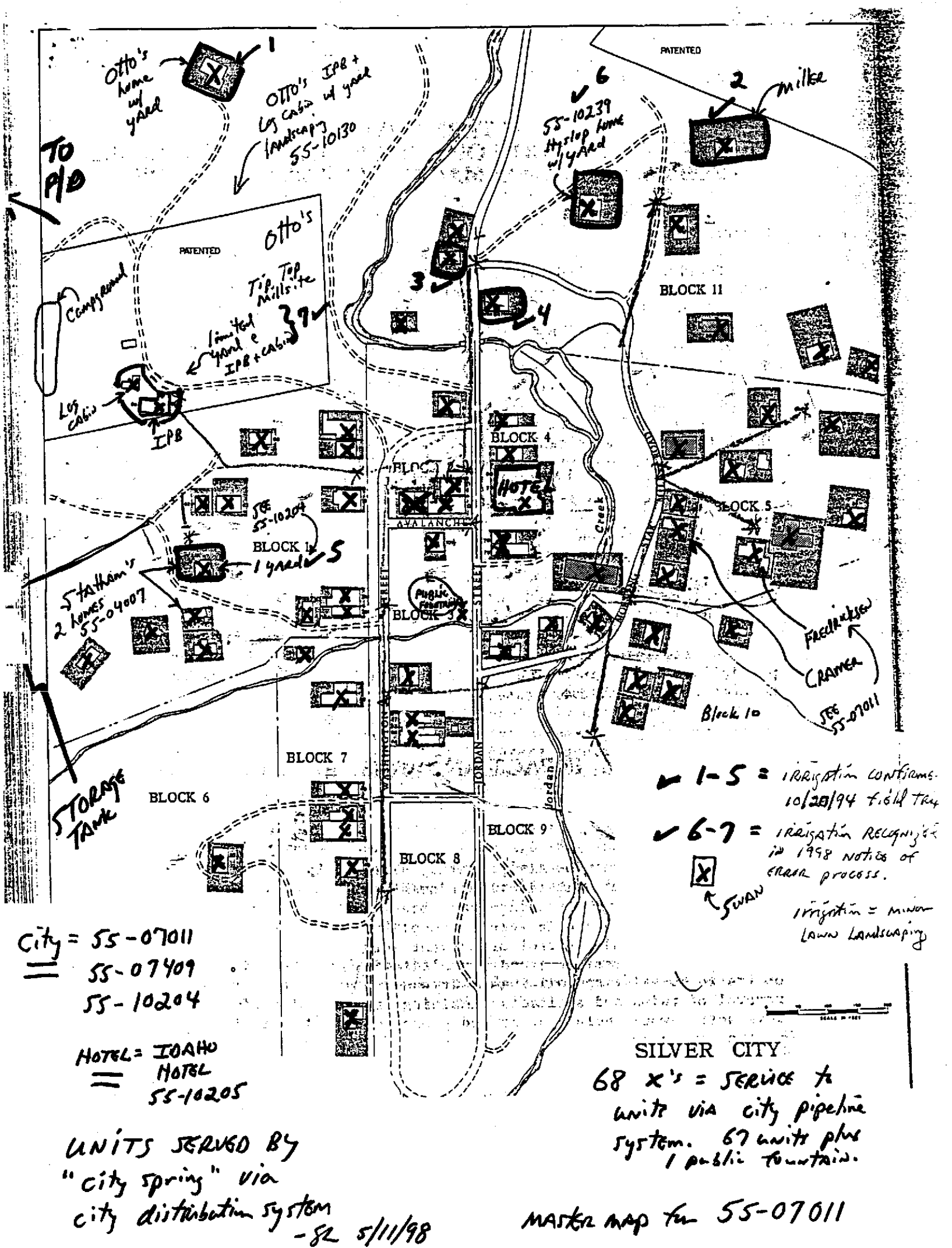
<u>OWNER & Right</u>	<u>Priority</u>	<u>USES</u>	<u>X's on map</u>
City SS-10204	1968	0/16 w/ 2 laws ^{2/}	16
SS-07011	1971	0/22 " 2 "	22
SS-07409	1990	0/23 " 1 "	} 24
		1 public fountain	
Hyslop SS-10239	1874	0/1 w/ 1 lawn	1
IO HOTEL SS-10205	1868	comm/1 -	1
OTTO SS-10130	1922	0/2 ^{3/} w/ 1 lawn	2
Statham SS-04007	1909	0/2 -	2

all X's accounted for $\rightarrow$ 68

^{1/} city = the association.

^{2/} 1 lawn = Statham's main home w/ internal use re SS-04007.

^{3/} also includes commercial use & same 2 units (IPB & by CAB's). Combined yard use for 2 units (plus compound which is served by other rights not from city spring) is $\leq \frac{1}{2}$ acre.





State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

May 5, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GLORIA AND CARL OTTO
250 AUSTIN AVE
ATHERTON CA 94027-4006

RE: SRBA CLAIMS IN SILVER CITY

Dear Gloria and Carl:

This letter summarizes the results of the notice of error process for your claims in the Silver City area. First, please note that the California address has been added to each claim. Also, the correct address for your attorney has been added to the claims.

Recommendations for claim nos. A55-04151 and A55-10130 have been revised. The 1922 priority date for A55-04151 has been recognized as you requested. Also, landscaping irrigation at the IPB, log cabin and campground has been included in both rights as you requested. The beneficial use term "irrigation" has not been used to recognize the yard use, but the limiter of "inside (in-house) use only" has been deleted. The clarifying term "internal and external uses" has been added, which is a standard Idaho Department of Water Resources (IDWR) technique. The revised recommendations result from the information submitted in your notices of error. This includes the notices filed at this office on April 3, 1998 in the presence of your attorney plus the "amended notice" for A55-10130 that you faxed to me on April 14, 1998.

Claim no. A55-13689 has been recommended as claimed based on the evidence that you provided. A copy of the data entered version of the claim is enclosed for your records. Final IDWR recommendations for all of your claims will be mailed to your California address under separate mailing from IDWR State Office ("Orchard Street") in the next week or two, according to the latest schedule.

The rest of your claims, in which you accepted the recommendations identified in the notice of error procedure, will remain unchanged except for the address updates already mentioned.

Additionally, IDWR received your April 14, 1998 facsimile notice of error regarding claim no. A55-10239 (Hyslop). The information in your notice of error is not sufficient to alter recommendations for the Hyslop claim. This office will notify that claimant by separate

Otto SRBA Claims
April 5, 1998
Page 2

letter regarding your notice of error against that claim but cannot take further action at this time.

Soon after you receive the recommendations discussed in this letter, IDWR will deliver its director's report to the court. At that time, claimants must address their concerns to the court rather than to IDWR.

A copy of this letter is being sent to Scott Campbell as we discussed in your April 3 visit to this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", written over a horizontal line.

Steve Lester
Water Rights Supervisor

Enclosure - Claim no. A55-13689

c: Scott Campbell, Attorney of Record for Claimant

OTTO -

ASS-04151

ASS-10130

- 82
5/1/98

REVIEWING NOTICES OF ERROR -

- 1) Claimant w/ Attorney visited zone 4/3/98, met w/ me & John Marshall.
- 2) Submitted notice of error w/ add'l info.
- 3) Subsequent to that, claimant mailed add'l info dated 4/10/98 & faxed amended notice of error dated 4/14/98 & ASS-10130.
- 4) Claimant mailed change of address letter dated 4/22/98.

Based on review of claimant's add'l info described above:

- 1) Losses from ASS-04151 system can attach to valves to deliver water into IPB so can = internal use also.
- 2) Minor landscaping does occur & IPB/Lg Cabin area although very marginal from my field observations - vague, doubtful landscaping but give benefit of doubt to claimant.
- 3) Reviewed my field exam info of 7/16/91 & 10/20/94, including photos.
- 4) Can recognize landscaping b/c of comparison - recognizes the vegetation when compares leave.
- 5) per claimant's reference to Exh 8C (Kiddon), Exh 3A (Tommy), Exh 3B (Kiddon) & Exh 8b (Moore) - those dates found: 1922 ("Frank"), 1937 (overflow & tank, ditch & long gulch), and post-1972 (Moore).

- continued -

- Pg 2 -

- 6) Although info is weak, can recognize 1922 d.o.g.
for ASS-04151.
- 7) Can recognize ext. landscaping & IPB, by Cab. &
compared to both rights. Total is $\leq \frac{1}{2}$ row.
To "imagine" use stay but contained ~~with~~
within dom. & comm. terms.

REVISE R FILES BASED ON THIS REVIEW.

AMENDED NOTICE OF ERROR DOES NOT LEAD TO DIFFERENT
CONCLUSIONS THAN SHOWN HERE.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Sent ✓

FAX TRANSMITTAL COVER SHEET

FAX # (208) 334-2348

DATE: 4/7/98

TO: Gloria Otto
c/o Kinko's
fax: 650-321-1387

FROM: Steve Loster

DOCUMENT DESCRIPTION: DEAR Kinko's -
Please call Gloria Otto @ 650-368-5004 to let
her know this fax arrived.
Thanks, JL

TOTAL PAGES SENT: 6 + COVER SHEET

CONTACT: _____

Documents = copies of Notice of Error 55-04151
55-10130

CONVERSATION MEMORANDUM

DATE 4/3/98
FILE ASS-04151

NAME OF PARTY Gloria Otto / Scott Campbell

ASS-10130

EMPLOYEE SL

RE: Meeting to Discuss Recommendations

Gloria & her attorney, Scott Campbell, met with John Marshall & me today to discuss the "notice of error" responses to their claims.

Claimant submitted additional information. Claimant stated that:

- 1) -4151 includes irrigation of campground to reestablish the plant life after campers depart.
- 2) -4151 includes hose rental to external valves/pipes. This connection can provide water into IPB for plumbing (bathroom etc.).
- 3) -4151 includes (via same hose) watering of planted flowers @ IPB site.
- 4) -10130 includes watering of same flowers etc. @ IPB through plumbing arrangement @ IPB site.
- 5) intends to file claim for services not included in -4151 per my 3/4/98 supplemental explanation for all claims related to "City Spring".

Additionally, Scott C. requested that:

- 1) to be sure database has his correct claim name/address.
- 2) " " Gloria & Scott are notified if anyone files objection into Otto claims.

continued →

SEE card on back of this memo

Scott had several questions regarding the basic for
dept.'s policy to not recognize watering of natural
species of plants as irrigation beneficial use.

ELAM & BURKE

ATTORNEYS AND COUNSELORS AT LAW

SCOTT L. CAMPBELL

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

March 6, 1998

**NOTICE OF ERROR
REPLY**

RECEIVED

APR 03 1998

**WATER RESOURCES
WESTERN REGION**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation. **YOUR DEADLINE FOR RETURNING A**

NOTICE OF ERROR REPLY IS: March 30, 1998

Water right number: 55-04151

GLORIA OTTO
PO BOX 56
MURPHY ID 83650

Daytime Telephone Number: (650) 368-5004

Evening Telephone Number: same

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
Purpose of use; "Domestic is for 1 home"; "inside use only"; Priority date of 01-01-1937.
2. Describe the changes you wish to make in the proposed recommendation:
Please see Attachment 2, appended hereto.
3. Give a brief explanation as to why you disagree with these portions:
Please see Attachment 3, appended hereto.

 I AGREE with this proposed recommendation; no changes need to be made.

DATE: 4-3-98
3-26-98

SIGNATURE: Gloria W. Otto
Please print your name: Gloria W. Otto

ATTACHMENT -2-

Attachment 2

Change to: Domestic is for two homes;

Delete "inside use only"; and

Change priority date to 01-01-1922.

ATTACHMENT -3-

Attachment 3

Our understanding when water consultant Sherl Chapman filed permit 55-04151 for us was that a domestic purpose of use carried with it the right to irrigate and that right to irrigate has been defined to apply if the irrigated parcel does not exceed one-half acre. The total of the combined irrigated areas covered by this permit is less than one-half acre. They are: 1) the ground cover around the buildings, IPB and log cabin; 2) the plants, flowers, and ferns on the rock walls and the ground cover on the east side of IPB; and 3) the flat west of the two homes (buildings) measuring about 60' by 150'.

In 1903, the water from the Willow City spring that was not used by the Silver City water users at that time connected to the Idaho Hotel line, and was discharged thru a large pipe on the north side of the Idaho Hotel tank and ran through a short gully onto the Tip Top of millsite property and downhill between the buildings (substation residence, barn, garage, storage building (later log cabin)) of the Idaho Power complex. Documents covering most of this period of time are in the Silver City file with IDWR. See Affidavit of Pat Kidder, 10 Feb. 1993 (Exhibit 6c of 55-10130); Affidavit of Eudora Terry, 5 June 1988 (Exhibit 3a of 55-04151); and Affidavit of Ralph Moore, 20 Aug. 1991 (Exhibit 8b of 55-04151).

In 1937, the overflow water was diverted by installation of a flume for more efficient irrigation. See Affidavit of Gloria Otto, 15 Apr. 1993, and shown in photographs in 55-04151 with the Silver City file in IDWR's office).

The overflow water has been used and is being used for commercial and domestic purposes on the above mentioned sites and for occasional additional uses appropriate to this filing.

Much of the areas near the buildings were destroyed by backhoes employed by the contractors during the construction of the IPB and by the teams of archaeologists that worked on the Tip Top property in the late 1970's and early 1980's. Those areas have been reseeded and the plantings continue to prosper.

CONVERSATION MEMORANDUM

DATE 3/25/98FILE ASS-04151NAME OF PARTY Gloria OttoASS-10130EMPLOYEE SLRE: Summary & JOUR Recommendations

Gloria called from her Calif #
(650-368-5004) to discuss R F. ltr.
Not sure if she attend 3/30 public mtg.
in Mar. 30.

I told her that everything does not have
to be done by 3/30 but soon
thereafter ("sooner is better").

She asked me to fax the 3/4/98 Summary
& Silver City Spring filter that was included
as supplement to recent mailing. She did
not receive that - Region mailed her a
cc the other day per her call.

✓
completed
today

Fax to Kinko's 650-321-1387 - add
note for K's to call Gloria.

Fax to her Atty Scott C. 384-5844 per
her request



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

✓
FAX TRANSMITTAL COVER SHEET

FAX # (208) 334-2348

DATE: 3/25/98

TO: Scott Campbell

FROM: Steve Lester

fax 384-5844

DOCUMENT DESCRIPTION:

Summary^{*} of claims from Silver City
"city spring" re Ottos' ASS-04151 & ASS-10130. Gloria
asked me to fax to you today. She said she did not get
this supplement with her recent mailing of recommended rights.
This office mailed her a copy of supplement yesterday & faxed it to
her today per her
Request REQUEST.

TOTAL PAGES SENT: 3 + COVER SHEET

CONTACT: _____

* 3 ps. Summary of 3/4/98

ASS-04151
ASS-10130



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

✓
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FAX # (208) 334-2348

DATE: 3/25/98

TO: Kinkos

FROM: Steve Lester

fax 650-321-1387

DOCUMENT DESCRIPTION:

Please call Gloria Otto 650-368-5004.

This fax is for her. She's expecting your call.

thanks, JL

TOTAL PAGES SENT:

3

+ COVER SHEET

CONTACT:

3 pg summary of 3/4/98

ASS-04151

ASS-10130

SUPPLEMENT TO RECOMMENDED RIGHTS FROM CITY SPRING AT SILVER CITY

**PREPARED BY STEVE LESTER *SL*
IDWR WESTERN REGION
MARCH 4, 1998**

This explanation is provided to all claimants whose Snake River Basin Adjudication Claims identify the "city spring" in Silver City as a source. The explanation is provided for the claimants because it may be confusing to receive a recommended right without a complete explanation of all uses from the city spring.

The following terms are used:

CAMPGROUND = Ottos' private campground uphill from IPB site

CITY = Silver City Property Owners Association

CITY SYSTEM = City's diversion works and delivery pipelines

IDWR = Idaho Department of Water Resources

IPB = Ottos' hostel at Idaho Power building

LOG CABIN = Ottos' secondary structure near the IPB site

SRBA = Snake River Basin Adjudication.

STORAGE TANK = the new City tank that replaced the old wooden tank.

The claims have been recommended by IDWR as shown in this mailing. The recommended rights are subject to corrections per the claimant response period provided under Idaho law. IDWR recommendations are based on a review by IDWR legal and other staff. The recommendations result from a thorough review of all the evidence provided by the claimants plus IDWR field exams conducted from 1987 through 1994.

If a use for an individual owner is recommended under that owner's older claim, that use has been deleted from the City's younger claims to avoid duplication. Supplemental information shown below is arranged alphabetically by ownership.

CITY RIGHT NOS. 55-10204, 55-07011 AND 55-07409

55-10204 - recommended with 1968 priority date for domestic use for 16 homes where 2 of the homes include lawn irrigation. This right results from combining a number of single family domestic uses, previously unrecorded until the SRBA, under a single priority date. The latest priority date for the combined uses must be used in such situations. The right lists the lot numbers served by this right.

55-07011 - recommended with 1971 priority date for 22 homes where 2 of the homes include lawn irrigation. Also covers commercial use at the Idaho Hotel. The lot numbers are not completely known for this right so have been omitted. The recommendation is based on a pending license. The right now exists as a permit which was field examined in 1987 before SRBA claims were filed. Licensing has been complicated by competing SRBA claims. It is assumed that the license can be issued before the IDWR Director's Report is submitted to the SRBA Court (later this year after the claimant response period is completed).

55-07409 - this permit includes a 1990 priority date to cover those uses initiated after the November 1987 field exam of 55-07011. This right is outside of the SRBA scope and therefore will not be included in the Director's Report nor will it be decreed by the SRBA Court. The permit can be licensed for domestic use for 23 homes (includes 1 home with lawn irrigation) and a public drinking fountain assuming that the other two City rights are decreed as above.

City Summary - the 3 City rights will cover domestic use for 61 homes including lawn irrigation at 5 of those homes (that is all of the irrigation found by 1994 field verification) plus drinking water at the public fountain and commercial water for the Idaho Hotel. All other uses via the City System are covered under individuals' rights.

FREDRICKSON RIGHT NO. 55-13655

Recommended to be disallowed based on insufficient evidence of priority date. IDWR legal staff determined that a contentious situation such as the City Spring requires better documentation to support SRBA claims. This use is recommended for 1 home (in-house use only) in City right 55-07011.

HYSLOP RIGHT NO. 55-10239

This right is recommended with a 1874 priority date for 1 home (in-house use only) for Lot 50.

IDAHO HOTEL RIGHT NO. 55-10205

This right is recommended for disallowal based on evidence of forfeiture from 1942-1968. This commercial use is recommended in City right 55-07011.

OTTO RIGHT NOS. 55-04151 and 55-10130

55-04151 - recommended with a 1937 priority date for 2 sources: overflow from the storage tank plus any additional water provided from the old shaft/tunnel located below the tank and the road (shaft/tunnel is near the flume by the campground). The points of diversion include the overflow collection at the storage tank plus the shaft/tunnel. Uses include commercial use at the campground and the IPB site plus domestic use at the IPB site (note dual uses depend on arrangement with guests at the site). This is not water piped into the IPB, rather it is water delivered via a ditch to the IPB site. Uses do not include any lawn etc. irrigation.

55-10130 - recommended with a 1922 priority date for domestic and commercial water for the IPB and Log Cabin delivered by the City system. This is water piped into the two units and does not include lawn etc. irrigation. This right includes the dual use arrangement noted in 55-04151.

Additional right? - another filing is needed to cover a spring that contributes water to the delivery system in 55-04151. An old mining shaft is located above the road not far from the storage tank overflow diversion. This additional source cannot be included in any of the current Otto rights. If the use started before 5-20-1971, a late SRBA claim can be filed along with evidence to support the beneficial use claim. If the use started on or after 5-20-1971, an application for permit should be filed to establish a 1998 priority date. The appropriate filing should be made without delay.

STATHAMS' RIGHT NOS. 55-04007 AND 55-04110

55-04007 - recommended with a 1909 priority for in-house domestic use at 2 homes, Lots 91 and 92. Does not include lawn irrigation (see next right).

55-04110 - recommended to be disallowed per 1994 withdrawal of claim. This claim was for lawn irrigation at 1 of the Statham homes but has been recommended in City right 55-10204.

All of the uses regarding the City Spring are covered by the above recommendations to the extent that the uses have been verified by claimants' evidence and/or IDWR field examinations.

ADDITIONAL RIGHT NOT FROM CITY SPRING

Included in this explanation is another right not from the City Spring but serving homes also served under the City rights.

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AJ0749NP
No. R55-04151

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 03/03/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GLORIA W OTTO PO BOX 56 MURPHY ID 83650 (208) 583-4111	01/01/1937	COMMERCIAL DOMESTIC	01-01 12-31 01-01 12-31	0.04 CFS 0.02 CFS	
TOTAL DIVERSION:					0.06 CFS	

Water Source: SPRING

Tributary to: JORDAN CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion: T05S R03W S06 Lot19(NWNWSE)

OWYHEE County

Place of use Legal Description for: COMMERCIAL

				NE				NW				SW				SE							
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:			
05S	03W	6	:																	:			
																C							

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE							
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:			
05S	03W	6	:																	:			
																D							

POU County: OWYHEE

Other Rights: 55-4006, 55-10130, 55-10237

Conditions of Approval:

- N10 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
- DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N12 - THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL
- NOT EXCEED 13,000 GALLONS PER DAY.

Remarks: POD 2 POINTS OF DIVERSION LOCATED IN T05S, R03W, S06, LOT 19
(NWNWSE).

USE COMMERCIAL USE IS FOR HOTEL AND PRIVATE CAMPGROUND.
DOMESTIC USE IS FOR 1 HOME, INSIDE USE ONLY.

EXP SOURCE INCLUDES OVERFLOW FROM THE CITY TANK AND WATER FROM A
MINING TUNNEL/SHAFT LOCATED BELOW THE CITY TANK AND ROAD.
PROPERTY ALSO KNOWN AS TIP TOP MILL SITE.

Dates: Exam Made Date: 07/16/1991

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

AJ0749NP
No. R55-04151

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 03/03/98
PAGE: 2

=====

Comments: Date: 03/02/1998 User-ID: LHARRIS Subject: COPIED FROM REMARKS
WATER IS CONVEYED VIA DITCHES AND FLUME.
DUAL USES AT THE IPB UNIT DEPEND ON ARRANGEMENT WITH GUESTS
(DOMESTIC USE IS FOR NON-PAYING GUESTS, COMMERCIAL USE IS FOR
PAYING GUESTS).

Audit: 03/03/98 SLESTER

SUPPLEMENT TO RECOMMENDED RIGHTS FROM CITY SPRING AT SILVER CITY

PREPARED BY STEVE LESTER 
IDWR WESTERN REGION

MARCH 4, 1998

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55-10130 - recommended with a 1922 priority date for domestic and commercial water for the IPB and Log Cabin delivered by the City system. This is water piped into the two units and does not include lawn etc. irrigation. This right includes the dual use arrangement noted in 55-04151.

Additional right? - another filing is needed to cover a spring that contributes water to the delivery system in 55-04151. An old mining shaft is located above the road not far from the storage tank overflow diversion. This additional source cannot be included in any of the current Otto rights. If the use started before 5-20-1971, a late SRBA claim can be filed along with evidence to support the beneficial use claim. If the use started on or after 5-20-1971, an application for permit should be filed to establish a 1998 priority date. The appropriate filing should be made without delay.

STATHAMS' RIGHT NOS. 55-04007 AND 55-04110

55-04007 - recommended with a 1909 priority for in-house domestic use at 2 homes, Lots 91 and 92. Does not include lawn irrigation (see next right).

55-04110 - recommended to be disallowed per 1994 withdrawal of claim. This claim was for lawn irrigation at 1 of the Statham homes but has been recommended in City right 55-10204.

All of the uses regarding the City Spring are covered by the above recommendations to the extent that the uses have been verified by claimants' evidence and/or IDWR field examinations.

ADDITIONAL RIGHT NOT FROM CITY SPRING

Included in this explanation is another right not from the City Spring but serving homes also served under the City rights.

55-04000 - recommended with a 1948 priority for an unnamed stream (flow from old mining tunnel) located uphill from the homes. IDWR has been informed that this right serves Lots 36 and 44 for Cramer and Fredrickson homes. The claim lists Cramer and Statham, but IDWR has learned that Statham property is not involved. The home owners served by this right should file a change in ownership with IDWR to replace Statham with Fredrickson assuming that IDWR has the correct information for this situation.

Recommendations for
R File

SEE ATTACHED profile
Report

-JR
3/1/98

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 03/02/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GLORIA W OTTO PO BOX 56 MURPHY ID 83650 (208) 583-4111	01/01/1937	COMMERCIAL DOMESTIC	01-01 12-31 01-01 12-31	0.04 CFS 0.02 CFS	
TOTAL DIVERSION:					0.06 CFS	

Water Source: SPRING

Tributary to: JORDAN CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion:

T05S R03W S06 Lot19(NWNWSE)

OWYHEE County

Place of use Legal Description for: COMMERCIAL

NE				NW				SW				SE			
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
05S	03W	6	:												

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE			
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
05S	03W	6	:												

POU County: OWYHEE

Non-Irrigation Uses: 1 HOME ✓

Other Rights: 55-4006, 55-10130, 55-10237

Conditions of Approval:

- N10 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
- DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N12 - THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL
- NOT EXCEED 13,000 GALLONS PER DAY.

Remarks: USE ✓ COMMERCIAL USE IS FOR HOTEL AND PRIVATE CAMPGROUND.

EXP SOURCE ~~ALSO KNOWN AS CITY SPRING.~~
PROPERTY ALSO KNOWN AS TIP TOP MILL SITE.

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

2 p 11 1/2
Legal list of
above.
Not sure where
that info goes.

add
TWO POINTS OF DIVERSION LOCATED
IN (LEGAL).

add

DOMESTIC USE IS FOR 1 HOME,
INSIDE USE ONLY.

change

SOURCE INCLUDES OVERFLOW FROM THE
CITY TANK AND WATER FROM A MINING
TUNNEL/SHAFT.

AJ0749NP
No. R55-04151

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 03/02/98
PAGE: 2

Comments: Date: 03/02/1998 User-ID: LHARRIS Subject: COPIED FROM REMARKS
SOURCE INCLUDES OVERFLOW FROM THE CITY TANK AND WATER FROM A
MINING TUNNEL/SHAFT. WATER IS CONVEYED VIA DITCHES AND FLUME.
DUAL USES AT THE IPB UNIT DEPEND ON ARRANGEMENT WITH GUESTS
(DOMESTIC USE IS FOR NON-PAYING GUESTS, COMMERCIAL USE IS FOR
PAYING GUESTS).

Audit: 03/02/98 LHARRIS

Delete
Save

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GLORIA W OTTO PO BOX 56 MURPHY ID 83650 (208) 583-4111	01/01/1983 <i>1937</i>	~~IRRIGATION~~ COMMERCIAL DOMESTIC	~~05-15-10-15~~ 01-01 12-31 01-01 12-31	~~0.84 CFS~~ 0.04 CFS 0.02 CFS	~~7.00 AFA~~ <i>0.08 CFS</i> <i>.06</i>
TOTAL DIVERSION:					0.08 CFS	
CONSUMPTIVE USE:					.06	

Water Source: ~~WILLOW SPRING~~ *Spring*

Tributary to: JORDAN CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion: T05S R03W S06 NENWSE OMYHEE County

Place of use Legal Description for: ~~IRRIGATION~~

NE				NW				SW				SE				
T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	SUM
05S	03W	6	:	:	:	:	:	:	:	:	:	:	:	:	:	
															02	
															TOTAL ACRES	

delete irr

Place of use Legal Description for: COMMERCIAL

NE				NW				SW				SE				
T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	
05S	03W	6	:	:	:	:	:	:	:	:	:	:	:	:	:	
															C	

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE				
T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	T	R	S	: Lt Ac Lt Ac Lt Ac Lt Ac	
05S	03W	6	:	:	:	:	:	:	:	:	:	:	:	:	:	
															D	

POU County: OMYHEE

Non-Irrigation Uses: ~~DOMESTIC~~ *out* ONE HOME; ~~COMMERCIAL~~ *use is hotel and campground* ~~ONE GROUP HOTEL~~ *private*

Other Rights: ~~55-7044~~, 55-4006 55-10130 55-10237

Remarks: GEN USE OF "INDUSTRIAL" IN FIRST CLAIM WAS INADVERTENT ERROR,
"COMMERCIAL" IS MORE ACCURATE.
EXP SOURCE IS AKA CITY SPRING.
DESC. OF DIVERTING WORKS - SPRING BOX WITH PIPELINE TO BUILDINGS,
FLUME FROM CITY WATER TANK OVERFLOW TO VARIOUS PLACES OF USE.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

N10
N12

See Attached

ASS-04151

Continued

- JZ 3/1/98

Remarks

put in
comments

Source includes overflow from the city tank and water from a mining tunnel/shaft. Water is conveyed via ditches and flume.

Dual uses at the IPB unit depend on arrangement with guests (domestic use is for nonpaying guests, commercial use is for paying guests).

EXP
remark

→ Property also known as Tip Top Mill Site.

***** Attorney-Client Privileged Information*****

TO: Steve Lester 
FROM: John Marshall
DATE: February 26, 1998

RE: Silver City Recommendations

Steve:

Following are the suggestions I have for the recommendations of the domestic and commercial claims in Silver City based on my review of the files you provided. I did not have a chance to research outside of the information contained in the files. However, I believe that the information contained in the files provides a sufficient factual background on which to make the recommendations.

A55-10205 Idaho Hotel (Lot 34)

This right should be disallowed for forfeiture for non-use. There is solid evidence that this right was not used from 1942-1968. This use should fall under the permit right A55-07011.

A55-10239 Hyslop (Lot 50)

Priority of 1874. They have submitted convincing evidence from the *Owhyee Avalanche* that this right was developed and we do not have any evidence that it was forfeited for non-use.

A55-13655 Fredrickson (Lot 35)

This right should be disallowed. Given the contentiousness of the area, I felt that a self-signed affidavit was not good enough evidence to support an early priority date. This right should be included in the permit right 07011.

A55-04007 Statham

This is the Statham's right to the city spring water through the city system. She provided convincing evidence from her mother that they were hooked in by 1909. This is the priority I would suggest for this right.

A55-04110 Statham

Disallow based on their withdrawal.

A55-04151 Otto IPB Overflow right in combination with unnamed spring

Gloria claims a priority for this right of Jan 1, 1903. I could not find any documentation from her that supports this priority. She has affidavits from several folks supporting a priority of 1922 and 1937, but nothing that I can find that supports 1903 (which does not

mean that its tucked away in her filings somewhere). This right is problematic since it claims as its source three different (as far as I can tell) sources--1) the overflow from the city system, 2) water that comes out of the tunnel even when there is no overflow, and 3) spring water coming out of an old mine shaft (good for drinking I'm sure). I parsing through the affidavits, I noticed several that gave 1922 the date of first use, but only for sources that did not include the city spring overflow. The only affidavit I could find on overflow supported a date of 1937. The reason this matters is because I'm not sure that this overflow right is a waste water right. It may be an independent right to the use of spring water. I have not looked carefully into the law of waste, but my recollection is that waste water is water that is captured after it has been put to a beneficial use. In this case the overflow water has not yet been put to a beneficial use and the argument can be made that this is an independent right on the spring regardless of the fact that her diversion system depends on the city system. If this is the case, then she can make a call on the city spring water. In thinking through this as I write, the difference between 1922 and 1937 does not make too much difference since there are no intervening appropriators in that gap. Anyway, it seems to me like she has two different water rights--one for the spring and one for the overflow. It is my understanding that the Department can and has "spun off" new rights to correct filing errors of this sort. That may be the best bet here--a 1937 right to the overflow and a 1922 right to the unnamed spring.

I question whether or not this water is being put to beneficial use. This is your call. I have not been out there, but the documentary evidence is pretty thin. I imagine that my suspicions are raised given her might efforts (likely at the prodding of counsel) to show that there are beneficial uses occurring. Trying so hard to prove use makes me think that a legitimate use does not exist. At the very least, as you and I discussed before, there is not an irrigation use associated with this water.

A55-10130 Otto

I do not believe that Gloria provided sufficient evidence to support her contention that predecessors in interest to her property used the city spring prior to the installation of the hotel system in 1902. She has not provided any reliable evidence connecting "willow spring" to the city spring. I do believe, however, that she has provided good enough evidence to prove her property was tapped into the city system by 1922 through the affidavit of Patrick Kidder.

A55-10204 Tax Payers

The association did not provide sufficient information to support all of the claimed uses in 1968. Roxane Brown identified the following lots as having been identified with a priority of 1968: Lot 44, 49, 54, 55, 65, 66, 67, 71, 72, 74, 75, 76, 79, 88, 91, 94, 96.

Roxane identified through looking at the license file another 21 homes that can be included in the 07011 filing.

I hope that this helps. Please feel free to give me a call this weekend. I will be in the office most of the day on Sunday (327-5404) or you can catch me at home on Sat (395-1745).

Handwritten signature

#1 & 2 on
-4151
#3 Needs
Separate Right
(shaft above
road in
2/11/98 schematic)

Marginal b-l
e IPB area but
can recommend it.
Also delivers H2O to
campground (same
c-f. as
41006 & 10231)

J R B A FIELD EXAM NOTES

CLAIM # See below

EXAM DATE 7-16-1991

EXAMINER *John L. Latta*

A55-02212

04006 ← original with exams filed is

04151

10000

10130

10237



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FAX TRANSMITTAL COVER SHEET

FAX # (208) 334-2348

DATE: 1/16/97

TO: Scott Campbell
Elam & Burke
fax 384-5844

FROM: Steve Leftee

DOCUMENT DESCRIPTION: gloria otto's request to fax you cc of
my 11/13/96 letter in case she wants discuss issues with
you. Did not include in this fax cc's of claim/right
printouts but these can be obtained if needed.

TOTAL PAGES SENT: 1 + COVER SHEET

CONTACT: _____

Sounds like the "pooling agreement" process is not going too well at this time. No deadlines etc. established for BASID SS in SRBA that would impact Silver City at this time.

See yous
JL



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

November 8, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GLORIA OTTO
250 AUSTIN AVE
ATHERTON CA 94027

**RE: RECORDED RIGHTS FOR "CITY SPRING" WATER USE AT YOUR "IDAHO
POWER BUILDING" SITE**

Dear Gloria:

Enclosed are computer reports detailing the recorded water rights that include use of water via the "city spring" for use at your hostel, also known as the Idaho Power building (IPB), in Silver City. You requested copies today in our telephone conversation to assist you in working with the BLM to obtain approval for pipeline work involving public property.

Four recorded rights include in some fashion or another the use of city spring water for the property in question. Two of the rights have been recorded by you, and the other two have been recorded by the city.

Your Snake River Basin Adjudication (SRBA) claims, nos. A55-04151 and A55-10130, include use of the overflow water associated with the city storage tank. These are beneficial use claims to be addressed in the SRBA proceedings.

The city rights include SRBA claim no. A55-10204, the city's claim to record all "grandfather" uses developed prior to May, 1971. The claim addresses water delivered via the city distribution network. The other city right is permit no. 55-07409 issued for uses developed after November, 1987. This permit is beyond the SRBA scope and therefore does not have a SRBA claim associated with it.

It appears that ample water right recordings have been made to show that the IPB site enjoys use of water from the city distribution network as well as from the city tank overflow.

If you or BLM staff have any questions about this matter, please contact me at your convenience.

Sincerely,

Steve Lester
Deputy Regional Manager

Enclosure

RECEIVED

DEC 30 1994

Silver City Water Board
c/o Jim Hyslop, Secretary
11618 Emerald Road
Nampa, Idaho 83686

WATER RESOURCES
WESTERN REGION

December 29, 1994

Mr. Steve Lester
Water Rights Supervisor
Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Dear Steve:

The Silver City Water Board received your letter of December 27, 1994 which was addressed to Julie Hyslop. We understand Gloria Otto has filed an amended Notice of Claim in which she contends the city spring is actually "Willow Spring."

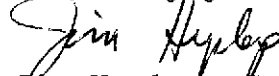
ASS-04151

Please understand that such a contention cannot be supported by any evidence we have seen. Yes, she does have reference to a Willow Spring. In our estimation, there is no description which in any way supports her contention that Willow Spring and city spring are one and the same.

Our documentation for this appraisal resides with Bill Ringert, our legal council. It will be made available to you at a later date.

Thank you for your continued efforts in the matters relating to Silver City.

Sincerely yours,



Jim Hyslop, Secretary

cc: Bill Ringert



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 27, 1994

Silver City Property Owners, Inc.
C/O Julie J. Hyslop, Secretary
10139 Rim Road
Nampa, ID 83686

RE: Amended Adjudication Claim No. A55-04151 (Gloria Otto)

Dear Mrs. Hyslop:

I am writing to you because the most recent address for the property owners' group is PO Box 74, Murphy. I am not sure if that is still a valid address to use. Perhaps you could provide me with an updated list of officers' names and addresses.

The above-referenced adjudication claim was amended by the claimant, Gloria Otto, on December 22, 1994. Enclosed is a data-entered copy of the amended claim for your records. Your organization is being provided with this copy due to the January 9, 1992 "Exception" to the claim -- the Exception was filed by the property owners' group regarding claim nos. A55-04151 and A55-10130.

The amended information is contained in claim item nos. 6, 7, 9, 10 and 14. Item 3 (source) is a re-naming of the city spring but not a change in source.

The claimant will be provided a copy of this letter via the same notification method used to acknowledge the previously mentioned Exception. Please contact this office if you need more information.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Steve Lester'.

Steve Lester
Water Rights Supervisor

cc: Gloria Otto
Scott L. Campbell

A55-04151 AMENDED

AMENDED again
12/23/94

A55-10130

These claims have received an
EXCEPTION* from Silver City
Property Owners, received 1-9-92.

EXCEPTION available in office
of Steve Lester & Region.

(info is too bulky to currently
keep in claim files).

*see DOJ memo #28

RECEIVED

DEC 22 1994

WATER RESOURCES
WESTERN REGION

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

December 20, 1994

Ms. Jan Shurte
Department of Water Resources
State of Idaho
Western Region
2735 Airport Way
Boise ID 83705-5082

Re: Amended Notice of Claim to Water Right No. A55-04151

Dear Jan:

I have enclosed an amended Notice of Claim to Water Right No. 04151 to be filed with the Idaho Department of Water Resources. Please provide me with a copy of the receipted claim. I have enclosed a self-addressed, stamped envelope for that purpose.

Please notify me if you have any questions.

Very truly yours,

ELAM & BURKE
A Professional Association


Scott L. Campbell

SLC:ma

cc: Carl and Gloria Otto

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

SCOTT L. CAMPBELL

RECEIVED

FEB 24 1994

WATER RESOURCES
WESTERN REGION

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

February 22, 1994

Mr. Steve Lester
Department of Water Resources
State of Idaho
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: Affidavit of Gloria W. Otto Re Water Right No. A55-04151

Dear Steve:

Enclosed please find the Affidavit of Gloria W. Otto with exhibits in support of water right claim A55-04151 in the Snake River Basin Adjudication.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

ELAM & BURKE
A Professional Association


Scott L. Campbell

SLC:ma
Enclosure

C:\WPDATA\6329\00001.LTR

SCOTT L. CAMPBELL
ELAM & BURKE, A Professional Association
Key Financial Center
702 W. Idaho Street
Post Office Box #1539
Boise, Idaho 83701

Attorneys for Claimant
Carl and Gloria Otto

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO
IN AND FOR THE COUNTY OF TWIN FALLS

In Re THE GENERAL ADJUDICATION OF)	Case No. 39576
RIGHTS TO THE USE OF WATER FROM)	
THE SNAKE RIVER BASIN WATER)	IDENTIFICATION NO. A55-04151
SYSTEM)	
_____)	AFFIDAVIT OF GLORIA W. OTTO
	Main Affidavit

Gloria W. Otto, first being duly sworn, hereby deposes
and says as follows:

1. The following statements are based upon my personal
knowledge and belief.
2. This Affidavit is submitted in support of Notice of Claim
to Water Right No. A55-04151, filed under my name, in Civil Case
No. 39576, In Re The General Adjudication of Rights to the Use of
Water from the Snake River Basin Water System, presently pending in
the District Court of the Fifth Judicial District of the State of
Idaho, In and For the County of Twin Falls.
3. The original data for this filing were mistakenly placed
in File #57-4058; they were corrected and placed in Notice of Claim

to Water Right No. A55-04151 as part of the adjudication process.

4. I have owned the property (this property) listed as the place of use of the water claimed under Notice of Claim to Water Right No. A55-04151 since 1956 when my father, M. Ned Williams, conveyed the property to me (Exhibit 1). In addition, a Court Decree to quiet title to 3.016 acres, comprising the western portion of the Tip Top Millsite was issued in my name in 1981 (Exhibit 2). Two buildings and the acreage surrounding them are served by the water involved in this filing. The two buildings are the Group Hostel (also known as the Idaho Power Building) and the Log Cabin.

5. The course of the water being claimed under Claim to a Water Right No. A55-04151 lies completely within the boundaries of properties owned by me, starting at the point of origin (discharge from the overflow from the city tank) to various points of beneficial use. Those parcels of land (contiguous to each other) are Lot Number #105, the Florence lode mining claim and the Tip Top Millsite.

6. There are three sources of water claimed under Notice of Claim to Water Right No. A55-04151: (1) presently, overflow from the underground steel storage tank of the water system owned by the Silver City Property Owners, Inc., which, previously, was leakage and overflow from an above-ground wooden storage tank owned by the Idaho Hotel and now abandoned; (2) a spring located on my deeded Lot Number 105; and (3) discharge from a tunnel used as a cross-cut

8. The overflow from the wooden water tank has been used by the owners of the Tip Top Millsite for domestic and commercial purposes since the turn of the century, and until the mid-1950s (Exhibits 3a and b). Since 1956, I have used this water at the IPB and on the campground, commercially for mining and hostel businesses and domestically for family and guests. The overflow water has been, and is now, used for both domestic and commercial purposes on "this property," particularly in the laundry and bathrooms of the Group Hostel where non-potable water is acceptable, at the tenting areas, and for irrigation. This dual use of the overflow water has existed since the turn of the century when the wooden tank was built (see Exhibit 4).

Some documentation explaining this duality was received by the Western Regional Office of the Idaho Department of Water Resources on 31 October 1991 as affirmed by a date stamp on the first page. This document consists of 7 pages of text, 1 page listing the exhibits, and many pages of exhibits numbering 1 through 30. This document will be referred to hereinafter as "the 1991 Submittal".

9. The quantity of overflow water that is used on the land and in the buildings on the Tip Top Millsite varies according to the season and the weather. As a general rule, the quantity measures about 2 gallons per minutes (gpm) in late summer when the source (spring) produces the least amount, and about 65 gpm in the

springtime season. I, along with two hired geologist/water consultants, have taken measurements of the overflow (see Exhibit 5). Various photographs showing water exiting from the overflow pipe and passing through the flume can be viewed in Exhibit 6.

10. I use the overflow water for irrigating the campground, the yard around the Hostel, and for dust control. Other users of the overflow water are people who occupy the buildings or the campground on the Tip Top Millsite. The amount used varies in proportion to the flow available and the needs of the people; when the flow is low, the people restrict their uses.

As a general rule, each person uses more than 100 gallons per day because of the strenuous, dusty, dirty nature of the activities normally done in Owyhee County (hiking, biking, snowmobiling, horseback riding, dredging, core drilling), and because of the availability of showers and flush toilets.

When groups of people stay overnight, usually some will stay inside the building and some will set up tents on the campground. These have varied from individuals and families to large school classes and groups having some common activity or interest (see Exhibit 7).

11. At the turn of the century when the tank was new, the water from the overflow followed a clearcut channel to this property. By 1946, the wooden storage tank had leaks around the entire circumference and the water seeped down behind the Idaho

Power Building, water-soaking and damaging the wooden foundations and lower walls. By the 1960s, the buildings on my property were being visibly damaged by water from the overflow and by the water that was leaking out of cracks and holes in the wooden tank.

I complained to the Silver City Taxpayers' Association (SCTA) and to Ed Jagels, proprietor of the Idaho Hotel, who claimed to own the wooden tank. A delegation from SCTA came to the Idaho Power Building and the nearby garage to survey the damage. Later, Ed Jagels and the officers of SCTA told me that they had no money to correct the problem or pay for the damages and that they had no interest in the overflow water. They told me that the problems and the water were mine. Subsequently, I diverted the water into two distinct channels, renovated the old flumes and conduits and hired consultants (architects, water specialists, a plumber and a building contractor) to improve the efficiency of the delivery system (Exhibits 8a and b). The plumbing in the Group Hostel was designed and is installed to use water from the overflow system as well as from the piped city system.

12. The Ottos successfully defeated attempts by the Stathams in 1987 and the Silver City Property Owners in 1990 to divert the overflow water.

13. I believe that my claim to the water named in Notice of Claim to Water Right No. A55-04151, which is based on my PAST use of the overflow water, should prevail because Idaho law states that water rights are established by PAST USE. I HAVE demonstrated that I have used the water consistently over a long period of time as the affidavits and accounts herein attest. Also, I appropriated the overflow water and used it in beneficial ways when no one else was interested in it, or wanted it, or would confess to being responsible for it. I defended it from adverse possession.

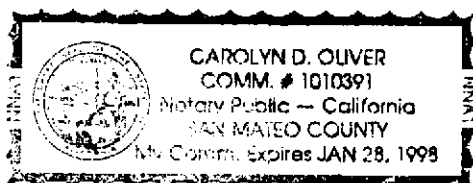
14. I base my claim to the water right filed in Notice of Claim to Water Right No. A55-04151 upon the historical use of that water on this property, as presented herein, as based upon this affidavit and the attached affidavits, and on the 1991 Submittal.

DATED this 11th day of February 1994

Gloria W. Otto

Gloria W. Otto

SUBSCRIBED AND SWORN to before me on this 11th day of February, 1994.



Carolyn D. Oliver
NOTARY PUBLIC in and for the
State of California,
residing at 800 Lakewood Ave.

My commission expires 1-28-98.

EXHIBITS
accompanying
GLORIA OTTO'S AFFIDAVIT
for
Claim No. A55-Ø4151

<u>Exhibit No.</u>	<u>Description</u>
1a.	Copy of Deed transferring western portion of Tip Top Millsite from M. Ned Williams to Gloria Williams Otto;
b.	Typed copy of Exhibit 1a, much of which is illegible.
2.	Copy of Court Decree which quiets title to "this property" in the name of Gloria W. Otto.
3a.	Affidavit of Eudora Terry;
b.	Affidavit of Patrick Kidder.
4.	Affidavit of Gloria W. Otto explaining and justifying domestic use and commercial use, or "dual use."
5.	Affidavit of Gloria W. Otto pertaining to the quantity of overflow water.
6.	Various photographs showing flow and use of overflow water.
7.	Affidavit of Gloria W. Otto pertaining to the users and beneficial use made of the water. Exhibit A Affidavit of Leo Hampton Exhibit B Affidavit of Karl Klick
8a.	Affidavit of David Cooper;
b.	Affidavit of Ralph Moore.

QUITCLAIM DEED

THIS INDENTURE, Made this ninth day of July

in the year of our Lord one thousand nine hundred and fifty six

between

E. Ned Williams and Floribel Williams

of Boise, Idaho

County of Ada

State of Idaho

the parties

of the first part, and

Gloria Otto

of Palo Alto

County of

State of California

the parties

of the second part.

WITNESSETH That the said parties of the first part, for and in consideration of the sum of

One

DOLLARS.

lawful money of the United States of America, to Them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever QUITCLAIM, unto the said party of the second part, and to their heirs and assigns, all

certain lot

piece

or parcel

of land, situate, lying and being in

Silver City, County of Coconino

State of Idaho, bounded and particularly

described as follows, to-wit:

Beginning at the Quarter section corner common to sections 5 and 6, T 58, R 3 W, 3 N; thence North 76° 35' West 1412.8 feet; thence South 41° 35' West 476.2 feet to corner No 1, which is the real point of beginning, and from which point said Quarter corner common to said Section 5 and 6 bears North 84° 35' East 1831.6 feet; thence continuing North 24° 35' West 229.0 feet to corner No 2; thence South 65° 29' West 229.0 feet to corner No 3; thence South 24° 35' East 300 feet to corner No 4; thence North 65° 29' East 371.3 feet to corner No 5; thence North 24° 35' West 31.0 feet to corner No 6; thence South 65° 29' West 31.0 feet to corner No 1, enclosing a tract with a total area of 2.182 acres;

Book 48, page 289

EXHIBIT 1a

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the part of the second part, and to her heirs and assigns forever.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

M. Ned Williams [Seal]
Floribel Williams [Seal]
[Seal]
[Seal]

STATE OF IDAHO

County of Ada

ss.

On this 12th day of July, 1956, before me

in and for said State, personally appeared M. Ned Williams and Floribel Williams, a Notary Public

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Marie Markowski
Notary Public for the State of Idaho.
Residing at
Idaho.

No.

QUITCLAIM DEED

M. Ned Williams, et ux

-TO-

Gloria Otto

Dated July 2, 1956

STATE OF IDAHO

Book 289, Page 289

In my office, and duly recorded in Book

Deeds at page 289

NICK IHLE

By [Signature] Ex-Officio Recorder.

File # 1-20-56 Deputy.

Mall to

NEW YORK COMPANY BOISE

C-O-P-Y

QUITCLAIM DEED

THIS INDENTURE, Made this ninth day of July
in the year of our Lord one thousand nine hundred and Fifty six
between M. Ned Williams and Floribel Williams
of Boise, Idaho County of Ada
State of Idaho, the parties of the first part, and Gloria Otto
of Palo Alto County of
State of California, the party of the second part.

WITNESSETH That the said parties of the first part, for and
in consideration of the sum of One DOLLARS, lawful money of
the United States of America, to Them in hand paid by the
said party of the second part, the receipt whereof is hereby
acknowledged, does by these presents reminisce, release and
forever QUITCLAIM, unto the said party of the second part, and
to her heir and assigns, all certain lot, piece or parcel
of lan, situate, lying and being in Silver City, County of
Owyhee, State of Idaho, bounded and particularly described as
follows, to wit::

Beginning at the Quarter section corner common to
sections 5 and 6, T 5 S, R 3 W, B.M.; thence North 76' 35'
West 1412.8 feet; thence South 41' 35' West 676.2 feet to
corner No 1, which is the real point of beginning, and from
which point said Quarter corner common to said Section 5 and
6 bears North 84' 25' East 1831.6 feet; thence continuing
North 24' 35' West 219.0 feet to corner No 2; thence South
65' 29' West 296.6 feet to corner No 3; thence South 24' 35'
East 300 feet to corner No 4; thence North 65' 29' East
371.1 feet to corner No 5; thence North 24' 35' West 81.0
feet to corner No 6; thence South 65' 29' West 74.7 feet to
corner No 1, enclosing a tract with a total area of 2.182
acres;

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the party of the second part, and to her heirs and assigns forever.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand and seal the dday and year first above written.

SIGNED, SEALED AND DELIVERED IN
PRESENCE OF

(signature) [Seal]
M. Ned Williams

(signature) [Seal]
Floribel Williams

[Seal]

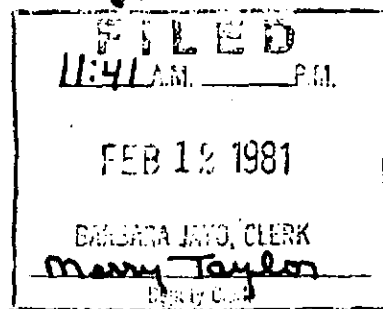
[Seal]

STATE OF IDAHO }
County of Ada } ss.

On this 12th day of July in the year 1956, before me, a Notary Public, in and for said State, personally appeared M. Ned Williams and Floribel Williams known to me to be the persons whose names subscribed to the within instrument, and acknowledged to me that they executed the same.

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

(signature)
Marie Markouski
Notary Public for the State of Idaho.
Residing at _____, Idaho.



DAVID E. COMSTOCK
ELAM, BURKE, EVANS, BOYD & KOONTZ
1010 BANK OF IDAHO BUILDING
P. O. Box 1559 BOISE, IDAHO 83701
PHONE (208) 343-5454

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

CARL OTTO and GLORIA OTTO,
husband and wife,

Case No.: 4231

Plaintiffs,

ORDER OF DEFAULT AND
JUDGMENT QUIETING TITLE
TO REAL ESTATE

v.

TIP-TOP GOLD MINING AND
MILLING COMPANY, a defunct
Idaho corporation; BANNER
MINING AND MILLING COMPANY,
an Idaho corporation; THE
UNITED STATES OF AMERICA,
DEPARTMENT OF INTERIOR,
BUREAU OF LAND MANAGEMENT;
and DOES I through V,

Defendants.

THIS MATTER Having come before the Court upon Plaintiffs'
Motion for Order of Default and Judgment and the Court having
requested an evidentiary hearing to establish Plaintiffs' claim
of title and adverse possession and the Court having heard the
testimony of Joseph Gawron, Bureau of Land Management, Surveying
Department Director, Carl Otto and Gloria Otto, the Plaintiffs,
Joan Bachman, Owyhee County Treasurer and Tax Collector, and
Tom Brunzel, Owyhee County Assessor, and it further appearing to
the Court from the records, files and affidavits herein that
Defendants Tip-Top Gold Mining and Milling Company, Banner Mining
and Milling Company, and Does I through V were served by publication
of the Summons in the Owyhee Nugget once a week and every week for
four (4) consecutive weeks, the first publication being on the
6th day of March, 1980 and the last publication being on the
27th day of March, 1980, and that a copy of the Summons and

ORDER - 1

EXHIBIT 2

Complaint was mailed to the last-known addresses of Defendants Tip-Top Gold Mining and Milling Company and Banner Mining and Milling Company within the ten (10) days following the Order for Service by Publication of Summons, that in addition, Richard Ludovic, Registered Agent for Defendant Banner Mining and Milling Company, was personally served with Another Summons and Complaint on July 16, 1980, and that said Defendants have failed to appear, answer or otherwise plead in person or at all; and the Plaintiffs having filed herein an Affidavit from which it appears that the Defendants are not in the military service of the United States or of the State of Idaho and are not incompetent persons, and that the allegations of Plaintiffs' Complaint are true and good cause appearing therefor:

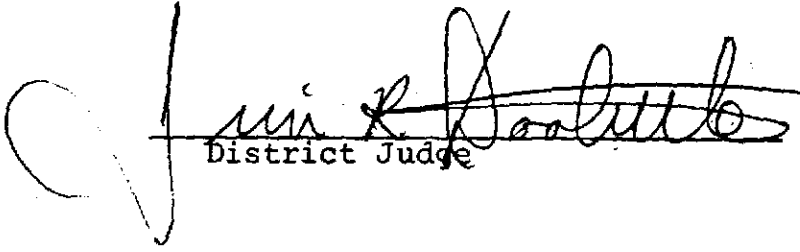
NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, That the Defendants, Tip-Top Gold Mining and Milling Company and Banner Mining and Milling Company and Does I through V, are in default and default judgment is hereby entered as and against said Defendants, and

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED, That the Plaintiff Gloria Otto owns absolutely and is entitled to quiet and peaceful possession as against Defendants Tip-Top Gold Mining and Milling Company, Banner Mining and Milling Company and Does I through V and all unknown persons and those claiming by or under them; to the property legally described in Exhibit "C" of Plaintiffs' Complaint as follows:

Commencing at the 1/4 Section Corner common to Section 6, T5S, R3W, B.M. and Section 1, T5S, R4W, B.M.; thence S. 80°38'17"E., 3,500.806 feet to Corner No. 1 of the Tip Top Mill Site Survey 1303B, which corner is THE REAL POINT OF BEGINNING; thence N. 32°25'09" W. 330.88 feet; thence N. 48°09'34" E. 375.00 feet; thence S. 32°25'09" E. 205 feet; thence N. 48°09'34" E. 65.00 feet; thence S. 32°25'09" E. 125.88 feet; thence S. 48°09'34" W. 440.00 to THE REAL POINT OF BEGINNING. The above described tract of land contains 3.016 acres, more-or-less.

1 That Defendants and all unknown persons and those
2 claiming by or under them have no estate, right, title, lien or
3 interest in or to said property or any part thereof, and that
4 title to said property be quieted in Plaintiffs against all claims
5 of said Defendants and all unknown persons and those claiming by
6 or under them; and that said Defendants and all unknown persons
7 and those claiming by or under them are hereby permanently enjoined
8 from asserting any estate, right, title, lien or interest in or
9 to said property or any part thereof adverse to Plaintiffs.
10 Plaintiffs to bear their own costs.

11 DATED this 11th day of February, 1981.

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15 District Judge
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FILED
FEB 10 1981
BARBARA L. WILSON, CLERK
Merry Taylor

ELAM, BURKE, JEPPESEN, EVANS & BOYD
1010 BANK OF IDAHO BUILDING
P. O. Box 1889 BOISE, IDAHO 83701
AREA CODE 208 343-8454

Plaintiffs

Attorneys for

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

CARL OTTO and GLORIA OTTO,
husband and wife,

Plaintiffs,

v.

TIP-TOP GOLD MINING AND
MILLING COMPANY, a defunct
Idaho corporation; BANNER
MINING AND MILLING COMPANY,
an Idaho corporation; THE
UNITED STATES OF AMERICA,
DEPARTMENT OF INTERIOR,
BUREAU OF LAND MANAGEMENT;
and DOES I through V,

Defendants.

Case No. 4231

JUDGMENT AS TO DEFENDANT
UNITED STATES OF AMERICA,
DEPARTMENT OF INTERIOR,
BUREAU OF LAND MANAGEMENT

This matter having come before the Court upon plaintiffs'
Motion for Entry of Judgment as to Defendant United States of
America, Department of Interior, Bureau of Land Management, and
the stipulation by and between Warren S. Derbidge, Assistant
United States Attorney, attorney for said defendant, and David E.
Comstock, attorney for plaintiffs, and the Court having reviewed
the pleadings and documents already on file herein and good cause
appearing therefor:

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
That the plaintiffs ~~Carl Otto and~~ Gloria Otto ^{is} absolutely and
^{is} entitled to quiet and peaceful possession of the property

JUDGMENT AS TO DEFENDANT U.S.A., DEPT. OF INTERIOR, B.L.M. - 1

legally described in Exhibit "C" of plaintiffs' Complaint on file
herein as follows:

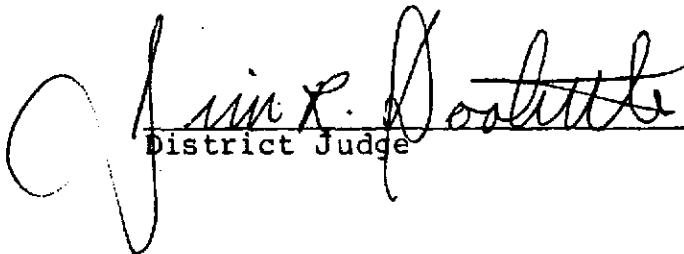
Section 6, T5S, R3W, B.M.

Commencing at the 1/4 Section Corner common
to Section 6, T5S, R3W, B.M. and Section 1,
T5S, R4W, B.M.; thence S. 80°38'17" E.,
3,500.806 feet to Corner No. 1 of the Tip Top
Mill Site Survey 1303B, which corner is THE
REAL POINT OF BEGINNING; thence N. 32°25'09"
W. 330.88 feet; thence N. 48°09'34" E.
375.00 feet; thence S. 32°25'09" E. 205 feet;
thence N. 48°09'34" E. 65.00 feet; thence S.
32°35'09" E. 125.88 feet; thence S. 48°09'34"
W. 440.00 feet to THE REAL POINT OF BEGINNING.
Tyhe above described tract of land contains
3.006 acres, more-or-less.

as against defendant United States of America, Department of
Interior, Bureau of Land Management, and all persons, whether
known or unknown, claiming by or under said defendant; that said
defendant and all persons known or unknown claiming by or under
them have no estate, right, title, lien or interest in or to said
property or any part thereof and that title to said property is
hereby quieted in plaintiffs ^{Gloria Otto JHA} against all claims of said defendant
and all persons known or unknown claiming by or under said
defendant; and

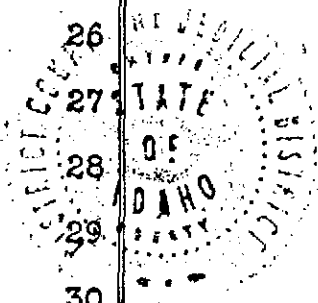
IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED That said
defendant and all persons known or unknown claiming by or under
them is and are permanently enjoined from asserting any estate,
right, title, lien or interest in or to said property or any part
thereof adverse to plaintiffs.

DATED This 6th day of February, 1981
~~June, 1980.~~


District Judge

JUDGMENT AS TO DEFENDANT U.S.A., DEPT. OF INTERIOR, B.L.M. - 2

ELAM, BURKE, JEPPESEN, EVANS & BOYD
ATTORNEYS AT LAW
1010 BANK OF IDAHO BUILDING
P. O. BOX 1559
BOISE, IDAHO 83701



A F F I D A V I T

I, Eudora Terry, of Route 8, P.O. Box 609, Caldwell 83605
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5N, Range 3W.

Information I can formally attest to is as follows:

1. Source of water tunnel
2. Date of first use of water 1922
3. Nature of use domestic, irrigation, commercial
4. Quantity of water diverted variable
5. Use of water by this owner small placer operation, lawn, horse.
6. Other information My husband, Ben Kidder, was substation operator
for Idaho Power Company from 1922 until 1939 at Silver City, Idaho.

Eudora Terry
Signature

STATE OF IDAHO

County of CANYON

Subscribed and sworn to before me this 5th day of JANUARY, 19 88.

(NOTARY SEAL)

Chas. Shaffer
Notary Public

EXHIBIT 3a

AFFIDAVIT

I, PATRICK L. KIDPER, of 3373 WINTHROP ST.
CONCORD, CA, 94520
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range .

Information I can formally attest to is as follows:

1. Source of water OVERFLOW FROM CITY WATER TANK & DITCH FROM LONG GULCH.
2. Date of first use of water 1937
3. Nature of use COMMERCIAL
4. Quantity of water diverted 6 INCH PIPE REDUCED TO 2 INCHES
5. Use of water by this owner HYDRAULIC PLACER GOLD
MINING
6. Other information THIS WATER WAS ALSO USED TO
CLEANSE THE HORSE BARN AND OTHER VARIOUS
CLEANING CHORES.

11/23/87

Patrick L. Kidper
Signature

STATE OF

California

County of

Contra Costa

Subscribed and sworn to before me this 23 day of November, 1987.

(NOTARY SEAL)

[Signature]
Notary Public

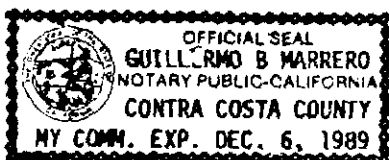


EXHIBIT 3b

SCOTT L. CAMPBELL
ELAM & BURKE, A Professional Association
Key Financial Center
702 W. Idaho Street
Post Office Box #1539
Boise, Idaho 83701

Attorneys for Claimant
Carl and Gloria Otto

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO
IN AND FOR THE COUNTY OF TWIN FALLS

In Re THE GENERAL ADJUDICATION OF)	Case No. 39576
RIGHTS TO THE USE OF WATER FROM)	
THE SNAKE RIVER BASIN WATER)	IDENTIFICATION NO. A55-04151
SYSTEM)	
)	AFFIDAVIT OF GLORIA W. OTTO
)	Exhibit No. 4

Gloria W. Otto, first being duly sworn, hereby deposes
and says as follows:

1. The following statements are based upon my personal
knowledge and belief.

2. This Affidavit is submitted in support of Notice of Claim
to Water Right No. A55-04151, filed under my name, in Civil Case
No. 39576, In Re The General Adjudication of Rights to the Use of
Water from the Snake River Basin Water System, presently pending in
the District Court of the Fifth Judicial District of the State of
Idaho, In and For the County of Twin Falls.

3. The use of water for both domestic and commercial
purposes has continued while this property evolved from an

electrical distribution center (including the domicile-substation), to the present time when this property and water are being used commercially for a group hostel and domestically for a vacation home for the family. Even though the ownership of this property has changed several times, the characteristic that overflow water has been used both domestically and commercially, at the same time, has been consistent.

4. While this property was used by electric utility companies, their employees, whose homes were located on this property, used the water for domestic purposes, such as controlling dust, providing water for pets, and irrigating plants and trees. From 1952 through 1959 my children and I lived all summer each year in the Idaho Power Building. For seven months in 1962, we lived in the Idaho Power Building, which was our only residence.

5. In spite of the fact that the commercial ('for profit') use of the water has changed over time to meet differing market demands, it has been a continuing use throughout the evolution of this property. The electric utility companies used the water commercially to maintain their transportation system (first horses and later trucks) and equipment. The miners (Banner, Carson Divide, Daly Brothers, Hamilradjo, and Kidder family) used the overflow to supplement the water from other sources which they used in processing the tailings in the mill pond below the Lincoln mill, in refining concentrates, and in support of their activities on

other mining properties. Ned Williams used the overflow water to prepare for shipment the materials salvaged from the southwest Owyhee County distribution system of the Idaho Power Company. I have used the overflow water as an asset of this property; it makes this property attractive, which makes feasible the commercial endeavor of renting the properties. I have also used the overflow to maintain the physical assets of the property (stand of quaking aspen trees, wild flower areas, campgrounds), and to improve the landscaping.

Also, it should not be forgotten that the presence of this overflow attracts wildlife to this property, a valuable asset, and benefits the stand of trees, another valuable asset. These attractions for tourists are a commercial asset and the use of the water is therefore a commercial one.

6. At the present time, the water is used for domestic purposes for the usual outdoor activities of a household (watering trees and plants, washing vehicles, controlling dust from traffic on the road), and indoors for washing. The overflow water is used for commercial purposes in connection with my tourist business, Silver City Lodgings; it is used for such purposes as campsite preparation and maintenance, campfire control and fire prevention, and in mining, such as operating small precious metal separators and panning placer concentrates. The clients of Silver City Lodgings use this water for amusement, cooling beverages, campfire control, dust control and washing.

7. Some supporting documentation of this duality (i.e., both domestic and commercial use being in effect at the same time throughout the recent history of this property) was received by the Western Regional Office of the Idaho Department of Water Resources on 31 October 1991 as affirmed by a date stamp on the first page. This document consists of 7 pages of text, 1 page listing the exhibits, and many pages of exhibits numbering 1 through 30. This document has been referred to elsewhere as "the 1991 Submittal".

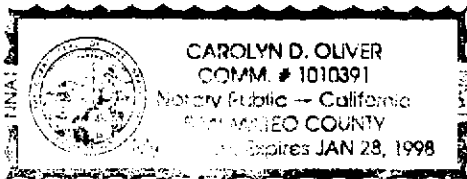
8. I base the water right claimed under Notice of Claim to a Water Right No. A55-04151 upon the historical use described in this Affidavit, upon other affidavits which have also been submitted, and upon the 1991 Submittal, all of which support this claim.

DATED this 11th day of February, 1994

Gloria W. Otto

Gloria W. Otto

SUBSCRIBED AND SWORN to before me on this 11th day of February, 1994.



Carolyn D. Oliver
NOTARY PUBLIC in and for the
State of California,
residing at 100 Oak Grove
My commission expires 1-28-98

SCOTT L. CAMPBELL
ELAM & BURKE, A Professional Association
Key Financial Center
702 W. Idaho Street
Post Office Box #1539
Boise, Idaho 83701

Attorneys for Claimant
Carl and Gloria Otto

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO
IN AND FOR THE COUNTY OF TWIN FALLS

In Re THE GENERAL ADJUDICATION OF)	Case No. 39576
RIGHTS TO THE USE OF WATER FROM)	
THE SNAKE RIVER BASIN WATER)	IDENTIFICATION NO. A55-04151
SYSTEM)	
_____)	AFFIDAVIT OF GLORIA W. OTTO
)	Exhibit No. 5

Gloria W. Otto, first being duly sworn, hereby deposes
and says as follows:

1. The following statements are based upon my personal
knowledge and belief.
2. This Affidavit is submitted in support of Notice of Claim
to Water Right No. A55-04151, filed under my name, in Civil Case
No. 39576, In Re The General Adjudication of Rights to the Use of
Water from the Snake River Basin Water System, presently pending in
the District Court of the Fifth Judicial District of the State of
Idaho, In and For the County of Twin Falls.
3. The water involved in this Notice of Claim for Water
Right No. A55-04151 emanates as an overflow discharge from the

underground storage tank owned by Silver City Property Owners, Inc.. This water is water that has not gone into the City's distribution system, is in excess of that being used by the people connected to the system or being lost through leaks in the piping and valves of the system, and is water that, since the formation of the Silver City Taxpayers' Association, has never been put to beneficial use by that, or its successor organization, Silver City Property Owners, Inc.. The source of this water is the same spring as that designated as Point of Diversion for several other claims filed by people in the Silver City area.

The remainder of this affidavit addresses the quantity of water involved in this overflow.

4. The quantity of the overflow water that I use varies with the season. All of the discharge is available every year from early fall until spring because the water system of the Silver City Property Owners is shut down during that time. During the winter when people are staying at the Group Hostel, they use the overflow water for drinking, cooking and washing. The water delivery system for the winter season is entirely dependent on portable equipment. In February and March of 1993, Elton Modroo, a geologist and water

consultant, licensed in the State of Idaho, visited the Group Hostel several times. While he and his party stayed at the Group Hostel, they used the overflow water and tried various water delivery methods. Later that spring several ski parties from Team Adventures stayed in the Group Hostel and used overflow water for cooking and washing.

5. During the time that the city system is closed (from late fall until early summer), the quantity of water that I use from the overflow is dependable and continuously available; it varies from a low of 2 or 3 gpm in the fall to approximately 65 gpm in the spring.

During the summer, the quantity of overflow water that I use varies; many times it is dependent upon the output of the spring and the condition of the weather. When there is ample overflow and the weather is dry, I have as many as three garden hoses in operation; the quantity which flows through them is estimated to be 3 or 4 gpm.

6. As a rule, there is always overflow, but the average amount of flow decreases from spring to fall. In the spring the flow available is estimated to be 65 gpm. I divert all of this water through small ditches to irrigate the stand of quaking aspen trees on the southwest part of my property. The ditches for the 1993-4 season were dug by employees of the Tony Young Construction Company of Nampa in September 1993.

7. On 20 October 1993 at 9 a.m., I measured the overflow water running through the flume. It was three gallons per minute. The city water system was functioning and several residents were in town at that time. I was using the water from the overflow to prepare meals and for washing, while in the Group Hostel where I was staying temporarily.

Exhibit 6 of the Main Affidavit contains several photographs of the overflow. The photograph showing the overflow discharging from the pipe was taken on Labor Day 1991 when most of the townspeople were in their residences in Silver City and the water use was heavy. 1991 was a dry year in a series of years of record-breaking drought. The photograph showing the flume with water flowing through it was taken on 25 June 1985. The base of the flume is 8 inches wide, and the viewer can gain a concept of the amount of flow. The photograph showing two boys at the flume was taken in 1988 and shows the headgate flume with a garden hose connected to it.

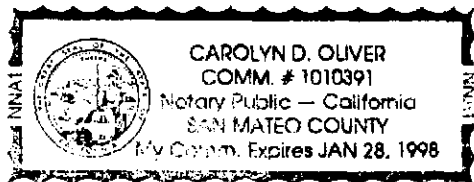
6. I base the water right claimed under Notice of Claim to a Water Right No. A55-04151 upon the historical use described in this Affidavit, upon other affidavits which have also been submitted, and upon the 1991 Submittal, all of which support this claim.

DATED this 11th day of February 1994

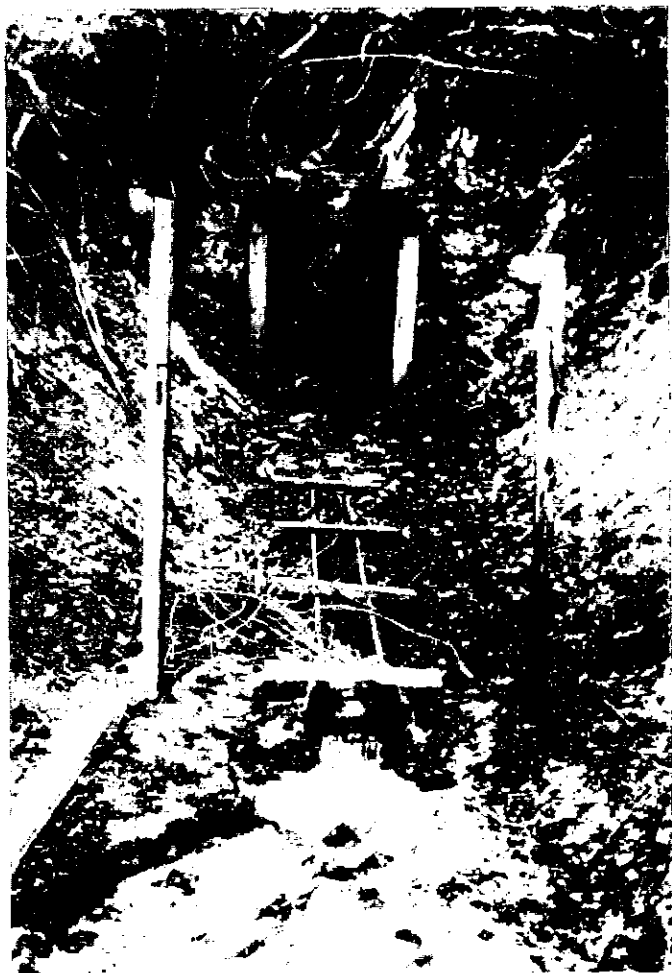
Gloria W. Otto

Gloria W. Otto

SUBSCRIBED AND SWORN to before me on this 11th day of February, 1994.



Carolyn D. Oliver
NOTARY PUBLIC in and for the
State of California,
residing at 800 Oak Grove Dr.
My commission expires 1-28-98.



OVERFLOW PASSING THROUGH FLUME
(eight inches wide)
- Holidays, Fourth of July 1985 -



FLUME with HEADGATE and ONE HOSE
SERVING UNIVERSITY OF IDAHO 'DIG'
- Summer 1988 -



OVERFLOW WHEN SPRING WAS AT
LOW POINT OF WATER PRODUCTION
- Labor Day 1991 -

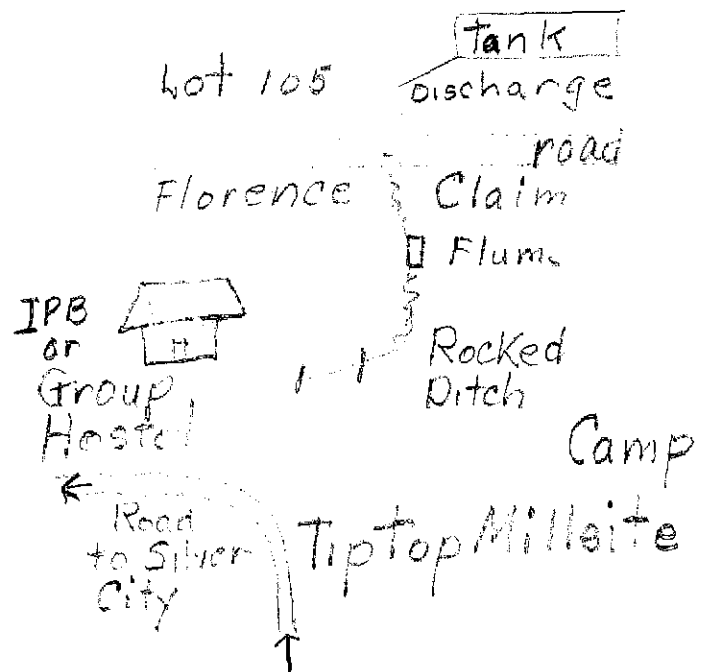
Diversion
of
Overflow



OVERFLOW IN DITCH
(lower right in photo)
COOLING DRINKS FOR
FOURTH GRADERS
- 1987 -



ROCK-LINED DITCH
CHANNELS OVERFLOW
(for location, see lower
right in photo above)



SCOTT L. CAMPBELL
ELAM & BURKE, A Professional Association
Key Financial Center
702 W. Idaho Street
Post Office Box #1539
Boise, Idaho 83701

Attorneys for Claimant
Carl and Gloria Otto

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO
IN AND FOR THE COUNTY OF TWIN FALLS

In Re THE GENERAL ADJUDICATION OF)	Case No. 39576
RIGHTS TO THE USE OF WATER FROM)	
THE SNAKE RIVER BASIN WATER)	IDENTIFICATION NO. A55-04151
SYSTEM)	
)	AFFIDAVIT OF GLORIA W. OTTO
)	Exhibit Number 7

Gloria W. Otto, first being duly sworn, hereby deposes
and says as follows:

1. The following statements are based upon my personal
knowledge and belief.

2. This Affidavit is submitted in support of Notice of Claim
to Water Right A55-04151, filed under my name, in Civil Case No.
39576, In Re The General Adjudication of Rights to the Use of Water
from the Snake River Basin Water System, presently pending in the
District Court of the Fifth Judicial District of the State of
Idaho, In and For the County of Twin Falls.

3. Many people are familiar with the water systems of Silver City as they have existed and been used since the 1940s. This Affidavit names a few of those and how they used the water claimed in Notice of Claim to Water Right No. A55-04151.

4. My father rented the Idaho Power Building, "the building," to various individuals from 1946 to 1956 - mainly hunters, who used the water to cool drinks and clean game, to bottle collectors, who soaked and cleaned their trophies, and to people who were attending the Owyhee County Cattlemen's annual meetings and used the water for washing, cooling drinks, amusement and recreation while camping.

During the period from 1975 through 1980 I rented the Idaho Power Building and Log Cabin with access to adjacent land to various individuals (see Exhibit 8a of Main Affidavit). These people used not only the buildings, but also the adjacent land and the water claimed under Notice of Claim to Water Right No. A55-04151 for recreation, among other purposes.

5. During the period 1975 through 1988, I employed numerous persons to renovate and convert the Idaho Power Building for use as a group hostel; one of these was building contractor Ralph Moore. He used the water claimed in Notice of Claim to Water Right No. A55-04151 for commercial and domestic purposes during this time frame (see Exhibit 8b of Main Affidavit).

6. For various periods of time between 1980 and 1987, I leased this building and the millsite to Leo Hampton and the Hamil-Radjo Company, a placer mining/exploration company. Some of the partners who used water from said spring were Karl Klick, Dannie Rader and Mitch Lambson; the number of persons from this group who used water from the system at the Hostel and on this property ranged from 5 to 10. They used the water claimed under Notice of Claim to Water Right No. A55-04151 for commercial purposes to operate a gold and silver concentrate separator and provide water for washing and laundry (see Exhibits A & B).

7. A voluminous documentation pertaining to "Permit 55-04151" (which should have read "Claim 55-0451") was received by the Western Regional Office of the Idaho Department of Water Resources on 31 October 1991 as affirmed by a date stamp on the first page. This document consists of 7 pages of text, 1 page listing the exhibits, and many pages of exhibits numbering 1 through 30. This document will be referred to hereinafter as "the 1991 Submittal". The 1991 Submittal contains significant data and factual information pertaining to the users of overflow water on this property.

8. From 1987 to the present, my company, Silver City Lodgings, has rented the Idaho Power Building and the adjoining acreage to groups comprising 6 to 115 people. Some of these groups include:

University of Idaho - archaeological 'digs'

Jackson Elementary School - history field trips

Strine, Williams and Bingham families - wedding celebrations

Boise State University - continuing education field trips

Meridian Middle School - eighth grade social studies filming

Team Adventures - winter sports

Hamilradjo Mining Company, Leo Hampton - mining base camp

Supporting affidavits and documents of the above are included in the 1991 Submittal. Among the above mentioned groups, some of the members who tented on the campgrounds used water from the flume (largely overflow) for laundry, cooking and washing.

9. A partial list of individuals, families and small groups (less than six) who have used the flume water (largely overflow) include Ben Kidder, Harry Meek, C. and Mabel Chapman, James Daly, Eugene Perkins, Ralph Moore, Herbert Otto, Randy Fry, Preston Bingham, Stephen Bingham, Barry Cunningham, Merlin Miller, Mary Ann Davis, David Bergh, Karl Klick, Mitchell Lambson, Richard Albertine, Darby Stapp, Dr. Roderick Sprague, Thomas Bingham, J. J. Pacheco, Richard Asai, Richard deJauregui, William Schaffer and Danny Rader, Elton Modroo and Michael Crevelt. Those mentioned in this paragraph who

made extensive use of the overflow water and who furnished affidavits which are included in the 1991 Submittal are: Moore, Klick, Albertine, and Stapp.

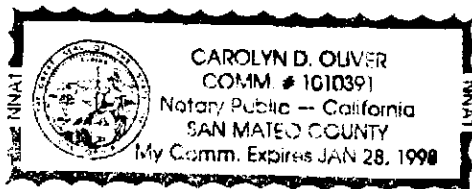
10. I base the water right claimed under Notice of Claim to Water Right No. A55-04151 upon the historical use described in this Affidavit, upon other affidavits which have also been submitted, and upon the 1991 Submittal, all of which support this claim.

DATED this 11th day of February, 1994

Gloria W. Otto

Gloria W. Otto

SUBSCRIBED AND SWORN to before me on this 11th day of February, 1994.



Carolyn D. Oliver
NOTARY PUBLIC in and for the
State of California,
residing at 2000 [illegible].
My commission expires 1-28-98.

A F F I D A V I T

I, Leo Hampton, of P.O. Box 1603, Edmond, Ok. 73083
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water tunnel and flume diverting water from spring and overflow
from city water tank.
2. Date of first use of water summers from 1980 to 1987
3. Nature of use commercial and domestic
4. Quantity of water diverted varies from one quart per minute to four
gallons per minute
5. Use of water by this owner _____

6. Other information Our use consists of operating a separator of gold and
silver concentrates, and a mining camp of two to eight persons.

Leo Hampton
Signature

STATE OF _____

County of Ottawa

Subscribed and sworn to before me this 1st day of December, 1987.

(NOTARY SEAL)

Glenda Rye
Notary Public

EXHIBIT 7A

IN THE MATTER OF:)

Water Rights for
Gloria W. Otto of
Silver City, Idaho)

AFFIDAVIT

State of Idaho
County of Owyhee)

Karl Klick being first duly sworn,

deposes and says: I was in Silver City in the month of July

1987 . I observed that there were three sources of water serving

the log cabin and power building and their adjoining areas.

The sources were some pipes which connected the city water tank to the

power house, and a piped system from a spring about 200 feet west of

the power house which was providing water to the cabin and to a camping

area between the log cabin and the power house, and the third source

which was a flume which carries the overflow from the city water tank

to the log cabin yard and to the power house picnic area and to the

flat west of both structures.

It was obvious that the water was used for domestic purposes. The potable

water was piped into the buildings and being used for cooking and bathing

and drinking. The flume water was used for laundry and watering plants.

I intend to use these water sources to continue the processing of

placer concentrates and to maintain a camp in accordance with the operations

begun by the Hamilradjo company and Leo Hampton.

Karl Klick
(Signature)

Subscribed and sworn to before me this 25 day of September, 1991.

Betty Hopper
(Notary Public)

Residing at Edmond, Oklahoma.
My Commission Expires 1-22-95.

EXHIBIT 7B

AFFIDAVIT

being first duly sworn,

SPRING FED AND PARTLY FROM OVERFLOW FROM THE
CITY WATER RESERVOIR. BASED ON THE DATED
PHOTOGRAPH TAKE BY FRED WALTERS I BELIEVE
OUR VISIT TO SILVER CITY TOOK PLACE IN JUNE
OF 1985.

April Coe
(Signature)

Subscribed and sworn to before me this 30th day of September, 1991.

Judith Nelson
(Notary Public)

Residing at Boise, Idaho
My Commission Expires Dec. 4, 1994

IN THE MATTER OF:)
Use of Water on Properties)
of Ned Williams and Gloria)
Otto at Silver City, Idaho)

AFFIDAVIT

State of Idaho)
County of Owyhee Idaho)

Ralph Moses Moore being first duly sworn,

deposes and says: My association as a building contractor with Ned Williams and Gloria Otto began in 1972 and continued until July of 1987. During that period of time I worked on all of the buildings that are now standing on their properties on the west side of Silver City (about six acres). During that time I used water from the various sources available to those properties to facilitate construction (such as mixing concrete and paint, cleaning tools, etc.) and for maintaining a camp for my assistants and myself. In 1972 I worked on the Ned Williams white house. At that time, the living quarters at the Idaho Power Building were habitable and I used the water there, from the city system, from the private spring serving the IPB and log cabin, and the old tunnel diversion (now a flume). I also used these waters during my hunting trips up there. I also used water from the spring serving the white house.

From 1980 to 1987 I worked for short periods of time (from a week to four months) on various projects associated with the Idaho Power property. I built a new garage, an outbuilding, two closed-vault type toilets, and rehabilitated the Idaho Power Building. From the latter, I removed the old bathroom (which had a flush toilet, a bathtub and a hand-washing sink) and the kitchen (which was plumbed to both the city water system and the spring). I installed two new bathrooms and plumbed them so that the water for drinking and cooking could be connected to one principal system, and the toilets and washing facilities could be connected to the main potable water system or could be connected to the flume or a storage tank.

I uncovered the water storage box (4x4x6 feet) which serves the IPB and the log cabin and replaced the lumber, built a new top and installed a new overflow pipe. In 1987 the line from this spring to the Idaho Power building was shortened by a backhoe while levelling the west yard of the IPB. I capped the cut and installed a faucet for temporary use. I preferred using this water for drinking purposes because it was a closed system, was pure and ice cold.

In 1978 a flume was installed at the mouth of the old caving tunnel to control the water. I saw Mrs. Otto use a headgate in the flume to attach hoses to water trees, plants and yards. In 1987 I dug a drainage ditch and installed a culvert across the road between the log cabin and the IPB. I used this water in our work and for domestic purposes.

Several times in the years when I was not working for the Otto's or Ned I visited them and observed them using the above mentioned water systems. In the summers since 1985 I have used extensively water from the spring serving the log cabin and IPB, from the flume, from the city water system and from the spring at the white house.

Ralph Moses Moore
(Signature)

Subscribed and sworn to before me this 20th day of August, 1991.

Marcia Myers
(Notary Public)

Residing at Eagle, Id.
My Commission Expires 3/9/93

EXHIBIT 8b

RECEIVED

FEB 04 1994

WATER RESOURCES
WESTERN REGION

SILVER CITY WATER USERS BOARD OF DIRECTORS
Bob Nettleton, Chairman
HC 79 Box 33
Melba, Idaho 83641

Carl and Gloria Otto
250 Austin Avenue
Atherton, California 94025

Dear Carl and Gloria:

In response to numerous inquiries you have made of the Silver City Water Board and in responding to various filings you have with the Idaho Department of Water Resources we as a Board herein go on record as acquiescing nothing to you pertaining to water rights to Silver City's storage tank's overflow.

Please understand that we do not recognize any agreements presumed or otherwise that you feel you may have with Silver City regarding the overflow.

In this Board's considered opinion, we understand and believe that any and all water going into the water tank is rightfully and entirely the town's to be equitably distributed.

We do not acquiesce to you any rightful claim the town may have to the overflow.

Sincerely yours,

Bob Nettleton

1-31-94

Bob Nettleton
Chairman Silver City Water Board

cc: Steve Lester, Idaho Department of Water Resources

SL 2-3-94
Steve:

Please add this
to the Silver City
File.

File in → ASS-¹⁰²⁰⁴~~09011~~ ("City")
→ ASS-~~02212~~⁰⁴¹⁵¹ (Otto)
ASS-10130

Jim Hylop



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

December 14, 1993

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

Silver City Water Board
C/O Bob Nettleton, Chairman
HC 79 Box 33
Melba, ID 83641

RE: Questions Regarding Silver City Water Rights

Dear Mr. Nettleton:

This letter is in response to the office visit by you, Jim Hyslop, and Pat Ihli on October 29, 1993, in which you identified three questions for me. Now that the field season is ending, I have some time to respond.

The key point to keep in mind regarding all water rights, in whatever form the rights take, filed upon the city spring is that final details of the rights will be determined within the scope of the Snake River Basin Adjudication (SRBA). The only exception to this statement is permit no. 55-07409, a new right for the property owners association; the right is outside of the scope of SRBA. It is anticipated that department recommendations to the court for SRBA claims will be completed sometime this winter or by early spring, 1994.

Copies of the city water rights and SRBA claims are enclosed. Different rights have shown different names but are all lumped under city rights for purposes of this letter.

Question No. 1, Irrigation Use from the City Spring for City Water Rights

Irrigation from the city spring is part of at least two and perhaps three city water rights. Such use is implied but not yet verified by the city's SRBA claim no. A55-10204, which is a "grandfather" right based on uses in place by 9/1/1968. The claim includes four acres of irrigation for yards associated with 36 domestic units. The claim actually represents a number of individual rights with a number of priority dates up through 1968 but was filed as one right for a group of lots, all of which allegedly had beneficial use of city water by 1968. The validity of this claim will be determined in the SRBA.

Permit no. 55-07011 also implies irrigation for yards. A field exam was conducted on 11/5/1987 for this right in order to issue a license. Soon after that and based on additional questions and information, SRBA claims began to be filed. It became apparent that 55-07011 could not be licensed without completing SRBA recommendations for all uses of the city spring. The final definition of this right will be made within the context of overall SRBA recommendations this winter. Currently we can conclude that 55-07011 provides

Silver City Water Board
December 14, 1993
Page 2

an unspecified amount of irrigation for an unspecified number of lots. Furthermore, we can conclude that the right is intended to cover those uses in place after 9/1/1968 but by 11/5/1987 (after grandfather claim and up to field exam for permit).

A third right allows irrigation use for the city system, and this is permit no. 55-07409 filed in 1990 to cover existing or planned uses on-line after the 1987 field exam. The right includes four acres of yard irrigation.

Although not explicitly defined in the two permits, all irrigation listed or implied in city rights probably totals about four acres. This statement is based on a remark in claim A55-10204 ("Same acres as other irrig. from same P/D").

Based on the above information, it is within the city water rights to allow limited irrigation from the system, although the limits are not yet known.

Question No. Two - Specific Overflow from City Tank to Ottos

The Ottos filed SRBA claim A55-10130 (copy enclosed) that mentions overflow from the city tank as at least part of the delivery method. Overflow by itself is not a source - this is actually water from the city spring where it is a detail of the operation that overflow associated with a tank is involved. I cannot see any basis on which to conclude that overflow must be supplied - that would be analogous, at least to me, to requiring that someone irrigate his or her crops to provide waste water to another person having a waste water right below the cropland.

In my opinion, it is not reasonable to conclude that the city is obligated to provide overflow to anyone. This, and anything else in this letter, is not offered as a legal opinion nor should it be taken as one - legal counsel is recommended if you want an expert legal opinion.

Question No. Three - Irrigation Use versus Ottos' Use of Overflow

This question is really a key one in the disagreements over use of water from the city spring. I cannot answer it except to say the following. There is a difference between a valid water right and valid use of a conveyance system as part of that water right. Generally speaking, water rights do not convey easements or allow rights-of-way through other owners' property.

If the Ottos' claim is recognized by the court in the SRBA process, will the city be obligated to allow use of its conveyance system for delivery of the Ottos' use under A55-10130? I do not know but I think the answer is no. Again, legal counsel is the best source for legal advice on this question.

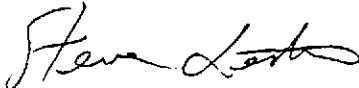
Silver City Water Board
December 14, 1993
Page 3

Well, you asked me to be brief in my reply which I tried to do as much as possible. As you can see, these questions can become complicated rather quickly and often do not have definitive answers. The final disposition of the rights mostly rests with the court, but even then all questions might not be answered. It is most likely that question three is a civil item outside of the jurisdiction of this department. Civil questions usually must be resolved between private parties, including use of the legal system if necessary, and although the department can often play a role it is not the ultimate decision maker in some of these matters.

I would like to ask you for some information at this point. Can you provide me with the name of the current president or chairman or chairwoman, along with a current address, for the Silver City Taxpayers Association and for the Silver City Property Owners Association? It will be helpful in updating the file.

I hope your questions have been addressed in a useful way. Please let me know if you need more information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Lester".

Steve Lester
Water Rights Supervisor

CC: S. Campbell for Ottos

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

SCOTT L. CAMPBELL
(208) 338-8219

December 17, 1992

Mr. Steve Lester
Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706-2237

Otto's
- 04151
- 10130

Re: Snake River Basin Adjudication Claims in the Names of
Gloria and/or Carl Otto

Dear Mr. Lester:

I have enclosed an original copy of the RESPONSE AND OBJECTION TO "EXCEPTION" OF THE SILVER CITY PROPERTY OWNERS, INC. TO SNAKE RIVER ADJUDICATION CLAIMS A55-10130 AND A55-04151 AMENDED. This information is being submitted in response to your correspondence of October 21, 1992 and constitutes information or comments relating to the exception filed by the Silver City Property Owners Association.

Please acknowledge receipt of the above-referenced document by executing on the lines below and returning a copy of this correspondence to me.

Additionally, we will be filing new affidavits in support of the claims filed by Mr. and Mrs. Otto in the near future. Please advise me of any cut-off dates for review of new information by you in the evaluation of the adjudication claims in this matter.

33532\00013.LTR
Boise

FAX: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • HONOLULU, HAWAII • LOS ANGELES, CALIFORNIA
PORTLAND, OREGON • RICHLAND, WASHINGTON • SAN FRANCISCO, CALIFORNIA • SEATTLE, WASHINGTON • WASHINGTON, D.C.

RECEIVED

DEC 21 1992

Department of Water Resources

RECEIVED

DEC 22 1992

Department of Water Resources
Western Regional Office

Mr. Steve Lester
December 17, 1992
Page 2

If I do not receive a response from you, I will assume that no such cut-off date exists.

Very truly yours,

DAVIS WRIGHT TREMAINE


Scott L. Campbell

SLC:ma
Enclosure

Received by:

Steve Lester IDWR
Steve Lester

Date:

December 22, 1992

The tentative cut-off date for receiving information about Basin 55 claims is late summer of 1993. Please contact IDWR Western Region or State Office Adjudication Bureau throughout 1993 for more specific timetables as conditions warrant.

by: Steve Lester

date: 12-22-92

1 SCOTT L. CAMPBELL
DAVIS WRIGHT TREMAINE
2 702 W. Idaho St., Suite 700
Boise, Idaho 83702
3 (208) 338-8200

4 Attorneys for Claimants
Carl and Gloria Otto
5
6
7

8 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
STATE OF IDAHO
9 IN AND FOR THE COUNTY OF TWIN FALLS

10 In Re THE GENERAL ADJUDICATION OF) Case No. 39576
RIGHTS TO THE USE OF WATER FROM)
11 THE SNAKE RIVER BASIN WATER) IN RE CLAIMS NO. A55-10130
SYSTEM) AND A55-04151
12)

13 RESPONSE AND OBJECTION TO "EXCEPTION" OF THE SILVER
CITY PROPERTY OWNERS, INC. TO SNAKE
14 RIVER ADJUDICATION CLAIMS A55-10130 AND A55-04151
15 AMENDED

16 Introduction

17 Comes now, the law firm of Davis Wright Tremaine, counsel
18 for Carl and Gloria Otto ("Claimants"), and hereby files the
19 following response and objection to the exception of the Silver
20 City Property Owners Inc. ("Property Owners") to Snake River Basin
21 Adjudication Claims A55-10130 and A55-04151.

22 This response and objection is filed with the Idaho
23 Department of Water Resources in reaction to the correspondence,
24 dated October 21, 1992 from Steve Lester, Water Rights Supervisor,
25 Western Region Office, Idaho Department of Water Resources, to
26 Scott L. Campbell, counsel for the Claimants. (See Exhibit A).

1 Defects With Idaho Department of
2 Water Resources Procedure

3 Initially, Claimants voice strong objection to the
4 procedure which the Idaho Department of Water Resources has adopted
5 with respect to evaluation of Notices of Claim to Water Right A55-
6 10130 and A55-04151. The Department has documented its procedure
7 with respect to these claims in its correspondence of October 21,
8 1992 (Exhibit A) which responded to prior correspondence dated
9 September 28, 1992 from counsel for the Claimants. The procedures
10 outlined in the Department's October 21, 1992 correspondence
11 constitute a clear departure from the Department's Adjudications
12 Rules and Regulations and are in direct conflict with the statutory
13 provisions of the Idaho Code relating to the Snake River Basin
14 Adjudication, Idaho Code Sections 42-1401 et. seq.

15 The Department has stated as its official position:

16 With regard to the Otto claims in particular,
17 it is not possible at this time to
18 specifically identify all information that
19 will be considered. Since the investigation
20 of the claims is not complete, it cannot be
21 known what may become available in the course
22 of the investigation. The review process will
23 include the documents submitted by the Silver
24 City Property Owners Association to determine
25 whether the documents contain relevant
26 information and to evaluate any such
information. The documents received by (sic)
the association on 1/9/92 are known as an
Exception rather than a Protest. The
claimants were informed that IDWR received the
information, and a copy of the Exception was
provided to the claimants on 1/30/92. The
claimants are welcome to submit information or
comments relating to the Exception or to the
claims.

Correspondence of October 21, 1992 - Exhibit A.

1 The characterization by the Department of the documents
2 submitted by the Property Owners, as an "Exception" instead of a
3 "Protest" has no valid legal significance. Regardless of the label
4 which the Department attaches to the documents, consideration of
5 the information contained therein by the Department is improper and
6 without legal support.

7 The Idaho Legislature, in its adoption of Idaho Code
8 Sections 42-1401 et. seq., the subsequent adoption of the Snake
9 River Basin Adjudication regulations by the Department of Water
10 Resources, and the issuance of multiple orders by the Honorable
11 Daniel Hurlbutt, specifying and defining Court procedures in the
12 adjudication process, constitute the exclusive sources of the
13 procedural framework for treatment of Water Rights in the Snake
14 River Basin Adjudication.

15 The procedure set forth in the Department's
16 correspondence of October 21, 1992 (Exhibit A) constitutes an
17 unauthorized, ad hoc departure from these adopted procedural
18 mechanisms. Consequently, the process which the Department has
19 outlined is fatally flawed and violates the procedural due process
20 rights of the Claimants as it relates to the water rights
21 identified in claims A55-10130 and A55-04151 and the treatment of
22 those rights by the Department in the Snake River Basin
23 Adjudication.

1 Objections to the Information Contained in the Documents
2 Submitted by the Silver City Property
3 Owners Inc.

3 Claimants object generally, as discussed above, to
4 consideration by the Department of the documentation submitted by
5 the Property Owners against Notices of Claim A55-10130 and A55-
6 04151. Claimants also voice specific objections to individual
7 factual statements and legal conclusions presented by the Property
8 Owners in those documents.

9 Claimants specifically object to all of the statements,
10 information, and documents contained in the filings of the Silver
11 City Property Owners, Inc. or the Silver City Taxpayers Association
12 which are not sworn statements, under oath of a duly authorized
13 notary public or other officer empowered to take and certify sworn
14 testimony. Much of the information presented by the Property
15 Owners is not presented in the form of sworn affidavit. Therefore,
16 it is clearly objectionable and should be excluded from
17 consideration by the Department.

18 This objectionable information includes the
19 correspondence of January 8, 1991, the numerous newspaper articles,
20 photographs, other correspondence and miscellaneous documentation.
21 The information contained in these objectionable documents is
22 almost entirely hearsay, conjecture, and the personal opinion of
23 non-expert witnesses who have vested interests contrary to the
24 Claimants.

25 For all of these reasons, this documentation should not
26 be considered by the Department in its evaluation of the Claimant's

1 water rights. Moreover, if the information is considered by the
2 Department, it should not be afforded any significant weight, due
3 to its subjective, speculative, and biased nature.

4 In addition to this documentation and information being
5 unreliable because of its speculative, biased, and unsworn nature,
6 the documentation lacks proper authentication and foundation,
7 thereby precluding its consideration by the Department.

8 Finally, much of the information submitted by the
9 Property Owners is totally irrelevant and nonresponsive to the
10 legal and factual issues presented by the Claimants' water rights.
11 Much of the documentation of the Property Owners speaks to the
12 construction of the water delivery system improvements for the
13 Idaho Hotel and the water system utilized by other residents of
14 Silver City. This information, even assuming that it is properly
15 sworn, authenticated and supported by a proper foundation (in most
16 instances that is not the case), is simply not relevant to the
17 legal issues and factual matters raised by the Claimants' water
18 rights.

19 The documentation presented by the Property Owners is
20 also internally inconsistent and contradictory to previous
21 positions or actions taken by the group. The most glaring
22 inconsistency is the statement contained in the correspondence
23 dated January 8, 1991, wherein the property owners state:

24 It is the position of the Property Owners',
25 Inc. that the claims filed by the Ottos are
26 injurious to the ability of the organization
to provide water to the people living in

1 Silver City...That the water should be equally
2 available to all the people of Silver City.

3 Page 1, January 8, 1991 Correspondence from Silver City Property
4 Owners Incorporated to State of Idaho Department of Water
5 Resources.

6 The last statement in this excerpt is the most
7 contradictory. The Property Owners have consciously endeavored to
8 prevent the water from the City's system from being "equally
9 available" to the Claimants. The Department's records for
10 Application for Permit No. 55-07011 clearly indicate that the then
11 Silver City Taxpayers Association, Inc. (the predecessor
12 organization to the Silver City Property Owners Incorporated)
13 consciously and deliberately refused to include commercial water
14 use under that Permit for the Idaho Power building owned by the
15 Claimants. This action certainly does not constitute making the
16 water "equally available to all the people of Silver City."

17 Another area of significant difficulty with the Property
18 Owners' filing involves their arguments surrounding the
19 documentation evidencing real property transfers in the Silver City
20 area. At numerous points in the materials, the Property Owners
21 attack the Claimants' filings on the basis that a number of deeds
22 make no reference to water, water rights or water usage. (See page
23 2 of January 8, 1991 correspondence). These arguments overlook the
24 rule in the State of Idaho that real property transfer documents
25 automatically convey appurtenant water rights unless specific
26 provisions in the documents clearly exclude such transfers. See,
Paddock vs. Clark, 22 Idaho 498, 126 P. 1053 and Koon v. Empey, 40
Idaho 6, 231 P. 1097. Accordingly, notwithstanding the fact that

1 some deeds may not have mentioned water rights or water usage, any
2 water rights which were appurtenant to the real property would have
3 been conveyed to the purchaser automatically.

4 Specific Objections to
5 Individual Factual Allegations and Documents

6 In addition to the general objections outlined above, the
7 Claimants object to the following individual documents containing
8 factual statements, arguments, and legal conclusions. For ease of
9 reference, Claimants will identify the document by reference to the
10 identification number provided in dark lettering on the document
11 itself in the correspondence of January 8, 1991 from the Silver
12 City Property Owners, Inc. After the reference to the document,
13 Claimants will list the basis for the objection.

14 ITEM 1: This document is objectionable on the basis of lack
15 of foundation, and lack of relevancy.

16 ITEM 2: This document is objectionable on the basis of lack
17 of foundation, lack of relevancy, and hearsay.

18 ITEM 3: This document is objectionable on the basis of lack
19 of foundation, lack of relevancy, ambiguity, lack of
20 authentication, and speculation.

21 ITEM 4: This document is objectionable on the basis of lack
22 of foundation, lack of authentication, and hearsay.

23 ITEM 5: This document is objectionable on the basis of lack
24 of foundation, lack of authentication, and hearsay.

25 ITEM 6: This document is objectionable on the basis of lack
26 of foundation, lack of authentication, hearsay, and speculation.

ITEM 7: This document is objectionable on the basis of lack

1 of personal knowledge of the affiant of most of the statements
2 contained in the affidavit. Additionally, the affidavit contains
3 many statements which constitute legal conclusions and are
4 objectionable on this ground and are also erroneous. A substantial
5 portion of the affidavit contains hearsay testimony as well as
6 reliance upon unauthenticated and unsubstantiated documents and
7 claims. Additionally, much of the information presented in the
8 affidavit is not relevant to the issues presented in the Claimants'
9 water rights. Claimants also assert the same objections to the
10 attachments to Item No. 7 which are labeled Items 1 through 7.
11 Claimants also object to the second affidavit of Wilma Statham,
12 dated January 6, 1992, which is labelled "End Item No. 7" on page
13 4. This objection extends to many of the documents included with
14 the second affidavit labelled "Items 1 through 17". Claimants
15 object to the information contained in these documents on the same
16 basis outlined above for all of the information contained within
17 the general description contained in Item 7.

18 ITEM 8: This document is objectionable on the basis of lack
19 of foundation, lack of relevancy, and lack of probative value.

20 ITEM 9: This document is objectionable on the basis of lack
21 of foundation, lack of relevancy, hearsay, and lack of
22 authentication.

23 ITEM 10: This document is objectionable on the basis of lack
24 of foundation, lack of relevancy, lack of authentication, and lack
25 of probative value.

26 ITEM 11: This document is objectionable on the basis of lack

1 of foundation, lack of relevancy, lack of authentication, and lack
2 of probative value.

3 ITEM 12: This document is objectionable on the basis of lack
4 of foundation, lack of relevancy, lack of authentication, and lack
5 of probative value.

6 ITEM 13: This document is objectionable on the basis that the
7 information is not sworn, nor is it based upon personal knowledge
8 or observation. Additionally, it is objectionable because it
9 contains hearsay and irrelevant information. The document is also
10 objectionable because many of the statements lack a proper
11 foundation.

12 ITEM 14: This document is objectionable on the basis of lack
13 of foundation, lack of authentication, hearsay, and lack of
14 relevancy.

15 **Unlabeled Affidavit of Wilma Statham**, dated January 6,
16 1992 with Items 1 through 9 as attachments: These documents are
17 objectionable on the basis of lack of foundation, lack of
18 relevancy, lack of authentication, hearsay, and objectionable legal
19 conclusions in the Affidavit of Wilma Statham.

20 ITEM 15: This item is objectionable on the basis of lack of
21 foundation, lack of relevancy, lack of authentication, hearsay, and
22 lack of probative value.

23 ITEM 16: This item is objectionable on the basis of lack of
24 foundation, hearsay, lack of relevancy, and illegibility.

25 ITEM 17: This document is objectionable on the basis of lack
26 of foundation, hearsay, lack of authentication, irrelevancy, and

1 lack of probative value.

2 ITEM 18: This document is objectionable on the basis of lack
3 of foundation, hearsay, lack of authentication, irrelevancy, and
4 lack of probative value.

5 ITEM 19: (Including Attachments): These documents are
6 objectionable on the basis of hearsay, lack of foundation, lack of
7 authentication, lack of relevancy, lack of probative value, and
8 speculation.

9 ITEM 20: This document is objectionable on the basis of lack
10 of foundation, lack of relevancy, hearsay, and lack of
11 authentication.

12 ITEM 21: (Including Attachment Item No. 1): This document is
13 objectionable on the basis of lack of foundation, hearsay, lack of
14 relevancy, and speculation.

15 ITEM 22: This document is objectionable on the basis of lack
16 of foundation, lack of relevancy, and lack of probative value.

17 ITEM 23: This Item is objectionable on the basis of lack of
18 foundation, lack of relevancy, and lack of probative value.

19 ITEM 24: This document is objectionable on the basis of lack
20 of relevancy, and lack of probative value for the proposition
21 asserted by the property owners.

22 ITEM 25: This document is objectionable on the basis of lack
23 of foundation, hearsay, lack of relevancy, and lack of probative
24 value.

25 ITEM 26: This document is objectionable on the basis of lack
26 of foundation, hearsay, lack of relevancy, and lack of probative

1 value.

2 CONCLUSION

3 The scatter gun attack of the Property Owners against the
4 Claimants' water rights lacks a credible factual or legal basis.
5 The Property Owners obviously believe that the sheer volume of
6 paper, regardless of its lack of relevancy or proper legal
7 foundation, will overwhelm the Department and push it into a
8 conclusion that the Claimants' water rights are not validly based.
9 This strategy must fail. Under the Adjudication statutes, the
10 Department's Adjudication Rules and Regulations, and the orders of
11 Judge Daniel Hurlbutt, the Department is required to evaluate the
12 Claimants' water rights claims on the basis of credible, properly
13 authenticated, reliable information. Applying these standards to
14 the documents filed by the Property Owners requires the Department
15 to afford the information very little weight in the evaluation
16 process. Moreover, the procedural ruling by the Department to
17 allow consideration of this information at this stage of these
18 proceedings is fatally flawed and works a deprivation of Claimants'
19 due process rights in the Adjudication Process.

20 Accordingly, the Department should reverse its initial
21 determination to consider the information submitted by the Property
22 Owners. The Department should then evaluate the Claimants' water
23 right claim based upon the information submitted by the Claimants
24 in support of the claim, issue its recommendation to the District
25 Court in the Sub Basin Director's Report affirming the water rights
26 as claimed, and allow the standard procedures of the Snake River

1 Basin Adjudication process to resolve any disputes between the
2 Claimants and the Property Owners.

3 Respectfully submitted this 17th day of November, 1992.

4 Davis Wright Tremaine

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9 Scott L. Campbell
Attorney for Claimants

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RECEIVED

Claimant Acknowledgement of Change in Attorney DEC 8 1992 in Snake River Basin Adjudication (SRBA)

Name(s) of Claimant (please print):

Carl and Gloria Otto

I/we acknowledge (check one):

☐ The attorney formerly representing me has withdrawn and I/we will be representing myself/ourselves.

☒ I/we are now represented by the attorney at the address below.

Scott L. CampbellDavis Wright Tremaine702 West Idaho Street, Suite 700Boise, Idaho 83702Attorney's Phone 208-338-8200

The SRBA water right claim notice(s) affected by this change are listed below or on the attached sheet(s).

A55-04006 A55-04151 A55-02212 A55-10000 A55-10130A55-10237

For Individuals:

Authorized signature(s) Date Nov. 6, 1992Gloria H. OttoCarl W. Otto

For Organizations:

I am _____ of _____, and I

Title

Organization

have signed the foregoing document in the space below as

of _____

Title

Organization

Signature of Authorized Agent _____

Title _____

Date _____

Organization _____

IDWR Use:

Date Received 12-8-93Data Entry 1-4-93

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

RECEIVED

DEC 8 1992

Department of Water Resources

December 7, 1992

State of Idaho
Department of Water Resources
1301 North Orchard
Boise, Idaho 83706-2237

Re: Water Right Claims: Claimant Acknowledgement of Change
in Attorney in Snake River Basin Adjudication (SRBA)

Dear Sir or Madam:

Enclosed for filing please find the above-named document
regarding the following SRBA claims: A55-4006, A55-04151, A55-
02212, A55-10000, A55-10130 and A55-10237.

Please return a conformed copy of this item in the
envelope provided. Thank you for your cooperation. If you have
any questions, please do not hesitate to call.

Very truly yours,

DAVIS WRIGHT TREMAINE



Melinda Anderson
Secretary to Scott Campbell

ma:
Enclosures

MLA\00098.LTR
Boise

Fax: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 20, 1992

Silver City Property Owners, Inc.
PO Box 74
Murphy, ID. 83650

RE: Adjudication Claim Nos. A55-04151 (Amended) and A55-10130 in the
Name of Gloria Otto

Dear Interested Party:

This letter acknowledges receipt of the information that the property owners submitted on 1/8/92 regarding the above-referenced claims filed by Gloria Otto. I did not realize until today that a letter of acknowledgement was never sent as required by adjudication procedures.

The information is labeled as an Exception to the claims, and it will be evaluated as part of the adjudication review process while making recommendations to the court regarding the Otto claims. Recommendations will be made by evaluating each claim for completeness, accuracy, and supporting or negating information (such as an Exception). The recommendations will be included in the Director's Report to the court, tentatively scheduled to be completed and submitted to the court in late 1993.

If you are dissatisfied with the department recommendations to the court concerning the above claims, you may file an objection with the court at the proper time.

The claimant will be provided a copy of this letter. A copy of your Exception was provided to her on 1/30/92.

Please let me know if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Steve Lester".

Steve Lester
Water Rights Supervisor

CC: Gloria Otto

NOV - 5 1991

Department of Water Resources
Western Regional Office

Permit 55-04151
Gloria W. Otto
P.O. Box 56
Murphy, ID
83650
Sept. 24, 1991

THE PURPOSE of this paper and the attached exhibits is to document the "commercial" and domestic uses of water under Permit #55-04151 on my property in Silver City, Idaho, known as the TipTop millsite.

My family and I have been associated with this property either as a next-door neighbor or as owner since 1896. My father leased part of the property from Banner Mining and Milling Company in 1936 and the rest from the Idaho Power Company in 1941. He received title in 1946. I received title from him in 1956.

SUMMARY

This block of land is approximately three acres in size and has the following buildings on it: the main structure (known as the Idaho Power Building or Group Hostel), a garage, and a log cabin.

The Idaho Power building is a hostel capable of accommodating large groups of people. The largest group (75 students, 20 parents, 12 counselors and four teachers from Jackson Elementary school in Boise) were on an overnight two-day field trip in October, 1990. The second largest group was a wedding party (Helen Strine of Caldwell, 2308 College Street) of approximately 60 people for a three-day two-night visit in July 1990. The log cabin and the hostel are also available to individuals, couples and families. Three comfortable flat, level, cleared areas provide campsites. All of the above facilities are used commercially as well as domestically, and flume water from the overflow from the city system is used in both types of operation. Members of the Otto family and their friends use the flume water when they come to Silver City to visit. I use the flume water for commercial and domestic purposes. Specific uses of the flume water will be described below.

The water designated under Permit #55-04151 has been used for many, many years and every year for the last five years by me or with my permission for domestic, irrigation and industrial (more appropriately termed commercial, business or 'for profit') purposes. The types of money-making endeavors have changed from time to time but the purpose for using the flume-overflow water to facilitate a 'for profit' business has remained the same.

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SOURCE OF WATER

SEP 29 1992

The source of water on permit #55-04151 consists primarily of the

overflow from the buried city water tank (Exhibit 1. Photo, note tank in background). However, because the water continues to run through the flume when the city overflow stops running due to one of the occasional failures of the city system it is believed that water from a spring located to the east and close to the city tank is an independent spring. This spring comes out of a collapsed tunnel on my patented Lot No. 105. (Ex. 2. Photo of tunnel).

The overflow is discharged through a pipe from the city tank to a point on a steep embankment located on my private patented property, known as Lot 105. (Ex. 3. Photo of overflow). Both streams of water (the water from the overflow from the tank and the spring water that comes out of the old mine tunnel) cross a one-lane dirt road through culverts spaced about 20 feet apart and comingle downstream about ten feet north of the road. (Exhibits 4, 5 and 6. Photos). This comingled stream joins water from another old mining tunnel (located on the TipTop millsite) and runs through a flume (Ex. 7. Photo of flume and Ex. 26. Affidavit of David Cooper). This flume discharges onto the flat camping area and subsequently over a small waterfall to the west yard of the Idaho Power building. (Ex. 8. Photo of West Yard and pipe). From there the water passes through a 12-inch metal pipe under a road and off our property. (Ex. 9. 12-inch culvert at edge of our property).

HISTORY OF CONFLICT

Although the water from the overflow from the city water system has been used by occupants of the TipTop millsite for many years (Ex. 10 and 11. Affidavits of Eudora Terry and Patrick Kidder), the right to the water did not become a confrontational issue until 1979 when I complained to the Silver City Taxpayers' Association about water damage occurring to the Idaho Power building. I asked the association to divert all of the streams east of the main channel into the main channel so that the water would not drain down under the Idaho Power building. Officers of the association told me that they had no money for the work and that they had no interest in the water after it left their tank. I told them that I would bear the expense of diversion and would appropriate the water to my exclusive use. There were no objections from anyone and I did this. The Taxpayers' Association did not object to my filing on the overflow water and made no effort to interfere with my exclusive use of the water. Nor did anyone else contest my exclusive use of the water until a water shortage occurred in 1987. In fact, the association has positioned the overflow pipe from the tank in such a way that it is inaccessible to others than myself.

The problem which arose in 1987 occurred when the Stathams diverted some of the overflow water into a system of pipes for the purpose of watering their yard. I was using all of the water from the overflow and immediately protested the interference. This protest is documented in letters from Jan Shurte to the

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SEP 29 1992

Stathams and to us. The Statham's abandoned their system and we removed their installations. We continued our exclusive use of the overflow water.

Several years later (July 1990) the officers of the Silver City Property Owners' Association invited members of the annual work party to divert the overflow from its present position to a point whereby the water would flow away from our property. This invitation was issued publicly to homeowners at an open meeting and was made without prior consultation with us. We objected right then to the Association's plan and pointed out that it would be trespassing without permission. The officers abandoned any attempt to divert the overflow and we continued our exclusive use of the water.

DIVERSION WORKS

Our diversions of the water include culverts at two points on the road, a ditch from the lower tunnel to the flume, the wooden flume itself and various headgates with fixtures to attach hoses, a catch basin below the falls, and a 12-inch culvert under the Owyhee county road which connects our property to the main part of Silver City. The system works on gravity and employs hoses to provide flexibility.

A second diversionary system is used occasionally to deliver water to quaking aspen trees and shrubs between the road on Telegraph Hill and the county road. This system consists of a tank with a spigot to service a hose. The tank catches the water coming through the culvert on the Telegraph Hill road and delivers it to the point of use. The old drum used by Kidder is still in position (Ex. 12. Photo of old drum). About two-and-one-half acres are served by this arrangement. We store our tank when it is not in use.

Following are accounts of specific instances in which water was used for domestic or commercial purposes.

DOMESTIC USE OF WATER

This account of use of the overflow water is limited to the last five years. However, it is appropriate to note that the Kidder family which lived in the Idaho Power Building from 1922 to 1938 used this water to maintain a lawn and a horse. (Exs. 10 and 11. Affidavits of Terry and Kidder). Also the Meek family used the water in similar fashion when Harry was substation master from 1939 to 1941. Guests of my father, Ned Williams, used the water during bow hunting season and at Cattlemen's Conventions for domestic purposes (Ex. 13. Letter from Perkins) during the period from 1947 to 1960. My family and I have used this water for laundry, water play for the children, dust control, vegetable garden and irrigation of the yard west of the

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Building.

Until 1970 the flat areas served by this water were seeded to grass for pasture for horses which the Idaho Power Company used in the maintenance of their power lines and which my father used in his salvage operations from 1942 to 1964. These areas were protected by barbed wire fences. When the fences were removed in 1970 the grassy areas deteriorated and were seeded with native types of plants in keeping with the goal to establish a natural indigenous landscape. Sagebrush is grubbed from areas of camping.

Ralph Moore and his son, Michael, used this water to mix the concrete for the foundations of the Idaho Power Building, when they were renovating the building for us, and used it in their motor home during the summers of 1985, 1986, 1987 and 1988, while they were contracted by me. (Ex. 14. Affidavit of Ralph Moore).

In July of 1987, 20 members of the Otto clan held a family reunion on the TipTop millsite. The Vic Otto family and Carlin Otto and Randy Fry tented on the flat and used the above mentioned water for domestic purposes (washing cars and clothes) (Ex. 8. Photo of family reunion 1987. Notice hose connection). The same group used the water for campfire cooking of corn and potatoes. This same group held another reunion on my property in August 1991 and repeated their use of this water.

Whereas the quantity of water from the overflow of the city system has diminished since the leaky old wooden tank was retired, the supply has been crucial for us during these last years of drought. In addition, this supply is available to us throughout the year which is especially important from October to June when the city system is shut down for the winter. By routing the constant flow of water in the flume into shallow ditches through our property it is possible to saturate the ground in the areas that support those types of native plants which require generous amounts of water (willows, mint, meadow iris, skunk cabbage and moss). Without the overflow from the city tank, the western half of the TipTop millsite which now supports a two-acre stand of quaking aspen trees would revert to sagebrush and juniper. Water from the flume is used continually all day every day throughout the year to keep the wild flowers and native grasses alive in the areas where we have cleared away sagebrush and woody bushes.

I use this water to pan the gold and silver concentrates that I get from my mining claims on Jordan Creek just north of Silver City. I have done this every year since 1968. Collecting samples and panning them is one of my hobbies as well as a mining business activity.

While our daughter, Ruth Bingham, and her son visited with us for five weeks in the summer of 1991, she operated the hose system from the flume headgate to water distressed trees.

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SEP 29 1992

seeding a mixture of grasses recommended by the BLM on several of the small flat areas suitable for tenting. I continued the practice until the seeds from the new grass dropped in August. The area is distinguished from the surrounding natural land by its lack of sagebrush and woody bushes, which we have cleared away.

During the summers of 1990 and 1991 we entertained several groups of friends and relatives who kept their tents, trailers and motor homes on the flat or in the yard just west of the Idaho Power building. They used the flume water for a variety of domestic purposes.

Names of some of our guests and the approximate dates when they used this water follow:

November 1987, Elmer Sanborn, resident of Lake Tahoe.

July 1988, Barry and Lee Cunningham, Sacramento, Ca.

Three visits in 1989, four in 1990 and two in 1991: David M. Bergh and family.

July 1989, Merlin Miller, Mountain Home.

September 1987 and September 1990, Mary Ann Davis, Boise archaeologist.

"COMMERCIAL" USE

For lack of a clear definition of the terms 'commercial' and 'industrial' I would like to substitute the term 'for profit' which best explains the part of our use of water which is not defined as domestic. The development of the main building (the Idaho Power Building) into a group hostel to accommodate tourists has crystalized during the last five years. It began in the Forties as a casual offering of rooms to individuals (hunters, families). The size of the business thus generated has fluctuated depending on public interest. Now the facility hosts large and small groups with the accent on educational activities and on tourist groups interested in comfortable camping with modern accommodations.

Because our property has always served both domestic and 'for profit' (commercial-industrial) purposes, we are continuing the dual uses. Our facility has been tailored to serve a variety of clients. Since 1985 the concept of a group hostel has proven to be the most successful. However, other 'for profit' endeavors have been tried.

Using the summer of 1986 as the beginning of the five year period being treated in this paper, I wish to recount some of the 'for profit' enterprises in which water from the flume has been used.

In 1986 during June and July, I used an automatic panner which consisted of a round shallow pan about 24 inches in diameter which was agitated by power from a gas motor. Shortly after

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SEP 29 1992

that, members of the company, Hamilradjo, used the water to operate a concentrate separator, called the Gold Grabber. The tailings from their operations are still visible on the ground between the log cabin and the Idaho Power Building (Ex. 15. Letter from Julian Davis, a mining engineer who inspected the premises in September 1991). Members of the Hamilradjo group used water from a hose connected to the headgate of the flume. The gold which was collected from the separator was packaged in small vials by Mitch Lambson and sold at the Idaho Hotel as souvenirs of Silver City. Leo Hampton, also of Hamilradjo, accompanied by some of his partners, has returned to Silver each year since 1987 to explore for minerals. In 1987 he brought his wife. They stayed in the log cabin and in their motor home and used water from the flume and overflow in their mining operations and in her collections of quartz crystals.

Hamilradjo paid \$5000 to initiate their contract with us for the use of our properties, buildings and water. (Ex. 16. Affidavit of Leo Hampton). They have spent at least \$1000 per year from 1986 to 1989 to develop the placer claims mentioned above. (Ex. 17. Affidavit by Klick).

In 1987, Dr. Darby Stapp and his wife, Julia Longenecker, from the Department of Anthropology from the University of Idaho at Moscow rented the Idaho Power Building and surrounding area from me for four weeks to conduct archaeological explorations on my property on the TipTop millsite. There were about ten students in the class who lived on site and used the water from the flume and overflow for their work (cleansing specimens) as well as for domestic purposes (washing clothes). (Ex. 18. Affidavits of Stapp and attached signatures of 1987 students). In 1988, the archaeological dig was continued and expanded by Dr. Roderick Sprague, his wife, and about 15 students from the University of Idaho at Moscow. (Ex. 19. Signatures of 1988 students and Ex. 20. a copy of check for \$2100 from University of Idaho). In both instances, an invitation was issued to the public to participate in the dig and those who volunteered to assist in the work lived on the property and used the water from the flume. (Ex. 21. Photo of the Sprague children near flume).

In 1989, the water from the flume was used by other clients: several field crews from the Bureau of Land Management, District office, (Jack Young was one of our contacts). For three days during the Idaho Cattlemen's Convention, several families from Jordan Valley who camped on the TipTop millsite controlled their bonfires with water from the flume.

In 1990, the water from the flume was used by 75 fourth grade students, 20 of their parents, 12 counselors and four teachers from Jackson school in Boise. They stayed overnight and those who camped in tents on the flat used the water to wash and bathe and control their bonfires. Several classes used water for activities such as heating water to melt wax for their candle making project and for cleaning equipment. Also in SEP 29 1992

MICROFILMED

Strine family of Caldwell rented our property for three days for the wedding of their daughter and for a subsequent family celebration of a grandmother's birthday. About 60 people attended. Some of them used the flume-overflow water in connection with tent camping.

I used the water to prepare the yard of the Idaho Power Building and the flat for camping and outdoor dining for clients in 1987, 1988, 1989 and 1990.

In 1991 the Bingham family from Redwood City, California, parked their Volkswagon camper by the Group Hostel and used the flume water for washing, cleaning their van and cooling beverages. They camped there from July 20 to 28.

September 26-27, 1991 - Jackson School again rented our facilities for 70 fourth-grade students, and about 30 parents and counselors and three teachers for an overnight field trip to study Silver City and its history. In preparing for their visit, I used the overflow water to clean the site and facilities and to settle the dust and control bonfires.

In addition to the above numbered exhibits, I am submitting various other documentation not referred to in the text to show how our business, Silver City Lodgings, has functioned as a commercial enterprise. Included in these papers are:

Exhibit 22. Letter from Times News about our advertisement.

Exhibit 23. Advertisement in Newsbrief, 1990.

Exhibit 24. Advertisements in Farm Times, September and October 1990.

Exhibit 25. Owyhee County Taxpayers' Valuation assessment notice showing property listed as recreational and subject to commercial tax rate.

Exhibit 26. Affidavit of David Cooper, architect, witnessing our early intent to use the overflow-flume water for a hostel and testifying to the authenticity of the photo of the flume taken by Fred Walters (Exhibit 8) which shows the amount of water at that time.

Exhibit 27. Affidavit of Jean O'Neill showing early use of flume-overflow water for a garden and the capability of the land to produce garden products.

Exhibit 28. Photo of corn cooking in flume water.

Exhibit 29. Photo of quaking aspen grove showing that those trees do not occur above the level of the overflow discharge.

Exhibit 30. Letter heads, brochures and stationery of our company, Silver City Lodgings, which have been in use since 1984.

These drought years have severely limited the ways in which we have used water at Silver City. Normally there has been plenty of water for us and for the abundant wildlife that live among the trees on the TipTop millsite. Now the animals and plants and we need every available drop of water. Our conserving water and adapting the delivery systems to be saving.

MICROFILMED

SEP 29 1992

PERMIT #55-04151

EXHIBITS TO ACCOMPANY TEXT

1. Photo of overflow pipe. Buried city tank in background.
2. Photo of tunnel where spring originates.
3. Photo of overflow discharging over bank. Sept. 1991.
4. Photo of culverts directing two sources of water (the overflow and the spring from the tunnel) under the road.
5. Photo of culvert for spring water.
6. Photo of culvert for overflow.
7. Photo of flume taken by Fred Walters in 1985. Second tunnel in background.
8. Photo of 12-inch culvert directing water under road. Also, reunion of Otto families in summer of 1987.
9. Photo of inlet to 12-inch culvert shown above after being buried.
10. Affidavit of Eurdora Terry.
11. Affidavit of Patrick Kidder.
12. Photo of drum used by Kidders to irrigate.
13. Letter of Eugene Perkins.
14. Affidavit of Ralph Moore.
15. Letter of Julian Davis.
16. Affidavit of Leo Hampton.
17. Affidavit of Karl Klick.
18. Affidavit of Dr. Darby Stapp and students.
19. Signatures of 1988 University of Idaho archaeological students.
20. Copy of check from University of Idaho to pay for use of premises in 1988.
21. Photo of Sprague children near flume.

EXHIBITS TO DOCUMENT COMMERCIAL ACTIVITY

22. Letter from Times News.
23. Advertisement in Newsbrief, 1990.
24. Advertisement in Farm Times, 1990.
25. Owyhee County Taxpayers' Valuation.
26. Affidavit of David Cooper.
27. Affidavit of Jean O'Neill.
28. Photo of cooking.
29. Photo of quaking aspen grove.
30. Silver City Lodgings brochures, letterheads.

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SEP 29 1992

ROSHOLT, ROBERTSON & TUCKER
Chartered

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NOV - 5 1991

Department of Water Resources
Western Regional Office

Department of Water Resources
Western Regional Office

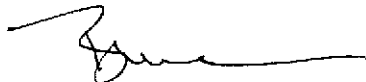
November 4, 1991

Steve Lester
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

Dear Steve:

Enclosed is an extensive collection of documents and affidavits from Carl and Gloria Otto to be filed with regard to the water rights situation in Silver City. This information will be helpful in analyzing the Silver City claims as well as the Ottos' claims. As you can see, Carl and Gloria have done an intensive, very thorough job of pulling together a significant amount of information. If Carl and Gloria or I can be of further assistance, please call.

Sincerely,



Bruce M. Smith

BMS:lb/68021
Enclosures
cc: Carl and Gloria Otto

*Appears to be same info previously submitted by
Otto to IDWR.
JL 11/6/91*

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SEP 29 1992

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SEP 30 1991

Permit 55-04151
Gloria W. Otto

Department of Water Resources
Western Regional Office

THE PURPOSE of this document and the attached papers is to describe the commercial and domestic use of water under Permit 55-04151 on my property in Silver City, Idaho, known as the TipTop millsite.

My family and I have been associated with this property either as a next-door neighbor or as owner since 1896. My father leased the property from Mrs. Peter Steele in 1936 for a mining operation and from the Idaho Power Company in 1941 as a base for his salvage business which removed all of the electrical power facilities from the part of Owyhee County bounded by Murphy, deLamar and Deming in support of the World War II effort, and received a conditional title in 1946. I received clear title in 1956.

SUMMARY

This block of land is three acres in size and has the following buildings on it: the main structure (known as the Idaho Power Building or Group Hostel), a garage, and a log cabin.

The Idaho Power Building is a hostel capable of accommodating large groups of people. The largest group (75 students, 20 parents, 12 counselors and four teachers from Jackson Elementary School in Boise) were on an overnight two-day field trip in October 1990. The second largest group was a wedding party given by Helen Strine of Caldwell, 2308 College, Caldwell) of approximately 60 people for a three-day two-night visit in July 1990. The log cabin and the hostel are also available to individuals, couples and families. Three flat, level, cleared areas provide campsites and tenting areas. In addition to casual vacation visits, families hold reunions on this property. The water appropriated under Permit 55-04151 is used for non-potable purposes. All of the above facilities are used by members of the Otto family and their friends when they come to Silver City. Water has been used every year for the last five years by me or with my permission for domestic, irrigation and commercial (business or 'for profit' purposes. The type of money-making endeavors has changed from time to time but the use of the water to facilitate a 'for profit' business has remained the same.

NU
10/28/91
present
per
1991
exm

SOURCE OF WATER

The source of water on Permit 55-04151 (originally filed in August 1981, with the erroneous Number 57-4058) consists primarily of the overflow from the city water tank (See Photo No.1); however, because the water continues to run through the flume when the city overflow is suffering one of its occasional failures it is believed that water from a spring located to the east and close to the city tank is an independent spring. This spring flows out of a caved tunnel on my lode mining claim, Florence (see Photo No. 2). Formerly the overflow water came from an old 25,000 gallon wooden water tank (owned or disowned by the Idaho Hotel) which leaked profusely and from an overflow pipe from the same tank. This tank is now empty and unused. At the present time, the overflow is discharged through a plastic pipe from the buried metal city tank to a point on a steep embankment

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located on my private patented property known as Lot 105. The springs rise on Lot 105. Both streams of water cross a one-lane dirt road through culverts spaced about 20 feet apart and coningle (north) of the road. This coningled stream joins water from another old mining tunnel (located on the TipTop millsite) and runs through a flume which discharges onto the flat camping area (largest) and subsequently over a small waterfall to the west yard of the Idaho Power Building.

Although the water from the overflow from the city water system has been used by occupants of the TipTop millsite for many years (see affidavits of Eudora Terry and Patrick Kidder, attached), The right to the water did not become a confrontational issue until 197 when I complained to the Silver City Taxpayers' Association about water damage occurring to the Idaho Power Building. I asked the association to divert all of the streams east of the main channel into the main channel so that the water would not drain down under the Idaho Power Building. The association's officers and directors told me that they had no money for the work and that they had no interest in the water after it left the association's tank. (Witness: Donald Hasselbring, past president of SCTA, Melba, telephone 495-2691). I told them that I would bear the expense of diversion and appropriate the water to my exclusive use. There were no objections at that time from anyone and I did that. The Taxpayers' Association (SCTA) or any member thereof did not object to the failing or make any effort to limit my exclusive use of the water. Nor did anyone contest my exclusive use of the water until a water shortage occurred.

In May 1983 Harold Statham filed Claim 55-4110. At that time, the leaked water and the overflow from the old wooden tank was allowed to spill on the hillside. Statham's attempted to divert the flow to their collection system. I diverted the flow into my ditch at every opportunity; they desisted soon. Now the overflow pipe from the buried tank is positioned in such a way that it is inaccessible to others than myself. (See Photo No. 1).

Nevertheless, in July 1990, the officers of the Silver City Property Owners' Association (SCPO) invited members of the annual work party to divert the overflow from its present position to a point whereby the water would flow away from our property. This invitation was issued publicly at an open meeting to homeowners and was made without prior consultation with us. We objected to their plan and pointed out that they would be trespassing on private property without permission. They desisted and implemented an alternative plan. We continued our exclusive use of the overflow water.

Our diversions of the water include culverts at two points on the road (See Photos 3 and 4), a ditch from the tunnel to the flume, the wooden flume itself, and various headgates with fixtures to attach hoses, a catch basin below the lower falls, and a 12-inch culvert under the road which connects our property to the main part of Silver City. (See Photo No. 5). The system works on gravity and employs hoses to provide flexibility.

A second diversionary system has been used occasionally to deliver water to quaking aspen trees and shrubs between the road on Telegraph Hill and the county road. This system consists of a drum with a spigot to service a hose. The drum catches the water coming through the culvert on the Telegraph Hill road and delivers it to a point of use. The old metal drum used by Kidder is still in position. About two-and-one-half acres are served by this arrangement.

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Following are accounts of specific instances in which water was used for domestic or commercial purposes.

DOMESTIC USE

This account is limited to the last five years of use because that is the information requested by the Department of Water Resources. However, it is appropriate to note that the Kidder family which lived in the Idaho Power Building from 1922 to 1938 used this water to maintain a lawn and horse. (See affidavit of Eudora Terry, attached). Also the Meeks family used the water in similar fashion when Harry was substation master from 1939 to 1941. Guests of my father, Ned Williams, used the water for domestic purposes (See Perkins letter, attached), during the period from 1947 to 1960. My children, my husband and I have used this water for laundry, for children's play, dust control, vegetable garden and irrigation of the yard west of the Idaho Power building since 1946. This water was used for reseeding in 1968 and to water strawberries in 1968, 1969 and 1970. Photographs and documentation are available for the years 1946, 1948, 1949, 1953 to 1959 inclusive, 1962, 1964, 1967, and for each subsequent year including 1991.

The rock and concrete foundation for the fence around a small garden plot built by Rich Albertine in 1972 is still visible on the flat about 100 feet west of the Idaho Power Building. This same plot was used to grow radishes and dandelion green for six weeks in the summer of 1988 by our daughter, Gari, her son and his guest, who were camping in tents on the flat.

Ralph Moore and his son, Michael, used this water for concrete for the foundations of the Idaho Power Building when they were living on the property in their motor home during the summers of 1985, 1986, 1987 and 1988 (See affidavit of Ralph Moore, attached).

In July 1987 twenty members of the Otto family from Idaho and California held a family reunion on the TipTop millsite. The Vic Otto family and Carlin Otto and Randy Fry tented on the flat and used the above-mentioned water for domestic purposes (washing hands, faces, cars and clothing (See Photo No. 6). Notice the hose connection). The same group used the water for campfire cooking of corn and potatoes. This same group held another family reunion on my property in August 1991 and repeated their use of this water.

Whereas the quantity of water from the overflow of the city system has varied the supply has been crucial for us during this last year of drought. The water is clear and suitable for drinking and cooking if boiled or sterilized. In addition this supply is available to us throughout the year which is especially important from October to June when the city system is drained and closed for the winter. My family used this water to flush toilets in the Idaho Power Building in 1990 November.

By routing the constant flow of water in the flume into shallow ditches through our property it is possible to saturate the ground in the areas that support native plants which require generous amounts of water, such as willows, mint and moss. The western half of the TipTop millsite now supports a two-acre stand of quaking aspen trees. Water from the flume is used throughout the year to keep the wild flowers and native grasses alive in the areas where we have cleared away sagebrush and woody brushes.

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SEP 29 1992

I use this water every year to pan gold and silver concentrates from my mining claims on Jordan Creek just north of Silver City and from elsewhere. I have done this every year since 1968. Collecting samples and panning them is one of my hobbies as well as a mining business activity.

While our daughter, Ruth Bingham, and her son, visited us for five weeks in the summer of 1991, she operated the hose system from the flume headgate to water distressed trees and for seedings a mixture of grasses recommended by the BLM on several of the small flat areas suitable for tenting. I continued the practice until the seeds dropped in August. The area is distinguished from the surrounding natural land by its lack of sagebrush and woody bushes, which we have cleared away. We do not wish to project the image of a manicured, English-type lawn. We try to cultivate a natural appearance without being as barren as the surrounding country.

During the summers of 1990 and 1991 we entertained several groups of friends and relatives who kept their trailers and motor homes on the flat or in the yard just west of the Idaho Power Building and used the flume water for a variety of domestic purposes. The flume water is more convenient for tents to access than the IPB water.

Names of our guests and the approximate dates when they used this water follow:

November 1987, Elmer Sanborn, Lake Tahoe.

July 1988, Barry and Lee Cunningham, Sacramento, Ca.

June 1988, Ten members of the Bingham family from Redwood City, California for one week.

Three visits in 1989, four in 1990, and two in 1991 by David M. Bergh and family, Mountain Home.

July 1989, Merlin Miller, Mountain Home.

July 20-28, 1991, Preston Bingham and the members of his family from the Bay Area, parked their Volksvagen camper by the Idaho Power Building and used the flume water for washing and cleaning their van and cooling beverages and watermelon.

COMMERCIAL USE

For lack of a clear definition of the term commercial, the term 'for profit' is used here because it best explains our use of the water which does not fall under the definition of domestic. The development of the Idaho Power Building into a group hostel has become more successful each year economically for the last five years. The concept began in the Forties as a casual offering to individuals (hunters, families, fisherman, mine explorers). Now the facility hosts large groups in search of comfortable camping with modern accommodations. Individuals are still welcome.

Because the Idaho Power property has always served both domestic and 'for profit' (commercial-industrial) purposes we are continuing that tradition. Our facility has been tailored to serve a variety of clients. Since the idea of a group hostel has proved to be the most profitable, other endeavors have become less important. However, several other 'for profit' concepts have been tried.

In 1983 during June and July, I used an automatic panner under the supervision of my father, Ned Williams, to process mill tailings. The panner consists of a round shallow pan about 24 inches in diameter which is agitated by power from a gas engine.

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motor. Shortly thereafter in July 1983, members of the company, Hamilradjo paid \$5000 to lease five of my placer claims on Jordan Creek downstream of Silver City. They rented my TipTop properties for their mining camp for about ten people. They used water from the flume to operate an ore concentrate separator. The tailings from their operations are still visible on the ground between the Log Cabin and the Idaho Power Building (see Letter from Julian Davis, a mining engineer who recently inspected the premises). They used water from a hose connected to the headgate of the flume also cleaning equipment being readied for packing and shipping. The gold recovered by Mitch Lambson, a member of their group, was packaged in small vials and sold at the Idaho Hotel as a souvenir from Silver City. Leo Hampton, accompanied by some of his partners, has returned to Silver frequently since then to explore for minerals or test sites on the claims. In 1987 he and his wife Pat stayed in the Log Cabin and in their motor home. They contract with me for the use of my properties, buildings and water for both mining and living accommodations. (See affidavit of Leo Hampton, attached).

In 1987, Dr. Darby Stapp and his wife, Julia Longenecker, from the Department of Anthropology at the University of Idaho in Moscow, rented the Idaho Power Building and surrounding area for four weeks to conduct archaeological explorations on the TipTop millsite. There were about ten students in the class who lived on site and used the water from the flume for their work (cleansing specimens) as well as for washing clothes. (See affidavits of Stapp and signatures of students, attached). In 1988, the archaeological dig was continued and expanded by Dr. Sprague, his wife, and about 15 students from the University of Idaho in Moscow. (See Photo No. 6 of Sprague children by flume; note hose). (See signatures of students from the 1988 class, attached). In both instances, an invitation was issued to the public to participate in the dig and those who volunteered to assist lived on my property and used the water from the flume for camping, for washing clothes and specimens. (See notarized papers from Stapp, and a copy of a cancelled check from the University of Idaho for use of the facilities). Linda Morton, then Director of the Museum at Murphy and now head of Idaho State Historical Society's oral history department) was one of the volunteers in the latter dig.

In September 1987 and September 1990, Mary Ann Davis, an archaeologist, used flume water to clean the antique specimens taken from areas disturbed by the Silver City project of installing new water lines around town. In 1987 she was a participant in the U. of I Moscow dig.

I used the water to prepare the yard of the Idaho Power Building for camping and outdoor dining for clients in 1987, 1988, 1989, 1990 and 1991.

In 1990, the Strine family of Caldwell rented my property for three days for the wedding of their daughter and for celebrating the birthday of their grandmother. About 80 people attended the wedding and reception. They used flume water in connection with an outdoor food steamer. Dr. John Truksa from Nampa used flume water in his camper when he camped by the flume drainage ditch in July 1990. Approximately 20 people were in his party.

A list of evidence of use is attached. It is supplementary to this text.

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LIST OF ATTACHMENTS (in order as mentioned in text)

Photo No. 1 - overflow pipe
" 2 - upper spring on Florence claim
3 - culvert to handle water from spring
4 - culvert for overflow water
5 - culvert (12-inches) for main road and flume water
Affidavit of Eudora Terry
Affidavit of Patrick Kidder
Affidavit of Ralph Moore
Photo No. 6 - Otto family reunion of 1987 (note hose) and culvert.
Letter from Julian Davis
Affidavit of Leo Hampton
Affidavit of Dr. Darby Stapp and students, 1987
Signatures of students of Dr. Sprague, 1988
Photo No. 8 - Sprague children at flume.
Copy of bill and check from University of Idaho, Moscow. 1988.

SUPPLEMENTARY EVIDENCE OF USE OF FLUME WATER

Approximate dates Subject

1934 Photo of Kidder Drum
1985 Photo taken by Fred Walter. Affidavit of David Cooper.
1983 Hamilradjo Placer Mining Permit
1984 Denial of Hamilradjo permit to mine
1986 Brochures of Silver City Lodging in use since 1986
1987 Stationery of Silver City Lodgings in use since 1987
1987 Magazine IDAHO, Official Idaho State Travel Guide, listing on Page 71.
1988 Owyhee County Tax Notice showing recreational taxation
1990 Advertisements in Farm Time
1990 Advertisements in Caldwell Newsbriefs
1990 Letter from Times News of Twin Falls

TO BE
SUBMITTED
SOON

10/31/91
JL

MICROFILMED

SEP 29 1992

IN THE MATTER OF:

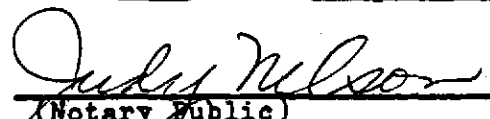
AFFIDAVIT

State of Idaho
County of _____

DAVID A. COOPER being first duly sworn,
deposes and says: FRED WALTERS AND I (AS PARTNERS IN
A ARCHITECTURAL PRESERVATION FIRM, CSW) WERE
ASKED BY GLORIA OTTO TO VISIT SILVER CITY TO INVESTIGATE
THE FEASIBILITY OF RENOVATING A STRUCTURE (KNOWN AS
THE "POWER HOUSE") LOCATED AT THE SOUTH EDGE OF HER
DEEDED PROPERTY. OUR DISCUSSIONS WITH MRS. OTTO
INCLUDED A CONVERSATION ABOUT POTENTIAL WATER SUPPLY
TO THE BUILDING. I RECALL THAT MRS. OTTO TOLD US
THAT SHE WAS SUPPLIED WATER FROM THE CITY RESERVOIR
WHICH I BELIEVE WAS LOCATED UP OVER THE HILL TO THE
SOUTH OF THE POWER HOUSE. ANOTHER SOURCE OF WATER
SHE MENTIONED WAS LOCATED PERHAPS 50 OR 60 YARDS
DUE WEST OF THE HOUSE AND UP THE HILL. SHE TOOK US
TO THE LOCATION WHERE WE WITNESSED A SMALL STREAM
FLOWING DIRECTLY OUT OF AN EMBANKMENT AND INTO
A SMALL WOODEN FLUME. FROM THERE I BELIEVE THE WATER
FLOWED OUT INTO AN OPEN FLAT AREA WHERE THERE WAS A
GRASSY PICNIC AREA AND SOME RATHER ROCKY GROUND BEYOND,
TO THE NORTH TOWARD THE OTTO'S MAIN RESIDENCE. THE
WATER EVENTUALLY FLOWED DOWN HILL INTO THE MAIN CREEK.
WE DID MEASURE THE STREAM FLOW AT THE MOUTH OF THE
FLUME, BUT I DO NOT RECALL THE FLOW RATE. MRS. OTTO
DESCRIBED THE SOURCE OF THE WATER TO BE PARTLY


(Signature)

Subscribed and sworn to before me this 30th day of September, 1994.


(Notary Public)

Residing at Boise, Idaho.
My Commission Expires Dec. 4, 1994.

[illegible]

AFFIDAVIT

State of Idaho
County of

being first duly sworn,

deposes and says:

SPRING FED AND PARTLY FROM OVERFLOW FROM THE
CITY WATER RESERVOIR. BASED ON THE DATED
PHOTOGRAPH TAKE BY FRED WALTERS I BELIEVE
OUR VISIT TO SILVER CITY TOOK PLACE IN JUNE
OF 1985.

David C. [illegible]
(Signature)

Subscribed and sworn to before me this 30th day of September, 1991.

Judy Nelson
(Notary Public)

Residing at Boise, Idaho
My Commission Expires Dec. 4, 1994

R E M A R K S

to

Amendment of SRBA Claim A55-04151

The original Application identified Industrial as one of the beneficial uses to which this water is put. The choice of that term was a mistake. The proper term would be "for profit," but that is not included in the list of uses recognized by the Idaho Department of Water Resources; the term "Commercial" is more fitting than "Industrial." In addition to the Domestic and Irrigation uses which are still active, the water is used for such non-potable uses as washing equipment, utensils and laundry, irrigating a commercial campground and trailer parking area, controlling dust on a nearby road, and supporting activities engaged in by guests/tenants such as washing geologic samples and archeological artifacts, and observing wildlife which come to the water.

Gloria M. Otto
Sept. 30, 1991

A55-04151

user =

Domestic

Commercial instead of industrial *

irrig. as noted in exam

* See remarks, last pg.

Attachments to follow

MICROFILMED

SEP 29 1992

officer
enr. 7
9/30/91

IN THE MATTER OF:

Water Rights for
Gloria W. Otto of
Silver City, Idaho

AFFIDAVIT

17

State of Idaho
County of Owyhee

Karl Klick

being first duly sworn,

deposes and says: I was in Silver City in the month of July

1987. I observed that there were three sources of water serving
the log cabin and power building and their adjoining areas.

The sources were some pipes which connected the city water tank to the
power house, and a piped system from a spring about 200 feet west of
the power house which was providing water to the cabin and to a camping
area between the log cabin and the power house, and the third source
which was a flume which carries the overflow from the city water tank
to the log cabin yard and to the power house picnic area and to the
flat west of both structures.

It was obvious that the water was used for domestic purposes. The potable
water was piped into the buildings and being used for cooking and bathing
and drinking. The flume water was used for laundry and watering plants.

I intend to use these water sources to continue the processing of
placer concentrates and to maintain a camp in accordance with the operations
begun by the Hamilradjo company and Leo Hampton.

Karl Klick
(Signature)

Subscribed and sworn to before me this 25 day of September, 1991.

Betty Hopper
(Notary Public)

Residing at Edmond, Oklahoma
My Commission Expires 1-22-95

IN THE MATTER OF:

Water Rights for
Gloria W. Otto of
Silver City, Idaho

AFFIDAVIT

17

State of Idaho
County of Owyhee

Karl Klick being first duly sworn,

deposes and says: I was in Silver City in the month of July
1927. I observed that there were three sources of water serving
the log cabin and power building and their adjoining areas.

The sources were some pipes which connected the city water tank to the
power house, and a piped system from a spring about 200 feet west of
the power house which was providing water to the cabin and to a camping
area between the log cabin and the power house, and the third source
which was a flume which carries the overflow from the city water tank
to the log cabin yard and to the power house picnic area and to the
flat west of both structures.

It was obvious that the water was used for domestic purposes. The potable
water was piped into the buildings and being used for cooking and bathing
and drinking. The flume water was used for laundry and watering plants.

I intend to use these water sources to continue the processing of
placer concentrates and to maintain a camp in accordance with the operations
begun by the Hamilredjo company and Leo Hampton.

Karl Klick
(Signature)

Subscribed and sworn to before me this 25 day of September, 1926.

Betty Hopper
(Notary Public)

Residing at Edmond, Oklahoma.
My Commission Expires 1-22-25.

55-04151

#15

P.O. Box 518
Marsing, Idaho 83639
August 28, 1991

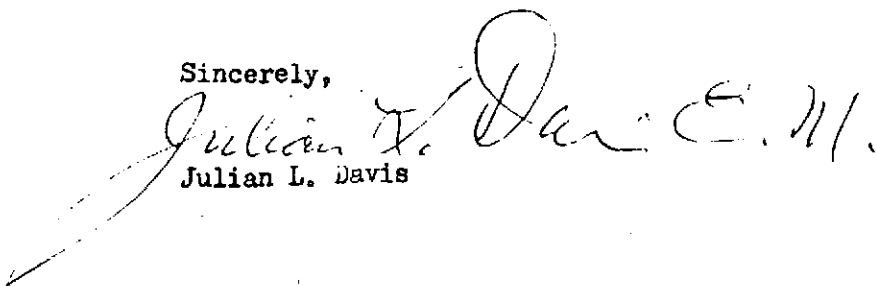
Dear Mrs. Otto,

After inspecting the light colored material near the log cabin, I can advise you that you would be justified in claiming that it came from a device designed to separate placer concentrates or possibly concentrates from a mill tailings pond. The flour-like consistency of the deposit is too fine to be waste from a placer operation.

Without measuring the deposit I cannot estimate the volume that was processed but judging from the area covered by the light colored material it was more than a casual effort that produced the waste material. When you consider that the visible material is the end product of a refinement of concentrates of gold, silver and amalgam placering operation, considerable work would have had to preceed this final process. An explanation about the work from the company that leased your claims and properties would be the best source of authoritative evidence, if you can locate them.

If you need a more definitive explanation or more precise data, I would be willing to help.

Sincerely,


Julian L. Davis

MICROFILMED

SEP 29 1992

55-04151

#15

P.O. Box 518
Marsing, Idaho 83639
August 28, 1991

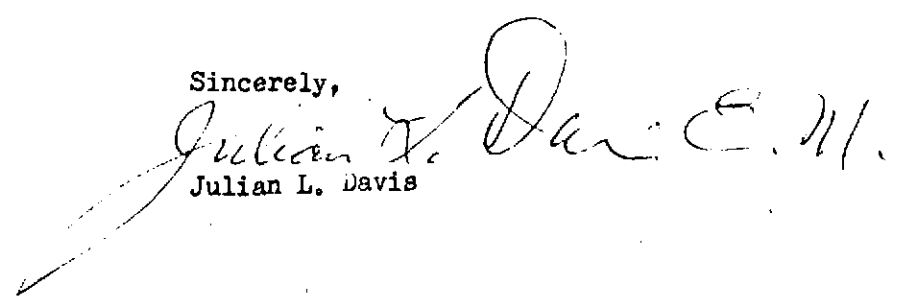
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Without measuring the deposit I cannot estimate the volume that was processed but judging from the area covered by the light colored material it was more than a casual effort that produced the waste material. When you consider that the visible material is the end product of a refinement of concentrates of gold, silver and amalgam placering operation, considerable work would have had to preceed this final process. An explanation about the work from the company that leased your claims and properties would be the best source of authoritative evidence, if you can locate them.

If you need a more definitive explanation or more precise data, I would be willing to help.

Sincerely,



Julian L. Davis

MICROFILMED
SEP 29 1992

IN THE MATTER OF:)
Use of Water on Properties)
of Ned Williams and Gloria)
Otto at Silver City, Idaho)

AFFIDAVIT

State of Idaho)
County of Owyhee Idaho)

Ralph Moses Moore being first duly sworn,

deposes and says: My association as a building contractor with Ned Williams and Gloria Otto began in 1972 and continued until July of 1987. During that period of time I worked on all of the buildings that are now standing on their properties on the west side of Silver City (about six acres). During that time I used water from the various sources available to those properties to facilitate construction (such as mixing concrete and paint, cleaning tools, etc.) and for maintaining a camp for my assistants and myself. In 1972 I worked on the Ned Williams white house. At that time, the living quarters at the Idaho Power Building were habitable and I used the water there, from the city system, from the private spring serving the IPB and log cabin, and the old tunnel diversion (now a flume). I also used these waters during my hunting trips up there. I also used water from the spring serving the white house.

From 1980 to 1987 I worked for short periods of time (from a week to four months) on various projects associated with the Idaho Power property. I built a new garage, an outbuilding, two closed-vault type toilets, and rehabilitated the Idaho Power Building. From the latter, I removed the old bathroom (which had a flush toilet, a bathtub and a hand-washing sink) and the kitchen (which was plumbed to both the city water system and the spring). I installed two new bathrooms and plumbed them so that the water for drinking and cooking could be connected to one principal system, and the toilets and washing facilities could be connected to the main potable water system or could be connected to the flume or a storage tank.

I uncovered the water storage box (4x4x6 feet) which serves the IPB and the log cabin and replaced the lumber, built a new top and installed a new overflow pipe. In 1987 the line from this spring to the Idaho Power building was shortened by a backhoe while levelling the west yard of the IPB. I capped the cut and installed a faucet for temporary use. I preferred using this water for drinking purposes because it was a closed system, was pure and ice cold.

In 1978 a flume was installed at the mouth of the old caving tunnel to control the water. I saw Mrs. Otto use a headgate in the flume to attach hoses to water trees, plants and yards. In 1987 I dug a drainage ditch and installed a culvert across the road between the log cabin and the IPB. I used this water in our work and for domestic purposes.

Several times in the years when I was not working for the Otto's or Ned I visited them and observed them using the above mentioned water systems. In the summers since 1985 I have used extensively water from the spring serving the log cabin and IPB, from the flume, from the city water system and from the spring at the white house.

Ralph Moses Moore
(Signature)

Subscribed and sworn to before me this 20th day of August, 1991.

Marcus Myers
(Notary Public)

Residing at Eagle, Id.
My Commission Expires 3/9/93

Refers to water of Permit # 04151.

IN THE MATTER OF:)
Use of Water on Properties)
of Ned Williams and Gloria)
Otto at Silver City, Idaho)

AFFIDAVIT

State of Idaho)
County of Owyhee Idaho)

Ralph Moses Moore being first duly sworn,

deposes and says: My association as a building contractor with Ned Williams and Gloria Otto began in 1972 and continued until July of 1987. During that period of time I worked on all of the buildings that are now standing on their properties on the west side of Silver City (about six acres). During that time I used water from the various sources available to those properties to facilitate construction (such as mixing concrete and paint, cleaning tools, etc.) and for maintaining a camp for my assistants and myself. In 1972 I worked on the Ned Williams white house. At that time, the living quarters at the Idaho Power Building were habitable and I used the water there, from the city system, from the private spring serving the IPB and log cabin, and the old tunnel diversion (now a flume). I also used these waters during my hunting trips up there. I also used water from the spring serving the white house.

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Ralph Moses Moore
(Signature)

Subscribed and sworn to before me this 20th day of August, 1991.

Marcia Myers
(Notary Public)

Residing at Logan, Id.
My Commission Expires 3/9/93

Refers to water of Permit #04151.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

10:09:28
07/17/91

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A55-04151

LAST: OTTO FIRST: GLORIA W.
ADDRESS: P.O. BOX 56
CITY: MURPHY STATE: ID ZIP: 83650
PHONE NUMBER: 208-495-2868

OWNER CODE: C

FIELD EXAM REQUIRED? FIELD EXAMINER
VERIFICATION REQUIRED DUE TO REMARKS? DATABASE Y

CLAIM REMARKS: THIS CLAIM IS FILED TO AMEND THE EARLIER STATUTORY AND
ADJUDICATION CLAIM FILED, NUMBERED 55-04151. THE DEEDS TO
PROPERTY AND ORAL REPORTS INDICATE A MUCH EARLIER BENEFICIAL USE
THAN EARLIER SUBMITTED. AFFIDAVITS SUBMITTED WITH THIS CLAIM AND
DEED RECORDS ARE INTENDED TO SHOW: (1) THE FIRST DATE OF
BENEFICIAL USE, AND (2) THE CONTINUING USE OF WATER AT THIS SITE.

FIELD EXAMINATION INFORMATION

CONTACT PERSON: _____ PHONE NUMBER: (____) ____-____
DATE OF FIELD EXAM: ____/____/____ APPOINTMENT MADE: Y(____) N(____) TIME: ____:____ A(____) P(____)
ACCOMPANIED BY: _____ PHONE NUMBER: (____) ____-____
RELATIONSHIP TO CLAIMANT: _____
DIRECTIONS TO PROPERTY / REMARKS:

See 3/1/98
recommendations
- JZ

A. AJ CLAIM: # A55-04151 PRIORITY DATE: 01-01-1903 STAGE: J
B. WR RECORD: # 55-04151 PRIORITY DATE: 01-01-1937 STAGE: S

C. FIELD EXAM REQUIRED? DATABASE FIELD
DUE TO PRIORITY DATE DISCREPANCY? (Y/N) Y EXAMINER

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N()
IF YES EXPLAIN.

REMARKS: _____

=====

RECOMMENDED PRIORITY DATE:

REVIEWED BY _____ DATE _____

=====

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A55-04151	05S	03W	6	NE	NW	SE		OWYHEE

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A55-04110 NONE

WR RECORDS IN SAME 40 ACRE TRACT

55-04006
55-04108
55-04110

SOURCE: SPRING

TRIB: JORDAN CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
55-04151	05S	03W	6		NW	SE		OWYHEE

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

55-04006
55-04108
55-04110

A55-04110 NONE
A55-04006
A55-04108

SOURCE: SPRING

TRIB: JORDAN CREEK

C. FIELD EXAM REQUIRED?

	DUE TO POD DISCREPANCY? (Y/N)	DUE TO SOURCE DISCREPANCY? (Y/N)	DATABASE	FIELD EXAMINER
			Y	_____
			N	_____

REMARKS:

=====

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
------	------	------	-----	-----	-----	-----	--------

_____	_____	_____	_____	_____	_____	_____	_____
-------	-------	-------	-------	-------	-------	-------	-------

SOURCE: SPRING

TRIB: JORDAN CREEK

REVIEWED BY: _____ DATE: _____

=====

A. ROOT WATER RIGHT NUMBERS: A55-04151

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
05S	03W	6				OTTO, GLORIA W.	A55-04151 /	- /			
			SW	NE	17	SILVER CITY TAXPAYERS ASSOC.	1A55-10204 / 1.0	- /			
			NW	SE		WILLIAMS, M. NED		55-02212 /			
			NE	NW		STATHAM, H. R.		55-04003 /			
			NW	SE		OTTO, CARL W.		55-04006 /			
			NE	SW		LEWIS, EMILY B.		55-04007 /			
			SE	NE		SWAYNE, CLEO		55-04040 /			
			NW	SE		STATHAM, WILMA L.		55-04108 /			
			NW	SE		STATHAM, WILMA L.		55-04110 /			
			NW	SE		OTTO, GLORIA W.		55-04151 / 2.0			
			NE	NE		SILVER CITY TAXPAYERS ASSN. IN		55-07011 /			
			SW	NE	17	SILVER CITY PROPERTY OWNERS AS		55-07409 / 1.0			
			SW	NE	17	SILVER CITY PROPERTY OWNERS AS		55-07411 / 1.0			
			SW	NE	17	SILVER CITY PROPERTY OWNERS AS		55-07412 /			
			SW	NE	17	SILVER CITY TAXPAYERS ASSN. IN		L55-07011 /			
05S	03W	6				OTTO, GLORIA W.	A55-04151 /	- /			
			SW	NE	17	SILVER CITY TAXPAYERS ASSOC.	1A55-10204 / 1.0	- /			
			NW	SE		WILLIAMS, M. NED		55-02212 /			
			NE	NW		STATHAM, H. R.		55-04003 /			
			NW	SE		OTTO, CARL W.		55-04006 /			
			NE	SW		LEWIS, EMILY B.		55-04007 /			
			SE	NE		SWAYNE, CLEO		55-04040 /			
			NW	SE		STATHAM, WILMA L.		55-04108 /			
			NW	SE		STATHAM, WILMA L.		55-04110 /			
			NW	SE		OTTO, GLORIA W.		55-04151 / 2.0			
			NE	NE		SILVER CITY TAXPAYERS ASSN. IN		55-07011 /			
			SW	NE	17	SILVER CITY PROPERTY OWNERS AS		55-07409 / 1.0			
			SW	NE	17	SILVER CITY PROPERTY OWNERS AS		55-07411 / 1.0			
			SW	NE	17	SILVER CITY PROPERTY OWNERS AS		55-07412 /			
			SW	NE	17	SILVER CITY TAXPAYERS ASSN. IN		L55-07011 /			
05S	03W	6	NW	SE		OTTO, GLORIA W.	A55-04151 / 2.0	55-04151 / 2.0			
			NW	SE	19	SILVER CITY TAXPAYERS ASSOC.	1A55-10204 / 1.0	- /			
			NW	SE		WILLIAMS, M. NED		55-02212 /			
			NW	SE		OTTO, CARL W.		55-04006 /			
			NW	SE		STATHAM, WILMA L.		55-04108 /			
			NW	SE		STATHAM, WILMA L.		55-04110 /			
			NW	SE		SILVER CITY TAXPAYERS ASSN. IN		55-07011 /			
			NW	SE	19	SILVER CITY PROPERTY OWNERS AS		55-07409 / 1.0			
			NW	SE	19	SILVER CITY PROPERTY OWNERS AS		55-07411 / 1.0			
			NW	SE	19	SILVER CITY PROPERTY OWNERS AS		55-07412 /			
			NW	SE	19	SILVER CITY TAXPAYERS ASSN. IN		L55-07011 /			
TOTAL ACRES							A55-04151	2.00		2.00	

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N()
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

PRESUMPTION FLAG:

REMARKS:

=====

RECOMMENDATIONS:

TOTAL ACRES: _____

REVIEWED BY: _____

DATE: _____

=====

A. AJ CLAIMED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A55-04151	IRRIGATION	FROM 05-15 TO 10-15	.040 CFS 12.00 AF/A
A55-04151	DOMESTIC	FROM 01-01 TO 12-31	.020 CFS 14.00 AF/A
A55-04151	INDUSTRIAL	FROM 05-01 TO 10-31	.010 CFS 7.00 AF/A
TOTAL DIVERSION RATE/VOLUME CLAIMED			.070 CFS 33.00 AF/A

B. WR RECORDED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
55-04151	IRRIGATION	FROM 05-15 TO 10-15	.040 CFS
55-04151	DOMESTIC	FROM 01-01 TO 12-31	.020 CFS
55-04151	INDUSTRIAL	FROM 05-01 TO 10-31	.010 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED			.070 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	N	_____
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	N	_____
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	N	_____

D. PERIOD OF USE:

RECOMMEND AS CLAIMED? Y() N()

RECOMMEND TO WR STANDARDS OR OTHER? Y() N() Explain in remarks, below.

REMARKS:

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y() N()

AJ TOTAL CLAIMED DIVERSION RATE: 0.070 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.070 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED? FIELD
DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N) Y DATABASE EXAMINER

B. FLOW MEASUREMENT
MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y(Y) N() IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: 55-7011, 55-4006

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A55-04151	SPRING	OTTO , GLORIA W.	0.070	0.035	33.00	16.50
A55-10204	SPRING	SILVER CITY TAXPAYERS ASSOC. I	0.200	0.050		

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y(____) N(____)

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y(____) N(____) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 7.0 AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = 33.00 AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(____) N(____)

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
		DATABASE EXAMINER	DATABASE EXAMINER	DATABASE EXAMINER
IRRIGATION	05-15 10-15	0.040 _____	12.00 _____	7.0 _____
DOMESTIC	01-01 12-31	0.020 _____	14.00 _____	_____
INDUSTRIAL	05-01 10-31	0.010 _____	7.00 _____	_____
TOTAL FOR THIS RIGHT		0.070	33.00	

REVIEWED BY: _____ DATE: _____

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	()	()
FORFEIT/ABANDON _____	()	()
ADDITIONAL DIV. AMOUNT _____	()	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 55-04151

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
0.070

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A55-04151	0.070	-		55-04151	0.070
TOTAL CFS		0.070				0.070

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE
Y

FIELD
EXAMINER

REMARKS:

AUTHENTICATION:

SIGNATURE: _____

DATE: _____

NAME OF FIELD EXAMINER: _____

TITLE: _____

=====

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

10:09:28
07/17/91

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A55-04151

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y							
POINT OF DIV	Y							
SOURCE								
PLACE OF USE	Y							
DIV. AMOUNT CFS/VOLUME								
CONSUMPTIVE USE								
PURPOSES								
PERIOD OF USE								
BASIS OF CLAIM								
REMARKS	Y							

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

5504.51
Commercial
Designation
25

LARRY BACHMAN
OWYHEE COUNTY ASSESSOR
OWYHEE COUNTY COURTHOUSE
MURPHY, ID 83650

ADDRESS CORRECTION REQUESTED

CATEGORY DESCRIPTION
13 RURAL COM TR
32 RURAL IMP ON AG
35 BLDG COM TR
35 BLDG COM TR

THIS IS NOT A BILL

PARCEL NO. RP 0206200 A

TAX CODE 19-00

LOTS / ACRES

3.016 AC

MARKET VALUE

4,524

1,336

22,137

2,416

1991

TAXPAYERS

VALUATION

ASSESSMENT NOTICE

30,413* Taxes are based on the valuation
listed on this statement

IF THERE ARE ANY QUESTIONS
REGARDING THIS STATEMENT
NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 14, 1991

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS

PREVIOUS NUMBER

RP0206200

A

Mail To:

TX 1 6 5S 3W
(HOSTEL)
(OLD ID POWER BUILDING)

OTTO, GLORIA

250 AUSTIN AVE
ATHERTON CA 94027

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SEP 29 1992



The Times-News

Ex. 22

P.O. Box 548 Twin Falls, Idaho 83303-0548 208-733-0931

Dear Sirs;

I want to tell you about a special section that The Times-News is putting together. On September 30th, we will be expanding our regular agriculture section to include more stories on seeds, beans, and other aspects of agriculture. Because your business is agriculture related, I believe that it is important for you to be in this section. The Times-News has a Sunday Circulation of about 23,000 households mostly within Twin Falls, Jerome, Gooding, Lincoln, Blaine, Minidoka, and Cassia Counties.

I am enclosing a copy of an advertisement and the cost of running this same size ad with us.

Remember, in today's changing times not all farmers and ranchers live in rural areas, many commute. Reach the people who are interested in our agriculture both in the cities and rural areas by being where they will look - in the Harvest Section of The Times-News.

Sincerely,

Billie Robertson

Billie Robertson
Inside Sales Representative

2x5

run this size 1 time
\$118.60

To run on 4 time Special
this size would be \$90.50
each ad

Hunters & Families Welcome

★ Reduced Rates
For September
& October
1990



Lots of Activities
Hiking, Star Gazing,
Barbecuing, Picnic in
Privacy, Watch A Cattle
Round-up, Visit The Museum,
Church, 1864 Hotel and Graveyard
Gorgeous Fall Colors.



BUNK HOUSE
Group hostel for the whole gang.
Retreats, reunions, conferences. Wood heating stove.
Large activity room, modern baths and kitchen.
Sleeping loft. Private tenting.

MINER'S SHACK
Inside: Beds for eight softies.
Outside: Tenting for Roughnecks.
Primitive but comfortable living.
Big loft. Pure, cold water in kitchen.
Wood heating stove. Babbling
brook. Gas or wood for cooking.



Silver City Lodgings

MAKE RESERVATIONS NOW:
Silver City Lodgings, P.O. Box 56, Murphy ID 83650.
Telephone: 208-495-2868 or 415-368-5004

RECEIVED
SEP 2 1992

RECEIVED

OCT 31 1991

Department of Water Resources
Western Regional Office

Permit 55-04151
Gloria W. Otto
P.O. Box 56
Murphy, ID
83650
Sept. 24, 1991

*Should be Claim
instead of Permit
FL 10/31/91*

THE PURPOSE of this paper and the attached exhibits is to document the "commercial" and domestic uses of water under Permit #55-04151 on my property in Silver City, Idaho, known as the TipTop millsite.

My family and I have been associated with this property either as a next-door neighbor or as owner since 1896. My father leased part of the property from Banner Mining and Milling Company in 1936 and the rest from the Idaho Power Company in 1941. He received title in 1946. I received title from him in 1956.

SUMMARY

This block of land is approximately three acres in size and has the following buildings on it: the main structure (known as the Idaho Power Building or Group Hostel), a garage, and a log cabin.

The Idaho Power building is a hostel capable of accommodating large groups of people. The largest group (75 students, 20 parents, 12 counselors and four teachers from Jackson Elementary school in Boise) were on an overnight two-day field trip in October, 1990. The second largest group was a wedding party (Helen Strine of Caldwell, 2308 College Street) of approximately 60 people for a three-day two-night visit in July 1990. The log cabin and the hostel are also available to individuals, couples and families. Three comfortable flat, level, cleared areas provide campsites. All of the above facilities are used commercially as well as domestically, and flume water from the overflow from the city system is used in both types of operation. Members of the Otto family and their friends use the flume water when they come to Silver City to visit. I use the flume water for commercial and domestic purposes. Specific uses of the flume water will be described below.

The water designated under Permit #55-04151 has been used for many, many years and every year for the last five years by me or with my permission for domestic, irrigation and industrial (more appropriately termed commercial, business or 'for profit') purposes. The types of money-making endeavors have changed from time to time but the purpose for using the flume-overflow water to facilitate a 'for profit' business has remained the same.

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SOURCE OF WATER

SEP 29 1992

The source of water on permit #55-04151 consists primarily of the

overflow from the buried city water tank (Exhibit 1. Photo, note tank in background). However, because the water continues to run through the flume when the city overflow stops running due to one of the occasional failures of the city system it is believed that water from a spring located to the east and close to the city tank is an independent spring. This spring comes out of a collapsed tunnel on my patented Lot No. 105. (Ex. 2. Photo of tunnel).

The overflow is discharged through a pipe from the city tank to a point on a steep embankment located on my private patented property, known as Lot 105. (Ex. 3. Photo of overflow). Both streams of water (the water from the overflow from the tank and the spring water that comes out of the old mine tunnel) cross a one-lane dirt road through culverts spaced about 20 feet apart and comingle downstream about ten feet north of the road. (Exhibits 4, 5 and 6. Photos). This comingled stream joins water from another old mining tunnel (located on the TipTop millsite) and runs through a flume (Ex. 7. Photo of flume and Ex. 26. Affidavit of David Cooper). This flume discharges onto the flat camping area and subsequently over a small waterfall to the west yard of the Idaho Power building. (Ex. 8. Photo of West Yard and pipe). From there the water passes through a 12-inch metal pipe under a road and off our property. (Ex. 9. 12-inch culvert at edge of our property).

HISTORY OF CONFLICT

Although the water from the overflow from the city water system has been used by occupants of the TipTop millsite for many years (Ex. 10 and 11. Affidavits of Eudora Terry and Patrick Kidder), the right to the water did not become a confrontational issue until 1979 when I complained to the Silver City Taxpayers' Association about water damage occurring to the Idaho Power building. I asked the association to divert all of the streams east of the main channel into the main channel so that the water would not drain down under the Idaho Power building. Officers of the association told me that they had no money for the work and that they had no interest in the water after it left their tank. I told them that I would bear the expense of diversion and would appropriate the water to my exclusive use. There were no objections from anyone and I did this. The Taxpayers' Association did not object to my filing on the overflow water and made no effort to interfere with my exclusive use of the water. Nor did anyone else contest my exclusive use of the water until a water shortage occurred in 1987. In fact, the association has positioned the overflow pipe from the tank in such a way that it is inaccessible to others than myself.

The problem which arose in 1987 occurred when the Stathams diverted some of the overflow water into a system of pipes for the purpose of watering their yard. I was using all of the water from the overflow and immediately protested the interference. This protest is documented in letters from Jan Shurte to the

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SEP 29 1992

Stathams and to us. The Statham's abandoned their system and we removed their installations. We continued our exclusive use of the overflow water.

Several years later (July 1990) the officers of the Silver City Property Owners' Association invited members of the annual work party to divert the overflow from its present position to a point whereby the water would flow away from our property. This invitation was issued publicly to homeowners at an open meeting and was made without prior consultation with us. We objected right then to the Association's plan and pointed out that it would be trespassing without permission. The officers abandoned any attempt to divert the overflow and we continued our exclusive use of the water.

DIVERSION WORKS

Our diversions of the water include culverts at two points on the road, a ditch from the lower tunnel to the flume, the wooden flume itself and various headgates with fixtures to attach hoses, a catch basin below the falls, and a 12-inch culvert under the Owyhee county road which connects our property to the main part of Silver City. The system works on gravity and employs hoses to provide flexibility.

A second diversionary system is used occasionally to deliver water to quaking aspen trees and shrubs between the road on Telegraph Hill and the county road. This system consists of a tank with a spigot to service a hose. The tank catches the water coming through the culvert on the Telegraph Hill road and delivers it to the point of use. The old drum used by Kidder is still in position (Ex. 12. Photo of old drum). About two-and-one-half acres are served by this arrangement. We store our tank when it is not in use.

Following are accounts of specific instances in which water was used for domestic or commercial purposes.

DOMESTIC USE OF WATER

This account of use of the overflow water is limited to the last five years. However, it is appropriate to note that the Kidder family which lived in the Idaho Power Building from 1922 to 1938 used this water to maintain a lawn and a horse. (Exs. 10 and 11. Affidavits of Terry and Kidder). Also the Meek family used the water in similar fashion when Harry was substation master from 1939 to 1941. Guests of my father, Ned Williams, used the water during bow hunting season and at Cattlemen's Conventions for domestic purposes (Ex. 13. Letter from Perkins) during the period from 1947 to 1960. My family and I have used this water for laundry, water play for the children, dust control, vegetable garden and irrigation of the yard west of the Idaho Power

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Building.

Until 1970 the flat areas served by this water were seeded to grass for pasture for horses which the Idaho Power Company used in the maintenance of their power lines and which my father used in his salvage operations from 1942 to 1964. These areas were protected by barbed wire fences. When the fences were removed in 1970 the grassy areas deteriorated and were seeded with native types of plants in keeping with the goal to establish a natural indigenous landscape. Sagebrush is grubbed from areas of camping.

Ralph Moore and his son, Michael, used this water to mix the concrete for the foundations of the Idaho Power Building, when they were renovating the building for us, and used it in their motor home during the summers of 1985, 1986, 1987 and 1988, while they were contracted by me. (Ex. 14. Affidavit of Ralph Moore).

In July of 1987, 20 members of the Otto clan held a family reunion on the TipTop millsite. The Vic Otto family and Carlin Otto and Randy Fry tented on the flat and used the above mentioned water for domestic purposes (washing cars and clothes) (Ex. 8. Photo of family reunion 1987. Notice hose connection). The same group used the water for campfire cooking of corn and potatoes. This same group held another reunion on my property in August 1991 and repeated their use of this water.

Whereas the quantity of water from the overflow of the city system has diminished since the leaky old wooden tank was retired, the supply has been crucial for us during these last years of drought. In addition, this supply is available to us throughout the year which is especially important from October to June when the city system is shut down for the winter. By routing the constant flow of water in the flume into shallow ditches through our property it is possible to saturate the ground in the areas that support those types of native plants which require generous amounts of water (willows, mint, meadow iris, skunk cabbage and moss). Without the overflow from the city tank, the western half of the TipTop millsite which now supports a two-acre stand of quaking aspen trees would revert to sagebrush and juniper. Water from the flume is used continually all day every day throughout the year to keep the wild flowers and native grasses alive in the areas where we have cleared away sagebrush and woody bushes.

I use this water to pan the gold and silver concentrates that I get from my mining claims on Jordan Creek just north of Silver City. I have done this every year since 1968. Collecting samples and panning them is one of my hobbies as well as a mining business activity.

While our daughter, Ruth Bingham, and her son visited with us for five weeks in the summer of 1991, she operated the hose system from the flume headgate to water distressed trees and for

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SEP 29 1992

seeding a mixture of grasses recommended by the BLM on several of the small flat areas suitable for tenting. I continued the practice until the seeds from the new grass dropped in August. The area is distinguished from the surrounding natural land by its lack of sagebrush and woody bushes, which we have cleared away.

During the summers of 1990 and 1991 we entertained several groups of friends and relatives who kept their tents, trailers and motor homes on the flat or in the yard just west of the Idaho Power building. They used the flume water for a variety of domestic purposes.

Names of some of our guests and the approximate dates when they used this water follow:

November 1987, Elmer Sanborn, resident of Lake Tahoe.
July 1988, Barry and Lee Cunningham, Sacramento, Ca.
Three visits in 1989, four in 1990 and two in 1991: David M. Bergh and family.
July 1989, Merlin Miller, Mountain Home.
September 1987 and September 1990, Mary Ann Davis, Boise archaeologist.

"COMMERCIAL" USE

For lack of a clear definition of the terms 'commercial' and 'industrial' I would like to substitute the term 'for profit' which best explains the part of our use of water which is not defined as domestic. The development of the main building (the Idaho Power Building) into a group hostel to accommodate tourists has crystalized during the last five years. It began in the Forties as a casual offering of rooms to individuals (hunters, families). The size of the business thus generated has fluctuated depending on public interest. Now the facility hosts large and small groups with the accent on educational activities and on tourist groups interested in comfortable camping with modern accommodations.

Because our property has always served both domestic and 'for profit' (commercial-industrial) purposes, we are continuing the dual uses. Our facility has been tailored to serve a variety of clients. Since 1985 the concept of a group hostel has proven to be the most successful. However, other 'for profit' endeavors have been tried.

Using the summer of 1986 as the beginning of the five year period being treated in this paper, I wish to recount some of the 'for profit' enterprises in which water from the flume has been used.

In 1986 during June and July, I used an automatic panner which consisted of a round shallow pan about 24 inches in diameter which was agitated by power from a gas motor. Shortly after

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SEP 29 1992

that, members of the company, Hamilradjo, used the water to operate a concentrate separator, called the Gold Grabber. The tailings from their operations are still visible on the ground between the log cabin and the Idaho Power Building (Ex. 15. Letter from Julian Davis, a mining engineer who inspected the premises in September 1991). Members of the Hamilradjo group used water from a hose connected to the headgate of the flume. The gold which was collected from the separator was packaged in small vials by Mitch Lambson and sold at the Idaho Hotel as souvenirs of Silver City. Leo Hampton, also of Hamilradjo, accompanied by some of his partners, has returned to Silver each year since 1987 to explore for minerals. In 1987 he brought his wife. They stayed in the log cabin and in their motor home and used water from the flume and overflow in their mining operations and in her collections of quartz crystals.

Hamilradjo paid \$5000 to initiate their contract with us for the use of our properties, buildings and water. (Ex. 16. Affidavit of Leo Hampton). They have spent at least \$1000 per year from 1986 to 1989 to develop the placer claims mentioned above. (Ex. 17. Affidavit by Klick).

In 1987, Dr. Darby Stapp and his wife, Julia Longenecker, from the Department of Anthropology from the University of Idaho at Moscow rented the Idaho Power Building and surrounding area from me for four weeks to conduct archaeological explorations on my property on the TipTop millsite. There were about ten students in the class who lived on site and used the water from the flume and overflow for their work (cleansing specimens) as well as for domestic purposes (washing clothes). (Ex. 18. Affidavits of Stapp and attached signatures of 1987 students). In 1988, the archaeological dig was continued and expanded by Dr. Roderick Sprague, his wife, and about 15 students from the University of Idaho at Moscow. (Ex. 19. Signatures of 1988 students and Ex. 20. a copy of check for \$2100 from University of Idaho). In both instances, an invitation was issued to the public to participate in the dig and those who volunteered to assist in the work lived on the property and used the water from the flume. (Ex. 21. Photo of the Sprague children near flume).

In 1989, the water from the flume was used by other clients: several field crews from the Bureau of Land Management, District office, (Jack Young was one of our contacts). For three days during the Idaho Cattlemen's Convention, several families from Jordan Valley who camped on the TipTop millsite controlled their bonfires with water from the flume.

In 1990, the water from the flume was used by 75 fourth grade students, 20 of their parents, 12 counselors and four teachers from Jackson school in Boise. They stayed overnight and those who camped in tents on the flat used the water to wash and bath and control their bonfires. Several classes used water for some activities such as heating water to melt wax for their candle making project and for cleaning equipment. Also in 1990, the

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Strine family of Caldwell rented our property for three days for the wedding of their daughter and for a subsequent family celebration of a grandmother's birthday. About 60 people attended. Some of them used the flume-overflow water in connection with tent camping.

I used the water to prepare the yard of the Idaho Power Building and the flat for camping and outdoor dining for clients in 1987, 1988, 1989 and 1990.

In 1991 the Bingham family from Redwood City, California, parked their Volkswagon camper by the Group Hostel and used the flume water for washing, cleaning their van and cooling beverages. They camped there from July 20 to 28.

September 26-27, 1991 - Jackson School again rented our facilities for 70 fourth-grade students, and about 30 parents and counselors and three teachers for an overnight field trip to study Silver City and its history. In preparing for their visit, I used the overflow water to clean the site and facilities and to settle the dust and control bonfires.

In addition to the above numbered exhibits, I am submitting various other documentation not referred to in the text to show how our business, Silver City Lodgings, has functioned as a commercial enterprise. Included in these papers are:

Exhibit 22. Letter from Times News about our advertisement.

Exhibit 23. Advertisement in Newsbrief, 1990.

EXhibit 24. Advertisements in Farm Times, September and October 1990.

Exhibit 25. Owyhee County Taxpayers' Valuation assessment notice showing property listed as recreational and subject to commercial tax rate.

Exhibit 26. Affidavit of David Cooper, architect, witnessing our early intent to use the overflow-flume water for a hostel and testifying to the authenticity of the photo of the flume taken by Fred Walters (Exhibit 8) which shows the amount of water at that time.

Exhibit 27. Affidavit of Jean O'Neill showing early use of flume-overflow water for a garden and the capability of the land to produce garden products.

Exhibit 28. Photo of corn cooking in flume water.

Exhibit 29. Photo of quaking aspen grove showing that those trees do not occur above the level of the overflow discharge.

Exhibit 30. Letter heads, brochures and stationery of our company, Silver City Lodgings, which have been in use since 1984.

These drought years have severely limited the ways in which we have used water at Silver City. Normally there has been plenty of water for us and for the abundant wildlife that live among the trees on the TipTop millsite. Now the animals and plants and we need every available drop of water. Our family is conserving water and adapting the delivery systems to be saving.

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SEP 29 1992

PERMIT #55-04151

EXHIBITS TO ACCOMPANY TEXT

1. Photo of overflow pipe. Buried city tank in background.
2. Photo of tunnel where spring originates.
3. Photo of overflow discharging over bank. Sept. 1991.
4. Photo of culverts directing two sources of water (the overflow and the spring from the tunnel) under the road.
5. Photo of culvert for spring water.
6. Photo of culvert for overflow.
7. Photo of flume taken by Fred Walters in 1985. Second tunnel in background.
8. Photo of 12-inch culvert directing water under road. Also, reunion of Otto families in summer of 1987.
9. Photo of inlet to 12-inch culvert shown above after being buried.
10. Affidavit of Eurdora Terry.
11. Affidavit of Patrick Kidder.
12. Photo of drum used by Kidders to irrigate.
13. Letter of Eugene Perkins.
14. Affidavit of Ralph Moore.
15. Letter of Julian Davis.
16. Affidavit of Leo Hampton.
17. Affidavit of Karl Klick.
18. Affidavit of Dr. Darby Stapp and students.
19. Signatures of 1988 University of Idaho archaeological students.
20. Copy of check from University of Idaho to pay for use of premises in 1988.
21. Photo of Sprague children near flume.

EXHIBITS TO DOCUMENT COMMERCIAL ACTIVITY

22. Letter from Times News.
23. Advertisement in Newsbrief, 1990.
24. Advertisement in Farm Times, 1990.
25. Owyhee County Taxpayers' Valuation.
26. Affidavit of David Cooper.
27. Affidavit of Jean O'Neill.
28. Photo of cooking.
29. Photo of quaking aspen grove.
30. Silver City Lodgings brochures, letterheads.

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SEP 29 1992

Caldwell Newsbrief

"The Restaurant Paper"

Published Weekdays for Boise, Caldwell, Eagle, Meridian, Middleton & Nampa
Box 992, Caldwell, ID 83606 454-9300 • 888-4333 Copyright © 1990

TODAY IS WEDNESDAY, SEPTEMBER 12, 1990

IDAHO – Four Chinese sites in the Warren Mining District on the Payette National Forest were recently listed on the National Register of Historic Places. The sites include a trail and three gardens: Ah Toy, Celadon Slope and Chi-Sandra. The properties are significant in that they document the presence of the Chinese, who were at one time the largest minority group in Idaho. The nomination was prepared by Kate O'Brien Reed, a private archaeological consultant who works for the Idaho Historical Museum. The National Register of Historic Places is the official list of the Nation's cultural resources worthy of preservation.



Ex. 23
Carl's FASHION SHOP
Nampa
Caldwell

BEAUTIFUL SWEATERS

Now is the time to make your selection. Great variety in each store.

814 Blaine • Caldwell
117 13th Ave. So. • Nampa
Mon-Sat 9:30am - 5:30pm



SILVER CITY LODGINGS

Visit the museum, church, 1864 hotel, graveyard. Maybe hear coyotes howl, eagles scream, calves bawl, cowboys holler. No poisonous snakes or ivy.

Silver City is one of America's most picturesque ghost towns. Sixty weathered buildings waiting. Few people. Fewer tourists.

BUNK HOUSE

Group hostel for the whole gang. Only \$100, \$10/person for over ten people.

MINOR'S SHACK

For families, friends. \$35

Reservations 495-2868

Your health insurance going up?

We can help! Call us today.

We're Your More-Than-One-Company Agent

THE HARTWELL CORPORATION
1220 Cleveland Blvd.
Caldwell, ID 83605
Phone 459-1578 or 888-1574
1-800-828-7835



**GOLDEN WEST
REALTY**



MLS



Good Cents 3 bdrm, 2 1/2 bath home in a country estate location with a great master bdrm. A modern classic home with a 10x32 unfinished bonus room plus more on 1.4 acres. **\$104,000**

Room, Room & More Room! Wonderful 6 bdrm, 3 bath quality family home in an excellent location. This home features over 3500 sq.ft., tiled countertops plus a Range and DW. **\$109,000**

517 S. 10th Ave. • (208) 459-1597 • Caldwell

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SEP 29 1992

5704
Commercial
Development
25

LARRY BACHMAN
OWYHEE COUNTY ASSESSOR
OWYHEE COUNTY COURTHOUSE
MURPHY, ID 83650

ADDRESS CORRECTION REQUESTED

CATEGORY DESCRIPTION
13 RURAL COM TR
32 RURAL IMP ON AG
35 BLDG COM TR
35 BLDG COM TR

THIS IS NOT A BILL

PARCEL NO. RP 0206200 A

TAX CODE 19-00

LOTS / ACRES	MARKET VALUE
--------------	--------------

3.016 AC	4,524
----------	-------

1,336

22,137

2,416

3.016

30,413* Taxes are based on the valuation

1991
TAXPAYERS
VALUATION
ASSESSMENT NOTICE

listed on this statement
IF THERE ARE ANY QUESTIONS
REGARDING THIS STATEMENT
NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 14, 1991

See the reverse side for further references
KEEP THIS COPY FOR YOUR RECORDS

PROPERTY ADDRESS

PREVIOUS NUMBER

RP0206200

A

Mail To:

OTTO, GLORIA

250 AUSTIN AVE
ATHERTON CA 94027

TX 1 6 5S 3W

(HOSTEL)

(OLD ID POWER BUILDING)

*—

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SEP 29 1992

26

State of Idaho
County of

being first duly sworn,

deposes and says: FRED WALTERS AND I (AS PARTNERS IN A ARCHITECTURAL PRESERVATION FIRM, CSW) WERE ASKED BY GLORIA OTTO TO VISIT SILVER CITY TO INVESTIGATE THE FEASIBILITY OF RENOVATING A STRUCTURE (KNOWN AS THE "POWER HOUSE") LOCATED AT THE SOUTH EDGE OF HER DEEDED PROPERTY. OUR DISCUSSIONS WITH MRS. OTTO INCLUDED A CONVERSATION ABOUT POTENTIAL WATER SUPPLY TO THE BUILDING. I RECALL THAT MRS. OTTO TOLD US THAT SHE WAS SUPPLIED WATER FROM THE CITY RESERVOIR WHICH I BELIEVE WAS LOCATED UP OVER THE HILL TO THE SOUTH OF THE POWER HOUSE. ANOTHER SOURCE OF WATER SHE MENTIONED WAS LOCATED PERHAPS 50 OR 60 YARDS DUE WEST OF THE HOUSE AND UP THE HILL. SHE TOOK US TO THE LOCATION WHERE WE WITNESSED A SMALL STREAM FLOWING DIRECTLY OUT OF AN EMBANKMENT AND INTO A SMALL WOODEN FLUME. FROM THERE I BELIEVE THE WATER FLOWED OUT INTO AN OPEN FLAT AREA WHERE THERE WAS A GRASSY PICNIC AREA AND SOME RATHER ROCKY GROUND BEYOND, TO THE NORTH TOWARD THE OTTO'S MAIN RESIDENCE. THE WATER EVENTUALLY FLOWED DOWN HILL INTO THE MAIN CREEK. WE DID MEASURE THE STREAM FLOW AT THE MOUTH OF THE FLUME, BUT I DO NOT RECALL THE FLOW RATE. MRS. OTTO DESCRIBED THE SOURCE OF THE WATER TO BE PARTLY

Paul Cox
(Signature)

Subscribed and sworn to before me this 30th day of September, 19 .

Judy Nelson
(Notary Public)

Residing at Boise, Idaho
My Commission Expires Dec. 4, 1994

Permit # 55-04151



1. City Tank & Overflow



2. Upper Tunnel Spring



3. Overflow



4. Culverts

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SEP 29 1992

Permit 55-04151



5. Culvert for
Spring



6. Overflow Culvert



7. Flume - MICROFILMED

SEP 20 1972

Permit 55-04151



8. Culvert-
Hose from
overflow.
1987



9. Buried Culvert

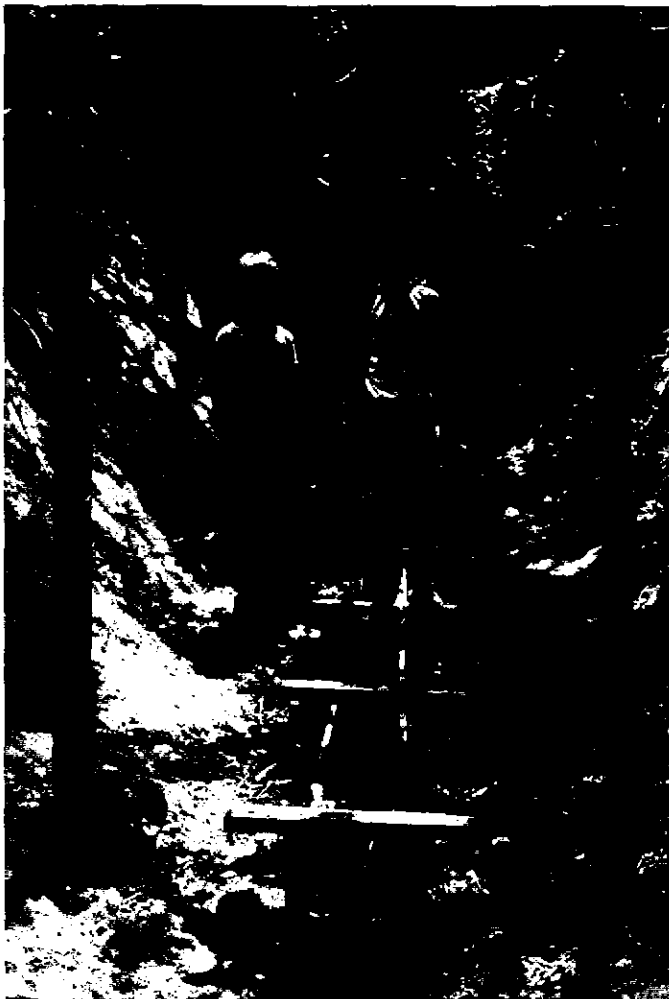
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12. Old drum

Permit 55-04151



21. Flume & Hobb
1988 University
of Idaho "dig"

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Permit 55-04151



28. Cooking &
Hose

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SEP 29 1992

29. Trees
Below
Tank



SILVER CITY LODGINGS

SILVER CITY IS ONE OF AMERICA'S MOST PICTURESQUE GHOST TOWNS. SIXTY WEATHERED BUILDINGS FROM IDAHO'S EARLIEST MINING BOOM. FEW PEOPLE. FEW TOURISTS

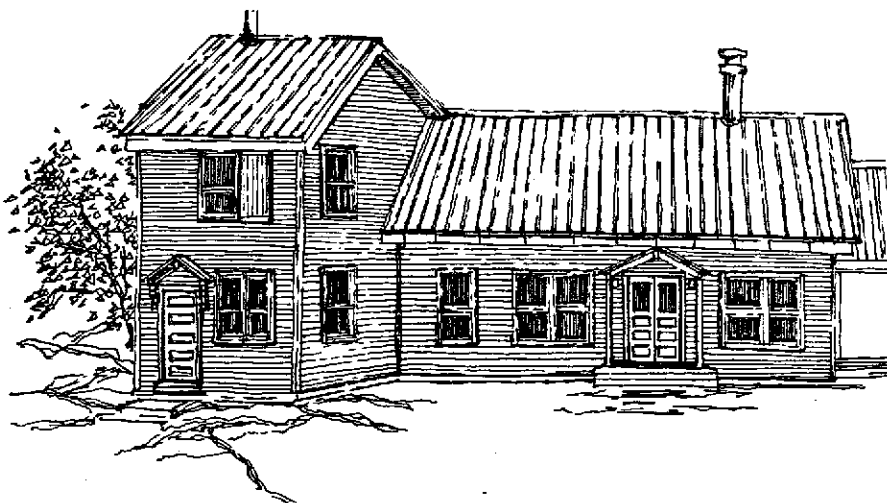
LOG CABIN

- FOR TWO YOUNG PIONEERS
- SMALL SLEEPING LOFT
- PRIMITIVE, COZY
- COMBO COOKING-HEATING WOOD STOVE
- WATER PIPED TO KITCHEN



BUNK HOUSE

- CAMP IN COMFORT
- GROUP HOSTEL FOR THE WHOLE GANG
- RETREATS, REUNIONS CONFERENCES
- LARGE ACTIVITY ROOM
- MODERN BATHS/SHOWERS
- KITCHEN
- WOOD HEATING STOVES
- SLEEPING LOFT
- PRIVATE TENTING



MINER'S SHACK

- FOR FAMILIES AND FRIENDS
- MATS AND COTS FOR SOFTIES
- TENTING FOR ROUGHNECKS
- PRIMITIVE BUT COMFORTABLE
- BIG LOFT
- PURE, COLD WATER IN KITCHEN
- WOOD HEATING STOVE
- BABBLING BROOK
- SOLAR SHOWER
- GAS OR WOOD STOVE FOR COOKING



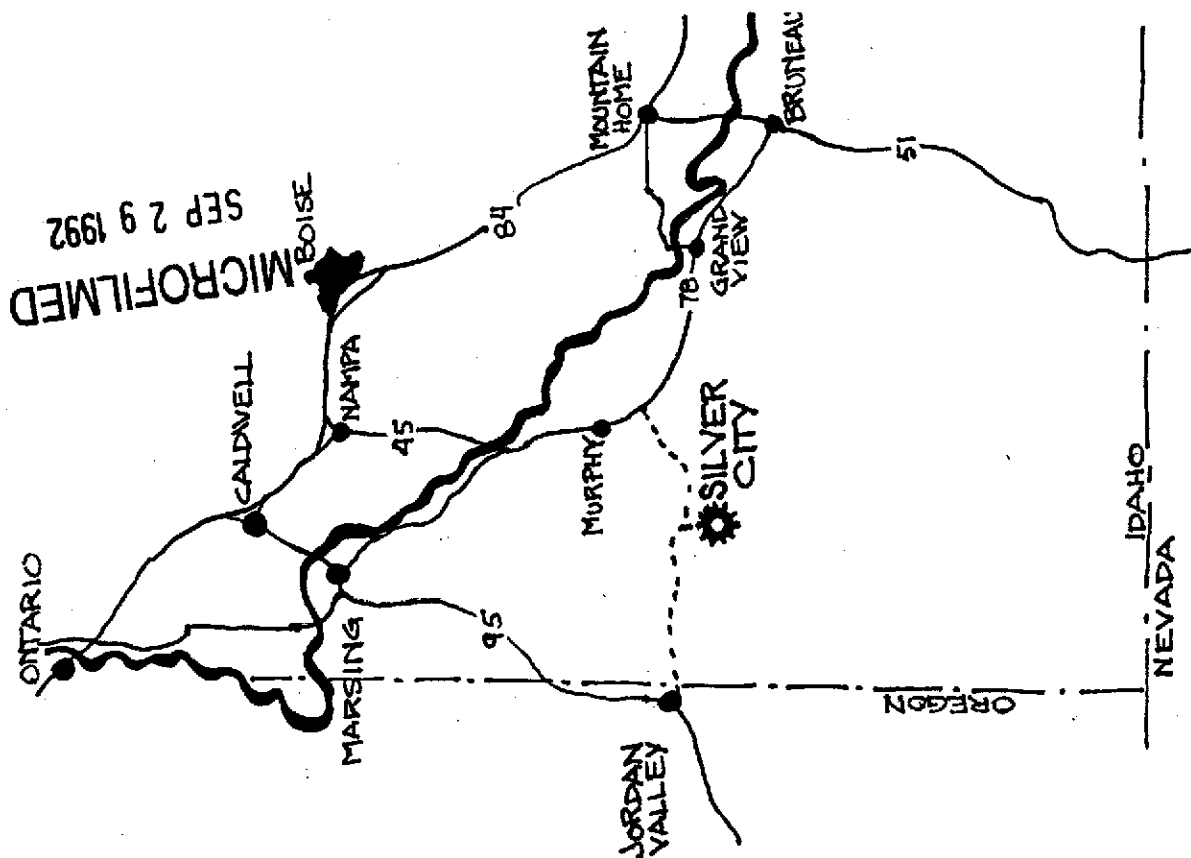
RESERVATIONS

SILVER CITY LODGINGS
P.O. BOX 56
MURPHY, IDAHO, 83650
TELEPHONE - 208-495-2868
CLOSED - NOVEMBER TO MAY
CALL FOR COSTS





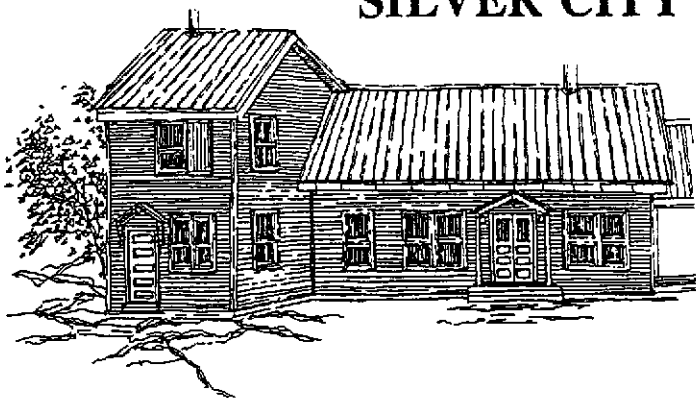
P.O. Box 56
MURPHY, IDAHO 83650



THINGS TO DO:

- HIKE YOUR HEELS OFF ON OLD ABANDONED ROADS OR HEAD STRAIGHT UP THE HILL
- FLY KITES
- GAZE AT STARS THROUGH CLEAR SKY
- TAKE PHOTOS
- BARBECUE BY AN OPEN FIRE
- PAINT PICTURES
- ROCK HUNT
- WATCH A CATTLE ROUND-UP
- PAN FOR GOLD
- SEE AN OPEN PIT MINE IN OPERATION
- PICNIC IN PRIVACY
- VISIT THE MUSEUM, CHURCH, 1864 HOTEL AND GRAVEYARD
- MAYBE HEAR COYOTES HOWL, EAGLES SCREAM, CALVES BAWL, AND CONVOYS HOLLER
- NO BEARS, POISONOUS SNAKES OR IVY
- SILENCE, GET IN TOUCH WITH YOUR FIVE SENSES

SILVER CITY LODGINGS



MICROFILMED

SEP 29 1992





Dear Sirs:

I want to tell you about a special section that The Times-News is putting together. On September 30th, we will be expanding our regular agriculture section to include more stories on seeds, beans, and other aspects of agriculture. Because your business is agriculture related, I believe that it is important for you to be in this section. The Times-News has a Sunday Circulation of about 23,000 households mostly within Twin Falls, Jerome, Gooding, Lincoln, Blaine, Minidoka, and Cassia Counties.

I am enclosing a copy of an advertisement and the cost of running this same size ad with us.

Remember, in today's changing times not all farmers and ranchers live in rural areas, many commute. Reach the people who are interested in our agriculture both in the cities and rural areas by being where they will look - in the Harvest Section of The Times-News.

Sincerely,

Billie Robertson

Billie Robertson
Inside Sales Representative

2x5

run this size 1 time
\$118.60

To run on 4 time Special
this size would be \$90.50
each ad

Hunters & Families Welcome

★ Reduced Rates For September & October 1990

Lots of Activities
Hiking, Star Gazing, Barbecuing, Picnic In Privacy, Watch A Cattle Round-up, Visit The Museum, Church, 1864 Hotel and Graveyard
Gorgeous Fall Colors.

BUNK HOUSE
Group hostel for the whole gang. Retreats, reunions, conferences. Wood heating stove. Large activity room, modern baths and kitchen. Sleeping loft. Private tenting.

MINER'S SHACK
Inside: Beds for eight softies. Outside: Tenting for Roughnecks. Primitive but comfortable living. Big loft. Pure, cold water in kitchen. Wood heating stove. Babbling brook. Gas or wood for cooking.

Silver City Lodgings

MAKE RESERVATIONS NOW
Silver City Lodgings, P.O. Box 56, Murphy ID 83656.
Telephone: 208-495-2868 or 415-368-5004



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SEP 29 1992

Caldwell Newsbrief

"The Restaurant Paper"

Published Weekdays for Boise, Caldwell, Eagle, Meridian, Middleton & Nampa
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Ex. 23

Earl's FASHION
SHOP
Nampa
Caldwell

BEAUTIFUL SWEATERS

Now is the time to make
your selection. Great variety
in each store.

814 Blaine • Caldwell
117 13th Ave. So. • Nampa
Mon-Sat 9:30am - 5:30pm



SILVER CITY LODGINGS

Visit the museum, church, 1864
hotel, graveyard. Maybe hear
coyotes howl, eagles scream,
calves bawl, cowboys holler. No
poisonous snakes or ivy.

Silver City is one of America's most
picturesque ghost towns. Sixty weath-
ered buildings waiting. Few people.

Fewer tourists.

BUNK HOUSE

Group hostel for the whole gang. Only
\$100, \$10/person for over ten people.

MINOR'S SHACK

For families, friends. \$35

Reservations 495-2868

Your health
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We can help! Call us today.

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**GOLDEN WEST
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MLS



Good Cents 3 bdrm, 2 1/2 bath home in a country estate location
with a great master bdrm. A modern classic home with a 10x32
unfinished bonus room plus more on 1.4 acres. **\$104,000**

Room, Room & More Room! Wonderful 6 bdrm, 3 bath quality
family home in an excellent location. This home features over
3500 sq.ft., tiled countertops plus a Range and DW. **\$109,000**

517 S. 10th Ave. • (208) 459-1597 • Caldwell

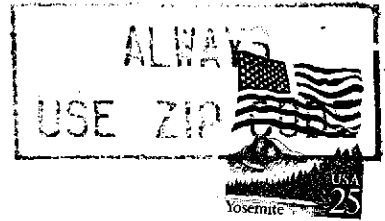
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SEP 29 1992

Phert L. Chapman

CONSULTANT

410 S. ORCHARD / SUITE 144 / BOISE, IDAHO 83705



*Check in
mailed
via air 3/14/89
Fred*

Mrs. Jan Shurte
Department of Water Resources
2735 Airport Way
Boise, ID 83705

*goes in
04151*

WOMEN

Readers Respond

Time to start thinking of wild game recipes

You may have noticed, our Readers Respond column was missing last month. But, thanks to Cindy McAtee of Idaho Falls and Barbara Hall of Bliss we have several recipes this month.

Cindy sent in lots of wonderful sourdough recipes in response to Louise Stafford's request for more sourdough recipes. I also received a request from Mrs. Leonard Jensen of Nampa for sourdough biscuit recipes. So, Cindy's recipes came at just the right time. Cindy said she loves the Women's column and found the zucchini recipes from last year a life saver as her garden produced over 300 zucchini.

Cindy was also wondering if any of you have some wild game recipes, especially using deer, elk or bear. She would prefer recipes utilizing roasts and that help to tone down the flavor.

Barbara sent in a recipe answering my request for ways to use tomatoes. She said it goes over big at family gatherings. She writes, "So simple to fix, yet so tempting. Celery gives the dressing a pleasing crunch."

I am busy working on our 3rd Annual Cookbook; it gets bigger and better every year. It will include all the sourdough recipes that our readers contributed, a very informative chapter on wedding recipes and tips on preparing for the wedding; there will be the always popular chapter on dieting and all the recipes that were published in Farm Times for the last 12 months. Be sure to get your order in as soon as it is announced. Also, we still have a few copies of the 2nd Annual Cookbook left, so you might want to hurry and order one before we move on to this year's version.

HALL'S RELISH TOMATOES
1 medium sized tomatoes, peeled
1/2 cup finely chopped parsley
1/2 cup finely chopped celery
1 small onion, finely chopped
1 tsp. sugar
1 tsp. salt
1 tsp. seasoned salt
1/2 tsp. seasoned pepper
1/4 tsp. thyme
1/4 tsp. curry powder
1 cup olive oil
1/3 cup wine vinegar or cider vinegar
Cut out stem ends of tomatoes; cut tomatoes into 1/2" thick

slices; arrange in layers in a large shallow serving bowl.

Combine remaining ingredients in a jar with tight-fitting lid. Shake well to mix; pour over tomatoes, cover. Chill at least an hour to season and blend flavors. Save remaining dressing in bowl for tossing with green salad for another day.

McATEE'S SOURDOUGH STARTER

2 cups enriched flour
1 pkg. dry yeast
2 cups warm water

Combine ingredients in large bowl, not metal. Mix together until well blended. Let stand uncovered in warm place (80 to 85 degrees) for 48 hours; stir occasionally. Stir well before use. Pour out required amount and replenish remaining starter by mixing in 1 cup each flour and warm-water, for every cup used. Let stand uncovered in a warm place a few hours until it bubbles again before covering loosely and refrigerating. Use the replenished starter every two weeks.

McATEE'S SOURDOUGH PANCAKES

1 cup enriched flour
1 cup starter
1/2 cup milk
1 egg, beaten
2 tsp. sugar
2 tsp. oil
1/2 tsp. baking powder
1/2 tsp. salt
1/2 tsp. baking soda

Measure flour starter and milk into large mixing bowl, not metal. Beat until smooth. Cover loosely with waxed paper and let stand in a warm place (80 to 85 degrees) at least 18 hours. Add remaining ingredients and stir until smooth. Bake on lightly greased preheated 400 degree griddle, using one tablespoon of batter for each pancake.

McATEE'S SOURDOUGH BREAD

3 cups enriched flour
1 cup starter
2 cups warm water
2 tsp. sugar
1 tsp. salt
1 tsp. baking soda
3 1/2 cups enriched flour, about corn meal
melted butter

Measure 3 cups flour, starter, water, sugar, salt and baking soda into large mixing bowl, not metal. Beat until smooth. Cover loosely

with waxed paper and let stand in warm place (80 to 85 degrees) at least 18 hours. Stir batter down. Mix in more flour to make a moderately stiff dough. Turn onto lightly floured surface and knead until smooth and satiny, about 8 to 10 minutes. Shape dough, place on greased baking sheets that have been sprinkled with corn meal; brush with butter. Cover and let rise in warm place until doubled, about 1 1/2 hours. Bake in preheated 400 degree oven 40 to 50 minutes, or until done. Brush with butter.

McATEE'S SOURDOUGH BISCUITS

1/2 cup flour
1 cup starter
2/3 cup milk
1 tsp. sugar
1 1/2 cup flour
2 tsp. baking powder
1 tsp. baking soda
1 tsp. salt
1/2 cup shortening

Measure 1/2 cup flour, starter, milk and sugar into mixing bowl, not metal; beat until smooth. Cover loosely with waxed paper and let stand in warm place (80 to 85 degrees) at least 18 hours. Stir batter down. Stir together 1 1/2 cups flour, baking powder, baking soda and salt. Cut in shortening until mixture resembles coarse crumbs. Blend in starter mixture. Add more flour if necessary to make a soft dough. Turn onto lightly floured surface and knead gently 30 seconds. Roll out 1/2 inch thick. Cut out biscuits with floured cutter. Place on ungreased baking sheet. Bake in preheated 450 degree oven for 10 to 12 minutes.

McATEE'S SOURDOUGH ITALIAN BREAD

2 cups enriched flour
2 cups warm water
1/3 cup starter
2 tsp. sugar
3-3 1/2 cups flour
1 pkg. dry yeast
2 tsp. salt
1 1/2 tsp. baking soda
Combine 2 cups flour, water,

Continued on page 15

PUBLIC NOTICE

EXCESS

SINGER SEWING MACHINES AND SERGERS

The V.B.R. Education Department placed orders in anticipation of large school sales. Due to budget cuts these sales were unclaimed. These machines must be sold. These new Singer Open Arm Machines sew all fabrics, Levi's, canvas, upholstery, nylon, stretch, vinyl, silk, **EVEN ON LEATHER.** Machines are designed to zig zag, overcast, buttonhole, and much more. With 10 year nationwide warranty. Now \$148, regular \$329. Also limited quantity of various name brand sergers. Credit cards - C.O.D. We ship U.P.S.

Call 1-800-658-4376 Ext. 100

KEEP YOUR HEATING DOLLARS AT HOME

By Burning American Grown Corn

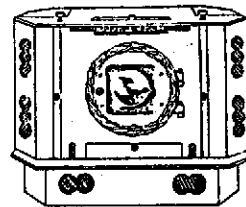
DOVETEC™

CORN HEATER

★ Pollution Free

For More Information Call:

Blamires & Sons
36 S 100 W
Jerome, Idaho 83338
(208) 324-2885



Hunters & Families Welcome

★ Reduced Rates
For September
& October
1990



Lots of
Activities

Hiking, Star Gazing,
Barbecuing, Picnic In
Privacy, Watch A Cattle
Round-up, Visit The Museum,
Church, 1864 Hotel and Graveyard
Gorgeous Fall Colors.

BUNK HOUSE

Group hostel for the whole gang.
Retreats, reunions, conferences. Wood heating stove.
Large activity room, modern baths and kitchen.
Sleeping loft. Private tenting.

MINER'S SHACK

Inside: Beds for eight softies.
Outside: Tenting for Roughnecks.
Primitive but comfortable living.
Big loft. Pure, cold water in kitchen.
Wood heating stove. Babbling
brook. Gas or wood for cooking.



Silver City Lodgings

MAKE RESERVATIONS NOW:

Silver City Lodgings, P.O. Box 56, Murphy ID 83650.
Telephone: 208-495-2868 or 415-368-5004

FARM FOR RENT

80 ACRES
Southeast of New Plymouth.

- Ideal Dairy Operation
- Gravity Irrigated
- Running Water Year Around

WILL RENT VERY REASONABLE
(Must Have References)

Needs Work On Land And Buildings
Box 433, Rupert, Idaho 83350
Or Call 436-1111
For More Information

Arlene Whitten



**A Positive Choice
For Canyon County**

Representative District 11 Seat B

I believe that the state water polluting control funds should be managed well and used for the purposes they were intended. If this policy is followed, new industry could be attracted to rural areas, the environment of the area protected and new jobs created to help the local economy.

Governor Andrus' policy of aggressively marketing Idaho specialty crops, needs to be continued and expanded into markets that don't have our technology. (i.e. Eastern Europe). This would allow farmers to raise more, create more jobs and put the economic growth back into the community.

- ★ Our children are our future
- ★ A healthy economy is vital
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WOMEN

Country parson suffers from carpenter mania

You can spot most ministers, politicians, lawyers and similar professionals by their hands. Clean, manicured nails and soft, uncalloused flesh are a dead giveaway.



*Country
Parson's
Wife*

By ADELL HARVEY

Not so with my country clergyman. The skin on his hands is as tough as a boiled owl and his nails look like the aftermath of an oilspill. An obsessive remodeler, my parson has been at the building game for 21 (count 'em) years of our 22 years of married life.

Which means I have yet to live in a completed house, one with all the trim on the walls and window frames, sidewalks poured and something besides the scent of fresh sawdust and paint permeating the air.

At this point in our latest remodel, I'd settle for doors on the

bedroom, a kitchen sink hooked up, and a bathroom that flushes!

He keeps telling me when I get to the great Subdivision in the Sky my mansion will be complete and ready to move into. With my luck, St. Peter will have to move me in with some Methodist while waiting for the carpet layers to finish!

His itch to remodel began twitching immediately after our marriage, when it became evident my one-and-one-half story farmhouse would not hold his brood of four plus my three. My preacher-turned-catastrophic carpenter got out the slide rule, amateur house-builder's handbook, and drawing board.

Armed with a long list of materials, he headed for the nearest lumber yard, where we soon discovered things that are sold by the foot usually cost an arm and a leg.

Undaunted, he assembled all his materials and showed me the blueprints of the lovely new addition he envisioned.

Now, I can read a blueprint as efficiently as I can read a dress pattern, which is to say that those squiggly lines meant nothing to me but ultimate disaster.

This man wanted to tear the roof off my house! The whole roof! All at once! I began playing the "what if" game. What if it rains? What if winter sets in before we're finished? What if we run out of money before we get the roof back on?

My gallant house builder patiently answered all my questions, assuring me that none of those things were going to happen. The weather would hold, and he was prepared for every contingency.

I should have known better than to trust an optimist. The minute we got the roof off, it began to pour rain, for days and for nights—forty days and forty nights. A Noah's ark analogy began to surface. Maybe there was something to the way our two families merged and made our two-by-two entrance into the house.

My parson was prepared for contingencies, true enough. Before tearing off the old roof structure, he had roughed in the new one over the top. But roughed-in roofs do not have insulation or shingles or rolled roofing to keep out the weather. They have cracks—huge cracks, to let it in.

The attic had been our newlywed suite, so all our clothes, bedding and books got soaked. The downstairs didn't fare much

better. The moisture loosened the ceiling plaster, causing a plastic disaster of earthquake magnitude.

We survived that remodel and got the house finished just in time for its new owners to move in—the story of my life. Since initial success, we've become regular remodeling marathoners with one of us "running the race with patience," as the Apostle Paul says.

One of us, me, has never been quite that patient! I'll admit, the beginning of each project is rather exciting, as we lie awake in the early morning hours discussing our dream house, the tons of storage the project will add, the beautiful views we'll have when we tear out that east wall, and on and on.

Reality sets in with a THUD when the walls come tumbling down, sawdust and drywall dust settle on everything, and a struth through the dark for a nocturnal bathroom visit could easily land in the hospital instead. At least we don't have to worry about burglars—they'd never get through the mess alive!

Over the years, as my preacher has remodeled one parsonage after another, he has accumulated a wealth of power tools, which sure saves time...allowing him to make twice as many mistakes. Power sander, power router, power saws, power vac, power screwdriver, power drill, power hammer. The minute he plugs 'em in, the electric meter starts to grin!

Remodeling is not for sissies, nor for those whose marriages can't stand the excitement. A major remodel will test the strongest marriage, as well as our relationship with Mother Nature and the natural survival instincts of the faint of heart.

Our marriage has remained intact because I'm still gullible enough to believe my optimistic other half. Each time he promises this will be the last project, that this time we'll get the building done and be able to sit back and enjoy it. Is there something inherently wrong with a woman who still trusts a man who tore the roof off her house in the middle of an Illinois winter?

Right now, he's promising that this, our own log cabin in Idaho, is our very last remodeling project. When we get finished with this one, we're going to stay put and enjoy the fruits of our labor. At the rate we're going, I figure we ought to have the kitchen done in time to sell it when we move into a nursing home!

In the meantime, you'll recognize my country parson when you see him. He's the one with a carpenter's belt, heavy with hammers, slung around his middle like a six-gun holster. And his hands? They're the ones that are covered with bandages and blisters and blackened fingernails.

But who am I to fault my "Catastrophic Carpenter?" When Jesus, the Master Preacher, said "Follow me," my parson took it quite literally. After all, didn't Jesus also have the work-worn hands of a carpenter?

Give assorted salad greens a tangy smoky flavor by adding julienne strips of smoked Gouda or smoked Mozzarella cheese. Serve with buttermilk Ranch dressing. What could be a better accompaniment for your favorite barbecue meals.

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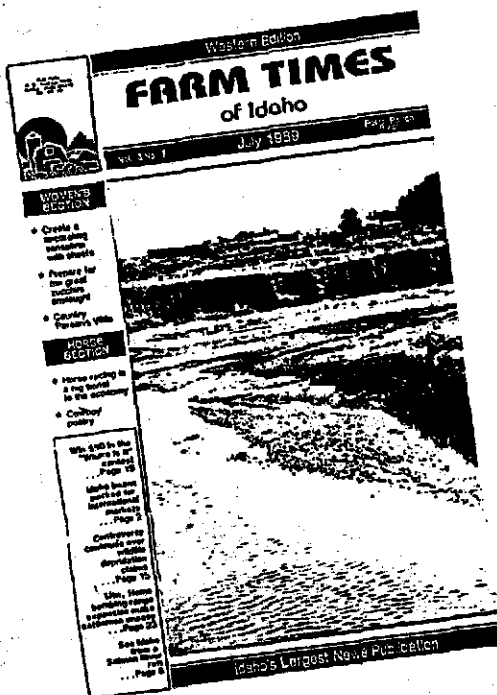
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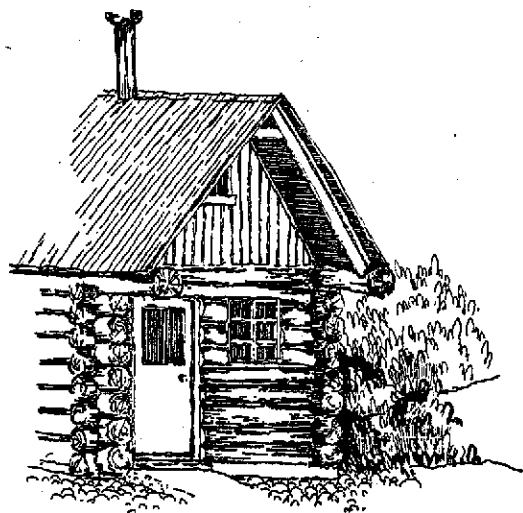
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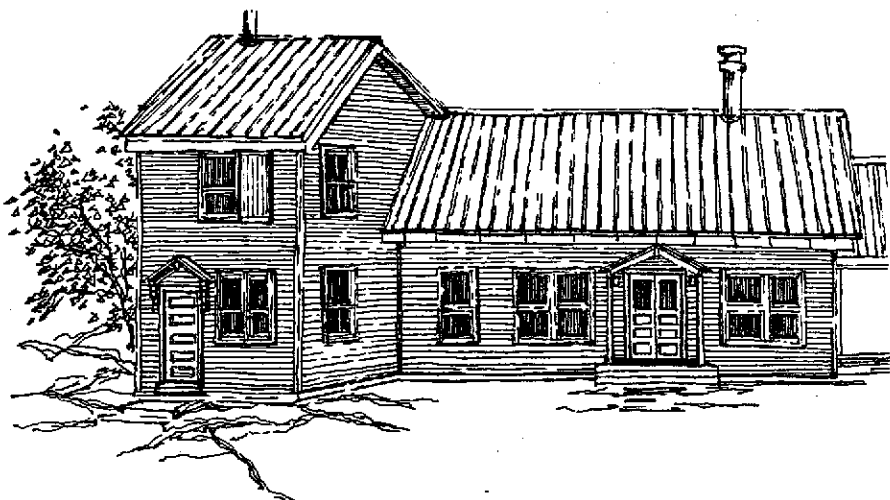
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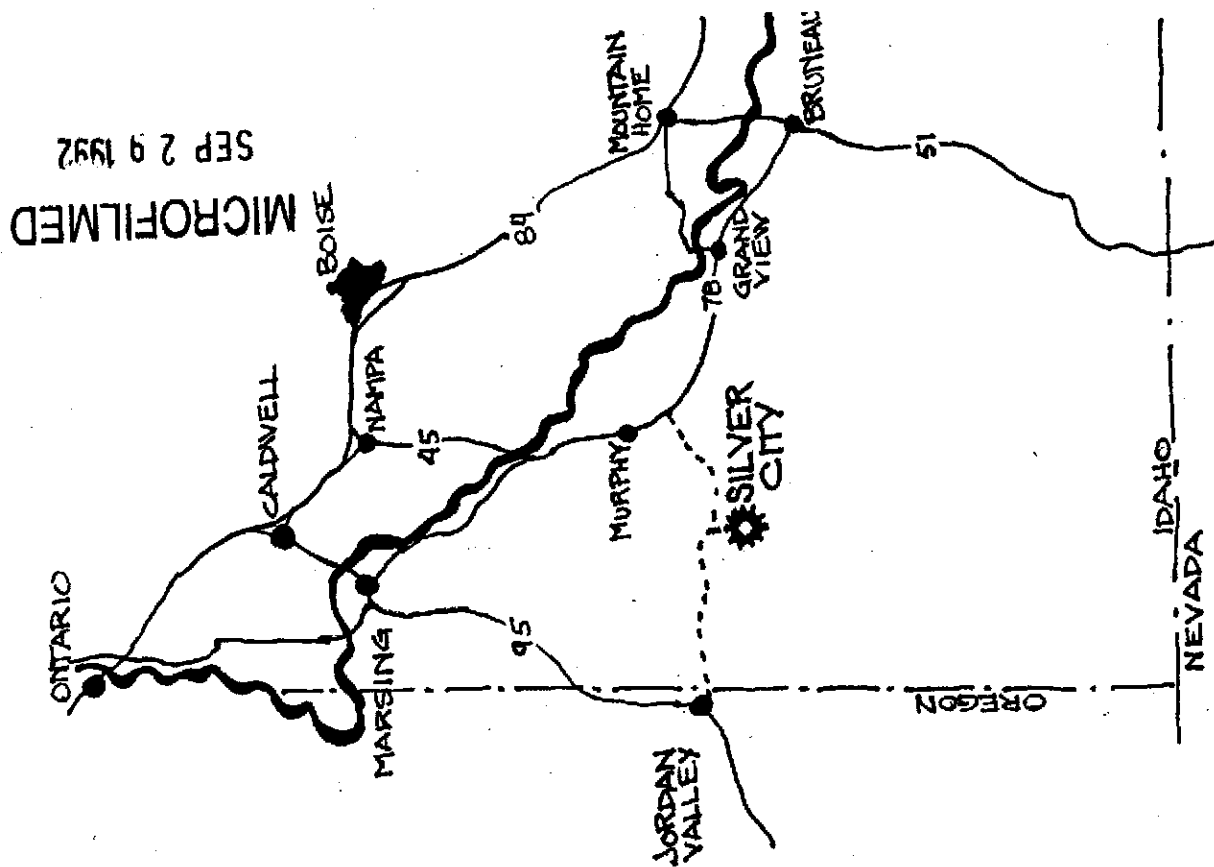


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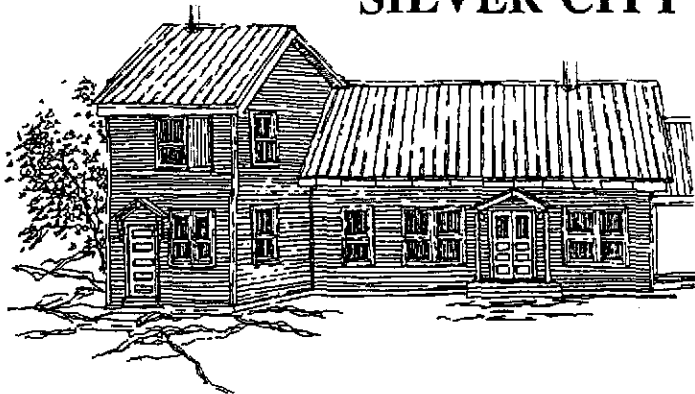
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55-04151 Nov. 16, 1988
Gloria Otto
P.O. Box 56
Murphy, ID 83650

USES OF OVERFLOW AND LOST WATER FROM SILVER CITY WATER SYSTEM

HISTORY OF TIPTOP MILLSITE AREA - In 1866, The Lincoln Silver Company built a mill complex consisting of a 20-stamp mill, a residence, a barn, an office and several auxiliary buildings on the northwestern edge of Silver City, Idaho, Section 6, T5S, R3W, on the eastern flank of Florida Mountain. An extensive water system consisting of a ditch, a big tank, and four-inch heavy gauge metal pipes, was installed to service a steam plant to run the mill and supply other needs. The mill operated from 1866 until 1910 (except for short-termed interruptions) when it was moved to Flint. In 1898, the five acres surrounding the mill were patented by the TipTop Mining and Milling Company. In 1901, the storehouse (the only one of the original buildings to survive until now) was sold to the Trade Dollar Mining and Milling Company and converted into a substation to service electrical power from Swan Falls Dam. This building is shown on the Sanborn Map of Silver City 1903 as being half domicile and half substation. The building provided living quarters for the substation operator and his family as well serving as a substation. In 1915 The Idaho Power acquired the building and a small parcel of land around the building. The substation operator kept one or two horses to help patrol the transmission lines. The barn and yard were serviced from the overflow and lost water from the city tank. Water was used year around. (See enclosed affidavits, Terry, Kidder).

Ned Williams acquired the Idaho Power property in 1946 as a consequence of contracting to salvage the materials from the Idaho Power electrical transmission system south of Murphy. Mr. Williams used the lost water and overflow to maintain a string of pack animals for salvage operations and for a crew camp and in preparation of salvage for shipping and sale. In addition to the building, Mr. Williams acquired approximately three acres of land, the western half of the millsite. He deeded his holdings to his daughter, Gloria Otto, in 1956. When the contract with the Idaho Power Company was completed, Mr. Williams used the water to operate placer mining equipment such as heavy metals separators and panners.

From 1953 on, the Otto family used the property as their principal place of residence between occupational relocation moves for Mr. Otto and for a summer residence. They used the overflow and lost water as a supplement to the water available at the Idaho Power House. Although no formal lawn has been maintained (in keeping with the native plant aspect of traditional Silver City landscaping) the water is necessary for ground cover, trees, and shrubs.

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During the period of time when the Otto family was overseas, Mr. Williams rented the property from the Ottos or subleased it to renters. After 1967, the Otto family has used the Idaho Power building as a dormitory for the children and their friends and relatives. The Ottos rented the flat and the log cabin to the families of Robert Leonard, Ralph Moore, Eugene Perkins and Rick Albertine. (See affidavits O'Neill (formerly Albertine)).

From 1980 to 1987, the millsite has been rented to a placer mining exploration company. For short periods during the summers of 1987 and 1988, the Archaeology department of the University of Idaho at Moscow has rented the Idaho Power House and the flat. Both groups used the water for domestic purposes. The miners operated a concentrator with the water. The archaeologists washed artifacts and controlled dust from excavations.

Although the volume of water from the overflow of the city water system fluctuates, the water has been vital to the environment of the millsite and has provided an important auxiliary supply. Except during severe drought and heavy usage of water, the water flows in a channel which diverts the water away from the foundations of the building and into an area which fosters plant and tree growth. The recently enacted zoning law requires that landscaping with historic significance be preserved. The value of the quaking aspen grove and the shrubs and wildflowers were part of the historian-architect's plan for the development of the group hostel at the Idaho Power house. Loss of the overflow water would endanger the plants between the city tank and the tailings pit. The Otto's have gone to considerable expense to provide control of the water (metal culverts under the roads, rock lined ditches and a flume). Although the Ottos used the water constantly during the summers of 1987 and 1988, they were inconvenienced by the decreased volume and were prevented from leasing to the mining company which had used the water from 1980 onward.

Owners of the TipTop millsite have a long history of domestic and commercial use of the overflow and lost water from the city water tank and are depending on it for their present endeavors. It will be more important than ever in the future as the use of the property, which has been converted frequently to keep step with changing times, is adapted again to an appropriate use...a group hostel for recreation and education pursuits.

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RECORD OF USE

BACKGROUND - The history of the use of overflow or lost water by the owners of the building (now known as the Idaho Power building) begins with a period of time (1865) when the building was part of the mill complex and cannot be separated from the whole until 1901 when the TipTop Mining and Milling Company sold the building and a small area around it to the Trade Dollar Mining and Milling Company. 1901 marks the end of the use of steam as a principal source of power and the beginning of the electric era. It was a time of great change. After 1901, the Idaho Power building was an independent entity with a history of its own. Its relationship to the overflow or lost water from the city system is easy to document because there are people alive who used the water. The following account supplies date and details of that history.

1901 - The Trade Dollar Mining and Milling company purchased the building which had been used as a storehouse in the mill complex and converted it into a substation for the electricity generated by the power plant at Swan Falls Dam on the Snake River. Part of the building was converted into living quarters for the substation operator and his family. The building had water piped into it from the city water system, but the stream that came from the overflow from the city's wooden tank, located directly uphill from the Idaho Power building, provided an auxiliary supply to the barn and grounds west of the building. The operator kept one or two horses to help patrol the transmission lines and move supplies. The property passed through ownership of several small electric power companies before the Idaho Power Company acquired it in 1915.

1922-1939 - Ben Kidder, substation operator, and his family lived in the above-mentioned building and used the overflow water for the horses and the west yard. His son, Pat Kidder, operated a placer mine on the flat near the house using overflow water. (Affidavits Kidder and Terry).

1939-1941 - Harry Meek, substation operator, built a new barn and diverted the water to it through a wooden flume. He also fenced about three-acres west of the substation and used the lost water to increase pasturage for the horse.

1941-1953 - The Idaho Power Company terminated electric power service to a large area of Owyhee County. Ned Williams under contract to the Idaho Power Company removed all the transmission lines and substations in the area. He used the fenced-in plot as a collection site for salvage and maintained a string of pack horses. A trough, a flume and several fifty-gallon barrels were added to the water delivery system. In the latter stages of the salvage operation the water was used to prepare salvage for sale.

1953-1968 - Gloria Otto and her children lived in the Idaho Power House during summers and used the lost water and overflow from

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the city system for gardening, irrigation and animals and for guests who camped on the flat near the house. At various times, the family kept a horse. Ned Williams deeded the property to his daughter, Gloria Otto, in 1956.

1970-1973 - Warren Otto and Ned Williams used the lost water to process concentrates from placer operations on the Manhattan claim. For several summers young men were employed and lived at the Idaho Power House. (Affidavits Singleton, Cowett, Dorst).

1973-1980 - Gloria Otto rented the barn (converted into a log cabin residence) to various people. Two families gardened there (Affidavits O'Neill (formerly Albertine) and Leonard).

1979 - Gloria Otto asked the officers of the Silver City Taxpayers' Association to help her solve a problem which was being caused by the lost water from its city water tank, located directly uphill from the Idaho Power Building. The lost water was running onto her property, cutting gullies and damaging the Idaho Power House and garage. The water saturated the hill as the water ran all year long, being particularly heavy in the winter when the city pipelines were shut off. The officers informed Mrs. Otto that they had no money to repair the damages to her property and that they could not be held responsible for those damages. Mrs. Otto replied that if she had to bear the expense of repairing the damage and to provide control of the water, she would install a system which would make more efficient and profitable use of the water. They told her that they had no objection to her using the water as they had no use for it. Mr. Otto with the help of Al Krause repaired the flume and headgate and diverted and corraled the water between the tank and the flume. The water that was running down on the east side of the house was diverted into the channel that fed the flume. On August 24, 1981, Gloria Otto filed a water permit on the lost water and overflow from the city water system. Later this permit was amended to include a spring which rose in the area of the water tank.

1975-1988 - Gloria Otto employed various contractors (geologists, water consultants, architects, historians and builders) to assist in the renovation of the Idaho Power House. Her intention is to restore the building in keeping with historic standards for the purpose of establishing a hostel for groups such as college field classes, church or non-profit organizations, reunions, etc. The area has been torn up for several year by heavy earth-moving equipment for site preparation. However, use is being made of the lost water and the overflow even though the water delivery systems have been destroyed or altered.

1897-1988 - During the summers several groups have rented the Idaho Power House and the surrounding area for short periods of time. (Affidavits Archaeologists from the University of Idaho at Moscow).

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SEP 29 1992

57-4058
original

A F F I D A V I T

I, Eudora Terry, of Route 8, P.O. Box 609, Caldwell 83605
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5N, Range 3 W.

Information I can formally attest to is as follows:

1. Source of water tunnel
2. Date of first use of water 1922
3. Nature of use domestic, irrigation, commercial
4. Quantity of water diverted variable
5. Use of water by this owner small placer operation, lawn, horse.
6. Other information My husband, Ben Kidder, was substation operator
for Idaho Power Company from 1922 until 1939 at Silver City, Idaho.

Eudora Terry
Signature

STATE OF IDAHO

County of CANYON

Subscribed and sworn to before me this 5th day of JANUARY, 19 88.

(NOTARY SEAL)

Chela Sheffer
Notary Public

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SEP 29 1992

~~57-4058~~
55-04151
EX 10

AFFIDAVIT

I, Eudora Terry, of Route 8, P.O. Box 609, Caldwell 83605
Post Office Address

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the NW 1/4, SE 1/4, Section 6, Township 5N, Range 3W.

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2. Date of first use of water 1922
3. Nature of use domestic, irrigation, commercial
4. Quantity of water diverted variable
5. Use of water by this owner small placer operation, lawn, horse.

6. Other information My husband, Len Kidder, was substation operator
for Idaho Power Company from 1922 until 1939 at Silver City, Idaho.

Eudora Terry
Signature

STATE OF IDAHO

County of CANYON

Subscribed and sworn to before me this 5th day of JANUARY, 19 88.

(NOTARY SEAL)

Chela Shaffer
Notary Public

MICROFILMED
SEP 29 1992

~~57-4058~~
55-04151
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Eudora Terry
Signature

STATE OF IDAHO

County of CANYON

Subscribed and sworn to before me this 5th day of JANUARY, 19 88.

(NOTARY SEAL)

Chela Shaffer
Notary Public

MICROFILMED
SEP 29 1992

57-4058
35-04151
1980-1987
16

AFFIDAVIT

I, Leo Hampton, of P.O. Box 1603, Edmond, Ok. 73083
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water tunnel and flume diverting water from spring and overflow from city water tank.
2. Date of first use of water summers from 1980 to 1987
3. Nature of use commercial and domestic
4. Quantity of water diverted varies from one quart per minute to four gallons per minute
5. Use of water by this owner _____

6. Other information Our use consists of operating a separator of gold and silver concentrates, and a mining camp of two to eight persons.

Leo Hampton
Signature

STATE OF _____

County of Ottawa

Subscribed and sworn to before me this 1st day of December, 1987.

(NOTARY SEAL)

Glenda Rye
Notary Public

MICROFILMED
SEP 29 1992

57-4058
original

A F F I D A V I T

X

I, Leo Hampton, of P.O. Box 1603, Edmond, Ok. 73083
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water tunnel and flume diverting water from spring and overflow
from city water tank.
2. Date of first use of water summers from 1980 to 1987
3. Nature of use commercial and domestic
4. Quantity of water diverted varies from one quart per minute to four
gallons per minute
5. Use of water by this owner _____

6. Other information Our use consists of operating a separator of gold and
silver concentrates, and a mining camp of two to eight persons.

Leo Hampton
Signature

STATE OF _____

County of Oklahoma

Subscribed and sworn to before me this 1st day of December 1987.

(NOTARY SEAL)

Glenda R. [Signature]
Notary Public

MICROFILMED
SEP 29 1992

~~57-4058~~
55-04151
1980-1987
16

AFFIDAVIT

I, Leo Hampton, of P.O. Box 1603, Edmond, Ok. 73083
Post Office Address

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3. Nature of use commercial and domestic
4. Quantity of water diverted varies from one quart per minute to four gallons per minute
5. Use of water by this owner _____

6. Other information Our use consists of operating a separator of gold and silver concentrates, and a mining camp of two to eight persons.

Leo Hampton
Signature

STATE OF _____

County of Ottawa

Subscribed and sworn to before me this 1st day of December, 1987.

(NOTARY SEAL)

Glenda Rye
Notary Public

MICROFILMED

SEP 29 1992

55-04151
1972-1973

A F F I D A V I T

I, Jean O'Neill, of 199 Brown, Providence, RI 02906
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water spring, tunnel and flume
2. Date of first use of water _____
3. Nature of use domestic and agricultural
4. Quantity of water diverted variable, about two gallons per minute
5. Use of water by this owner _____

6. Other information My family had a vegetable garden during the
summers of 1972 and 1973. We used the water for domestic
purposes in 1972.

Jean O'Neill
Signature

STATE OF Rhode Island
County of Providence

Subscribed and sworn to before me this 27 day of November, 1987.

(NOTARY SEAL)

Dennis J. McQuinn
Notary Public

Commission expires June 30, 1991

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SEP 29 1992

BY HIS EXCELLENCY EDWARD D. DiPRETE

Governor, Captain-General and Commander-in-Chief of the

f Rhode Island and Providence Plantations.

McSWEENEY

GREETING:

N.N.I.S....F....M.C.S.W.E.E.N.E.V..... having been duly appointed to the place

NOTARY PUBLIC

said, for the term ending June 30, 1991 are hereby, in the name of the State of Rhode Island and
ations, commissioned, authorized and empowered to do all things by law required and appointed
tate aforesaid; and for so doing this Commission shall be your sufficient warrant and discharge.

Edward D. DiPrete

Governor.

Susan L. Turner

Secretary of State.

copy

AFFIDAVIT

I, Jean O'Neill, of 199 Brown, Providence, RI 02906
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water spring, tunnel and flume
2. Date of first use of water _____
3. Nature of use domestic and agricultural
4. Quantity of water diverted variable, about two gallons per minute
5. Use of water by this owner _____

6. Other information my family had a vegetable garden during the
summers of 1972 and 1973. We used the water for domestic
purposes in 1972.

Jean O'Neill
Signature

STATE OF Rhode Island
County of Providence

Subscribed and sworn to before me this 27 day of November, 1987.

(NOTARY SEAL)

Dennis J. McQuinn
Notary Public

Commission expires Jan 30, 1991

MICROFILMED

SEP 29 1992

AFFIDAVIT

I, Jean O'Neill, of 199 Brown, Providence, RI 02906
Post Office Address

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2. Date of first use of water 1922
3. Nature of use domestic and agricultural
4. Quantity of water diverted variable, about two gallons per minute
5. Use of water by this owner _____

6. Other information My family had a vegetable garden during the
summers of 1972 and 1973. We used the water for domestic
purposes in 1972.

Jean O'Neill
Signature

in flat
behind log cabin
bldg.

STATE OF Rhode Island
County of Providence

Subscribed and sworn to before me this 27 day of November, 1987.

(NOTARY SEAL)

Dennis J. McQuinn
Notary Public
Commission expires June 30, 1991

MICROFILMED
SEP 29 1992

AFFIDAVIT

I, Jean O'Neill, of 199 Brown, Providence, RI 02906
Post Office Address

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2. Date of first use of water 1922
3. Nature of use domestic and agricultural
4. Quantity of water diverted variable, about two gallons per minute
5. Use of water by this owner _____

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summers of 1972 and 1973. We used the water for domestic
purposes in 1972.

Jean O'Neill
Signature

IN Flat
behind 19 card
bldg.

STATE OF Rhode Island
County of Providence

Subscribed and sworn to before me this 27 day of November, 1987.

(NOTARY SEAL)

Dennis J. McQuinn
Notary Public
Commission expires June 30, 1991

MICROFILMED
SEP 29 1992

57-4058
original

AFFIDAVIT

I, PATRICK L. KIDPER, of 3373 WINTHROP ST.
CONCORD, CA, 94520
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water OVERFLOW FROM CITY WATER TANK + DITCH FROM LONG GULCH.
2. Date of first use of water 1937
3. Nature of use COMMERCIAL
4. Quantity of water diverted 6 INCH PIPE REDUCED TO 2 INCHES
5. Use of water by this owner HYDRAULIC PLACER GOLD MINING
6. Other information THIS WATER WAS ALSO USED TO CLEANSE THE HORSE BARN AND OTHER VARIOUS CLEANING CHORES.

11/23/87

Patrick L. Kidper
Signature

STATE OF

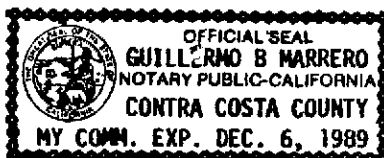
California

County of

Contra Costa

Subscribed and sworn to before me this 23 day of November, 1987.

(NOTARY SEAL)



[Signature]
Notary Public

MICROFILMED
SEP 29 1992

AFFIDAVIT

57-4058
55-0451
EX 11

I, PATRICK L. KIDDER, of 3373 WINTHROP ST.
CONCORD, CA, 94520
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NW 1/4, SE 1/4, Section 6, Township 5S, Range .

Information I can formally attest to is as follows:

1. Source of water OVERFLOW FROM CITY WATER TANK + DITCH FROM LONG GULCH.
2. Date of first use of water 1937
3. Nature of use COMMERCIAL
4. Quantity of water diverted 6 INCH PIPE REDUCED TO 2 INCHES
5. Use of water by this owner HYDRAULIC PLACER GOLD
MINING
6. Other information THIS WATER WAS ALSO USED TO
CLEANSE THE HORSE BARN AND OTHER VARIOUS
CLEANING CHORES.

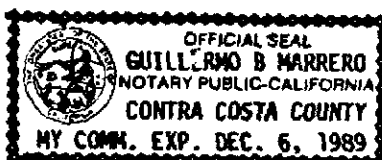
11/23/87

Patrick L. Kidder
Signature

STATE OF California
County of Contra Costa

Subscribed and sworn to before me this 23 day of November, 1987.

(NOTARY SEAL)



[Signature]
Notary Public

MICROFILMED

SEP 29 1992

AFFIDAVIT

57-4058
55-0451
EX 11

I, PATRICK L. KIDDER, of 3373 WINTHROP ST.
CONCORD, CA, 94520
Post Office Address

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CLEANING CHORES.

11/23/87

Patrick L. Kidder
Signature

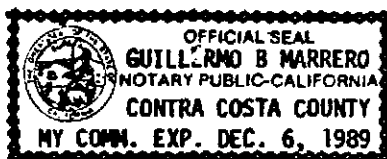
STATE OF

California
County of Contra Costa

Subscribed and sworn to before me this 23 day of November, 1987.

(NOTARY SEAL)

Guillermo B. Marrero
Notary Public



MICROFILMED

SEP 29 1992

57-4058
original

X

A F F I D A V I T

I, Darby Stapp
Julie Longenecker Stapp, of P.O. Box 596, Pullman, Wa. 99163
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the 1/4, 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water Flume
2. Date of first use of water 1987 1974
3. Nature of use domestic, commercial and irrigation
4. Quantity of water diverted _____
5. Use of water by this owner cleansing of archaeological artifacts,
settling driveway dust, watering vegetation around campsites
6. Other information _____

Darby Stapp
Julie Longenecker Stapp
Signature

STATE OF IDAH0

County of LATAH

Subscribed and sworn to before me this 8th day of SEPT, 1987.

(NOTARY SEAL)

Nancy Mc Connachie
Notary Public

MICROFILMED

SEP 29 1992

A F F I D A V I T

I, (refer to list of names), of Post Office Address
 (on reverse)

do hereby affirm that I have personal knowledge of the spring located in
 the 1/4, 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water Flume and hose.
2. Date of first use of water 1987
3. Nature of use Commercial & washing of archaeological artifacts.
4. Quantity of water diverted
5. Use of water by this owner
-
-
6. Other information
-
-

Signatures on back

Signature

STATE OF

County of

Subscribed and sworn to before me this day of , 19.

(NOTARY SEAL)

Notary Public

MICROFILMED
 SEP 29 1992

Today's Diary 8/10/87

Robert Peterson 8-10-87

Matthew C. Cayton 8/10/87

Lee D Allen 8/10/87

Charlotte Allen 8/10/87

Mike Petersen 8/10/87

James W. Hout 8/10/87

John D. King 8/10/87

Betty Ann Sowards 8/10/87

MICROFILMED

SEP 29 1992

AFFIDAVIT

57-4058
changed to
55-04151
18

I, Darby Stapp
Julie Longenecker Stapp, of P.O. Box 596, Pullman, Wa. 99163
Post Office Address

do hereby affirm that I have personal knowledge of the spring located in
the NE 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water Flume
2. Date of first use of water 1922 (Our use - 1987)
3. Nature of use domestic, commercial and irrigation
4. Quantity of water diverted _____
5. Use of water by this owner cleansing of archaeological artifacts,
settling driveway dust, watering vegetation around campsites
6. Other information _____

Darby Stapp
Julie Longenecker Stapp
Signature

STATE OF IDAHO

County of CATAH

Subscribed and sworn to before me this 8th day of SEPT, 1987.

(NOTARY SEAL)

Nancy McConachie
Notary Public

MICROFILMED
SEP 29 1992

AFFIDAVIT

57-4058

55-04151

#18

Student 1 Slaper
Vol I

I, (refer to list of names), of Post Office Address
(on reverse)

do hereby affirm that I have personal knowledge of the spring located in
the 1/4, 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water Flume and hose.
2. Date of first use of water _____
3. Nature of use Commercial - washing of archaeological artifacts.
4. Quantity of water diverted _____
5. Use of water by this owner _____

6. Other information _____

Signatures on back

Signature

STATE OF _____

County of _____

Subscribed and sworn to before me this _____ day of _____, 19____.

(NOTARY SEAL)

Notary Public

MICROFILMED

SEP 29 1992

1987 Page 2

Robert Peterson 8-10-87
Matthew C. Cayton 8/10/87
Lee D Allen 8/10/87
Charlotte Allen 8/10/87
Mike Petersen 8/10/87
Herman W. Houtz 8/10/87
Scott Dyer 8/10/87
Betty Ann Sowards 8/10/87

MICROFILMED
SEP 29 1992

Names & Addresses

1988

19

Francis J. Richman P.O. Box 836, Salmon, Idaho 83467
 in payas 426 S Fourth Ave. Apt. 4, Ann Arbor, MI 48104
 Eddy Berris 1207 King Rd, Moscow, Id. 83843
 Ray L. Troy and Tamara Fritze 823 East Moscow Id 83845
 Charles H Durand 517 N. 11th E. Mtn. Home, Id. 83647
 Kate Keith 2-3 Higashiyamate Machi Nagasaki 850 Japan
 John Rasmussen Rt 1 Box 94-T Athol Idaho 83801
 John F. Sprague 625 N. Garfield Moscow, Idaho 83843
 Robert Sprague 625 N. Garfield Moscow, ID 83843
 Allen Hoff 2120 Wallingford Rd Ann Arbor MI 48104
 Wm. J. Sprague Box 171, Marks ID 83433
 John Richman Box 836 Salmon Id 83467
 Frank Pearson 225 East Ave. H, Jerome, Ida. 83338

Names and addresses of students
 who attended the University of Idaho
 (Moscow) archaeological dig led by
 Dr. Roderick Sprague.

MICROFILMED
 SEP 29 1992

AFFIDAVIT

57-4058
changed to
55-04151
18

I, Darby Stapp
Julie Longenecker Stapp, of P.O. Box 596, Pullman, Wa. 99163
Post Office Address

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the NE 1/4, SE 1/4, Section 6, Township 5S, Range 3W.

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3. Nature of use domestic, commercial and irrigation
4. Quantity of water diverted _____
5. Use of water by this owner cleansing of archaeological artifacts,
settling driveway dust, watering vegetation around campsites
6. Other information _____

Darby Stapp
Julie Longenecker Stapp
Signature

STATE OF IDAH0

County of LATAH

Subscribed and sworn to before me this 8th day of SEPT, 1982.

(NOTARY SEAL)

Nancy McConachie
Notary Public

MICROFILMED
SEP 29 1992

AFFIDAVIT

57-4058

55-04151

#18

Student of Staff
Vol I

I, (refer to list of names), of Post Office Address
(on reverse)

do hereby affirm that I have personal knowledge of the spring located in
the 1/4, 1/4, Section 6, Township 5S, Range 3W.

Information I can formally attest to is as follows:

1. Source of water Flume and hose.
2. Date of first use of water _____
3. Nature of use Commercial - washing of archaeological artifacts.
4. Quantity of water diverted _____
5. Use of water by this owner _____

6. Other information _____

Signatures on back

Signature

STATE OF _____

County of _____

Subscribed and sworn to before me this _____ day of _____, 19____.

(NOTARY SEAL)

Notary Public

MICROFILMED

SEP 29 1992

1987 Page 2

Robert Peterson 8-10-87
Matthew C. Cayton 8/10/87
Lee D. Allen 8/10/87
Charlotte Allen 8/10/87
Mike Petersen 8/10/87
Herman W. Loney 8/10/87
Scott Dyer 8/10/87
Betty Ann Sowards 8/10/87

MICROFILMED
SEP 29 1992

Names & Addresses

1988

19

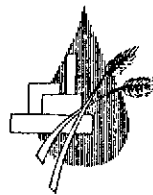
Francis J. Rickman P.O. Box 836, Salmon, Idaho 83467
 in payee 426 S Fourth Ave. Apt. 4, Ann Arbor, MI 48104
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 Charles H Durand 517 N. 11th E. Mtn. Home, Id. 83647
 Kate Keith 2-3 Higashiyamate Machi Nagesaki 850 Japan
 Odm Rasmussen Rt 1 Box 94-T Athol Idaho 83801
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 Robert Sprague 625 N. Garfield Moscow, ID 83843
 Allen Hoff 2120 Wallingford Rd Ann Arbor MI 48104
 Winifred Box 171, Marks ID 83433
 John Rickman Box 836 Salmon Id 83467
 Frank Pearson 225 East Ave. H, Jerome, Ida. 83338

Names and addresses of students
 who attended the University of Idaho
 (Moscow) archaeological dig led by
 Dr. Roderick Sprague.

MICROFILMED

SEP 29 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that GLORIA W. OTTO
(Name of Claimant)

Box 56, Murphy, ID 83650 Telephone No. 495-2630
(Mailing Address) (Zip Code) 495-2868

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1937

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
unnamed spring tributary to Jordan Creek

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	<u>.04</u>	Use	<u>irrigation</u>	Period of Use From <u>5/15</u>	To <u>10/15</u>
Quantity	<u>.02</u>	Use	<u>domestic</u>	Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity	<u>.01</u>	Use	<u>industrial</u>	Period of Use From <u>5/1</u>	To <u>10/31</u>
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

(4) .07 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NW ¼ SE ¼, Sec. 6 Twp. 5S Rge. 3W B.M., County of Owyhee
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Water flows out of tunnel into flume to headgate and collection box

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R.	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
5S	3W	6														2X			2

No. of acres 2

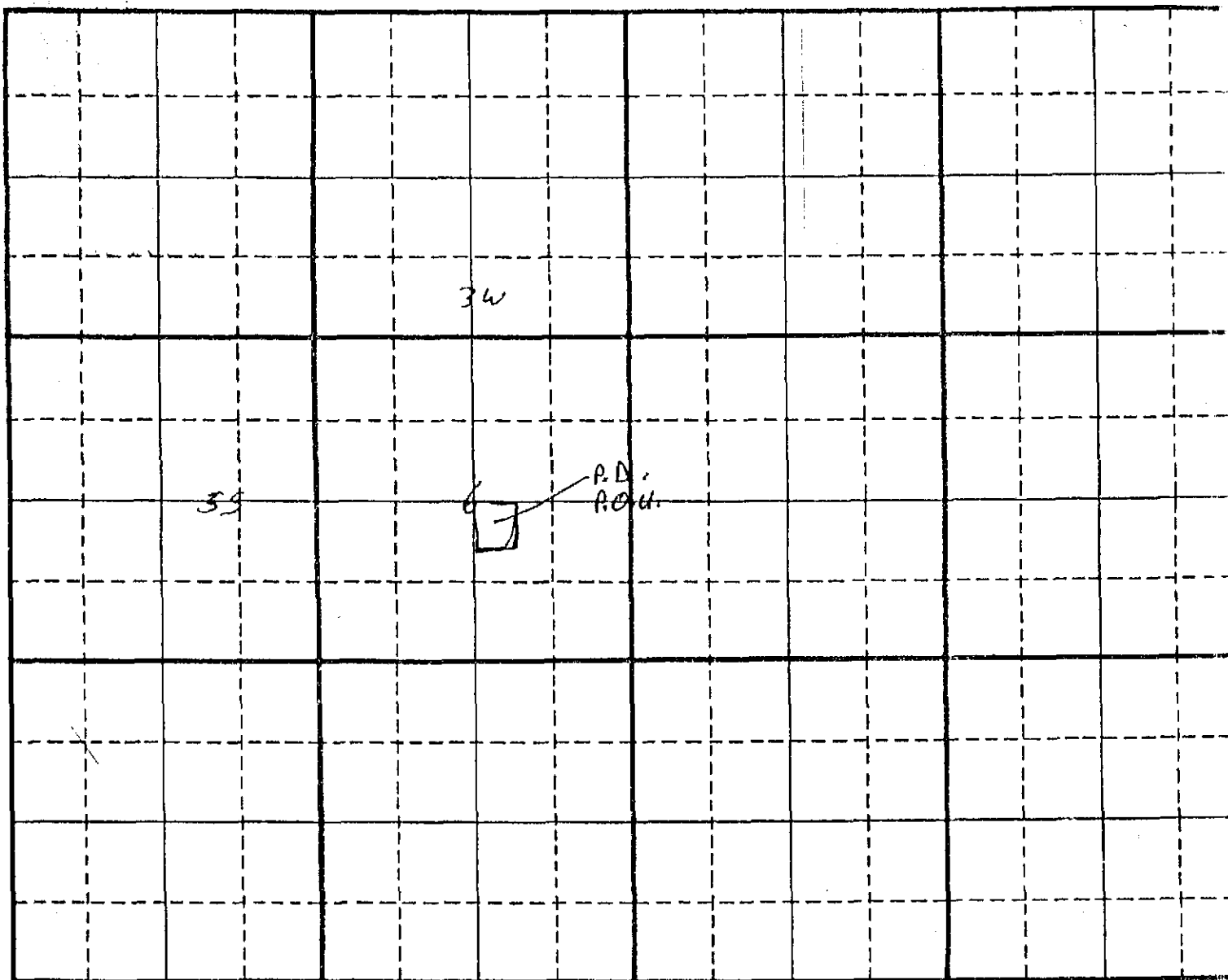
B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

Domestic and for use in a milling operation

NOTE: Include here the type and number of stock watered:

(7) If you are claiming water as a member of an organization, list name of organization:

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Ada) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Gloria H. Otto
(Claimant)

Sworn to before me this 24 day of August, 1981.

Nancy M. Northway
Notary Public
Residing at Boise

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by <u>Cem</u>	Date <u>24 Aug 1981</u>	Exception filed by:	Forwarded to	Date
Prelim. check by _____	Date _____		claimant by:	
\$20.00 fee received by <u>Cem</u>	Date <u>24 Aug 1981</u>	<u>#14590</u>		
Published in <u>Chamberlain Nugget</u>				
Dates <u>Sept 3 & 10, 1981</u>				

THIS INDENTURE, made this 8th day of August, 1946, between Idaho Power Company, a corporation, Seller, and Ned M. Williams, of Boise, Ada County, Idaho, Buyer, Witnesseth:

That the said Seller, for and in consideration of the sum of One Hundred Dollars (\$100.00) cash in hand paid by the said Buyer, the receipt whereof by Seller is hereby acknowledged, does hereby bargain, sell and convey unto the said Buyer, and to his heirs and assigns forever, subject, however, to the repurchase option hereinafter contained, all that certain place or parcel of land, together with buildings and improvements, situate, lying and being at or near Silver City, in the County of Owyhee, State of Idaho, particularly described as follows, to-wit:

Beginning at the Quarter section corner common to Sections 5 and 6, T 5 S, R 3 E, B M; thence North 76°35' West 1412.8 feet; thence South 41°35' West 676.2 feet to corner No 1, which is the real point of beginning, and from which point said Quarter corner common to said Sections 5 and 6 bears North 84°25' East 1831.6 feet; thence continuing North 24°35' West 219.0 feet to corner No 2; thence South 65°29' West 296.6 feet to corner No 3; thence South 24°35' East 300 feet to corner No 4; thence North 65°29' East 371.3 feet to corner No 5; thence North 24°35' West 81.0 feet to corner No 6; thence South 65°29' West 74.7 feet to corner No 1, enclosing a tract with a total area of 2.182 acres;

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said Seller, of, in or to the said premises, and every part and parcel thereof, with the appurtenances, except and subject to the following option, namely:

Seller, its successors and assigns, shall have the option to purchase the premises, including buildings and improvements, as hereinabove described, at any time within ten (10) years from date of this deed for the cash price of One Hundred Dollars (\$100.00), and this option shall be binding upon the said Buyer, his heirs, assigns, representatives, and any other person or party owing or having any interest in the premises, and shall be a first lien upon the premises, and property, and shall be a covenant running with the land. Buyer shall keep the property insured, during the term of the said option, against loss by fire, to the extent of the replacement value of the dwelling house located upon the premises.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the said Buyer, and to his heirs and assigns, subject only to the foregoing option, forever.

IN WITNESS WHEREOF, the said Seller has caused this indenture to be executed, and its corporate seal to be hereunto affixed, by its proper officers on the day and year first above written.

IDAHO POWER COMPANY

(Corporate Seal)

By /S/ C J Strike
President and General Manager

Attest:

/S/ A C Innes
Secretary

MICROFILMED
SEP 29 1992

THIS INDENTURE, made this 8th day of August, 1946, between Idaho Power Company, a corporation, Seller, and Ned M. Williams, of Boise, Ada County, Idaho, Buyer, witnesseth:

That the said Seller, for and in consideration of the sum of One Hundred Dollars (\$100.00) cash in hand paid by the said Buyer, the receipt whereof by Seller is hereby acknowledged, does hereby bargain, sell and convey unto the said Buyer, and to his heirs and assigns forever, subject, however, to the repurchase option hereinafter contained, all that certain place or parcel of land, together with buildings and improvements, situate, lying and being at or near Silver City, in the County of Owyhee, State of Idaho, particularly described as follows, to-wit:

Beginning at the Quarter section corner common to Sections 5 and 6, T 5 S, R 3 W, B M; thence North 76°35' West 1412.8 feet; thence South 41°35' West 676.2 feet to corner No 1, which is the real point of beginning, and from which point said Quarter corner common to said Sections 5 and 6 bears North 84°25' East 1831.6 feet; thence continuing North 24°35' West 219.0 feet to corner No 2; thence South 65°29' West 296.6 feet to corner No 3; thence South 24°35' East 300 feet to corner No 4; thence North 65°29' East 371.3 feet to corner No 5; thence North 24°35' West 81.0 feet to corner No 6; thence South 65°29' West 74.7 feet to corner No 1, enclosing a tract with a total area of 2.182 acres;

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said Seller, of, in or to the said premises, and every part and parcel thereof, with the appurtenances, except and subject to the following option, namely:

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IN WITNESS WHEREOF, the said Seller has caused this indenture to be executed, and its corporate seal to be hereunto affixed, by its proper officers on the day and year first above written.

IDAHO POWER COMPANY

(Corporate Seal)

By /S/ C J Strike
President and General Manager

Attest:

/S/ A C Inman

Secretary

MICROFILMED

SEP 29 1992

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J. V. Bryan, John Bryan,
George W. Venable, and Alfred Nicols
Charles Bunting

Book & Deeds 1895
191
Quitclaim Deed

This Indenture made this 10th day
of September, 1895, between J. V. Bryan,
John Bryan and George W. Venable of
Blaine County, in the State of Idaho, and
Alfred Nicols of the County of Owyhee
in the State of Idaho, parties of the
first part, and Charles Bunting of
Blackfoot, in the County of Bingham in
the State of Idaho, party of the second part;

Witnesseth: That the said parties of
the first part, for and in consideration
of the sum of Ten thousand dollars,
lawful money of the United States of America,
to them in hand paid by the said party of
the second part, receipt whereof is hereby
acknowledged, have bargained, sold, remised,
released and forever quitclaimed, and by
these presents do bargain, sell, remise, re-
lease and forever quitclaim unto the said
party of the second part, his heirs and
assigns, the following property situate,
lying and being in the County of Owyhee
in the State of Idaho and particularly de-
scribed as follows, to-wit:

All that certain property, situate, lying
and being in the town of Silver City in
said county, known as the Ora Fano
Twenty Stamp Steam Crushing Quartz
Mill, together with the Boiler, Engine,
Battery, Pond and all machinery therein
contained of whatever kind or nature,
together with all water rights and ditches
connected therewith. Also those certain
buildings near said mill, known as the
Ora Fano Storehouse, Blacksmith shop, Stables
dwelling house and Office and all the right,
title, interest, estate, possessions and property

MICROFILM
SEP 29 1895

Deputy William Carter }
Idaho Elmore Mining Co. }

Water -
55-7011
11.11.11

P 191
Sept 10, 1869

This Indenture, made and entered into this tenth day of September in the year of our Lord one thousand eight hundred and sixty nine by and between D. H. Fogus, John M. Wilson, and H. R. Carter, all of Silver City in the Territory of Idaho parties of the first part and the Idaho Elmore Mining Company a corporation party of the second part; Witnesseth, that the said parties of the first part for and in consideration of the sum of one dollar and of certain shares of stock in the Capital Stock of said Corporation the receipt whereof is hereby acknowledged have this day granted, bargained, sold, remised, and conveyed and by these presents do grant bargain remise and quit claim unto the said party of the second part, all that certain lot or parcel of land lying and being in the Town of Silver City, Owyhee County, Idaho Territory bounded as follows: Commencing at the South west corner at a Fir tree about eighteen inches in diameter and running thence North twenty seven degrees West three hundred and sixty five feet; thence North sixty three degrees East five hundred and seventy five feet to the West line of Washington Street in said Silver City, thence South twenty eight degrees East along the west line of said Washington Street two hundred and sixty five feet, thence South sixty three degrees West seventy eight feet, thence South twenty eight degrees East one hundred feet, thence South sixty three degrees West five hundred and five feet to the Place of beginning.

Together with the Steam Quartz Crushing Mill generally known as the "Lincoln Quartz Mill"; and the Office, boarding house, dwelling house, Stable and Smith Shop, and all the building outhouses, improvements and appurtenances unto said lot of land belonging or in anywise appertaining. To have and to hold the said described premises to the said second party and to its assigns forever.

In witness whereof the said parties of the first part have hereunto set their hands and seals the day and year first before written.

In presence of
H. P. Porter Smith
L. H. Greenwell.

D. H. Fogus
John M. Wilson
H. R. Carter
By his Attorney in fact
John M. Wilson

description of land not changed until 1901

Permit # 55-04151



1. City Tank & Overflow



2. Upper Tunnel Spring



3. Overflow



4. Culverts

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SEP 29 1992

Permit 55-04151



5. Culvert for
Spring



6. Overflow Culvert



7. Flume - 1985

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SEP 29 1992

Permit 55-04151



8. Culvert-
Hose from
overflow.
1987



9. Buried Culvert

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SEP 29 1992



12. Old drum

Permit 55-04151



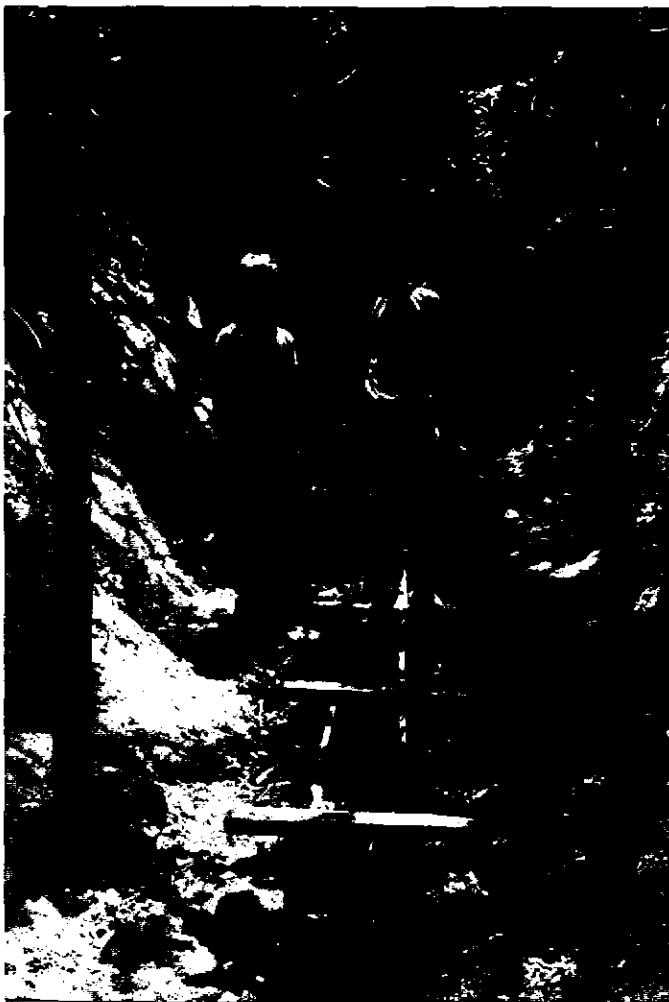
28. Cooking &
Hose

29. Trees
Below
Tank



MICROFILMED
SEP 20 1992

Permit 55-04/51



21. Flume & Hose
1988 University
of Idaho "dig"

MICROFILMED

SEP 29 1992