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MAY 13 2010
DEPARTMENT OF
WATER RESOURCES

McDevitt & Miller LLP
Lawyers

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P.O. Box 2564-83701
Boise, Idaho 83702

(208) 343-7500
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Chas. F. McDevitt
Dean J. (Joe) Miller

May 12, 2010

Via U.S. Mail

Clerk of the District Court
Snake River Basin Adjudication
253 Third Ave. North
P.O. Box 2707
Twin Falls, ID 83303-2707

Re: Subcase No. 37-04151

Dear Clerk:

Yesterday (5/11/10) I sent, in error, to you a Motion to File Amended Water Right in SRBA.

In consultation with the IDWR we have corrected the Amended Claim for Water Right.

Please ignore, discard and forget yesterdays transmission. I transmit now a Second Amended Motion to File Amended Claim.

Please do not hesitate to contact me if you have any questions. Thank you.

Very truly yours,

McDEVITT & MILLER LLP

Chas. F. McDevitt

CFM/hh
Enclosures

COPY

RECEIVED
MAY 13 20
DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA	)	**A. Subcase 37-04151** (Insert water right number)
Case No. 39576	)	**SECOND AMENDED MOTION TO FILE AMENDED CLAIM TO WATER RIGHT NO. 37-04151**

COMES NOW the Idaho Foundation for Parks and Lands Inc., a corporation, by and through its counsel of record, Chas F. McDevitt, of the firm of McDevitt and Miller, LLP., and moves this honorable Court pursuant to Idaho Rules of Civil Procedure 7(b)(1) for an order allowing the Idaho Foundation for Parks and Lands to file an Amended Claim to a water right (Amended Water Claim is attached).

This Second Amended Motion is made due to negotiations in settlement conferences by and between the Idaho Foundation for Parks and Lands Inc and the Idaho Department of Water Resources who had objected to the existing claim to water right of the Idaho Foundation for Parks and Lands Claim No. 37-04151.

As amended, the claim for water right is acceptable to the IDWR and will settle that issue.

Dated this 12 day of May, 2010.

McDevitt & Miller LLP

Chas. F. McDevitt

CERTIFICATE OF MAILING

I certify that on May 12th, 2010, I mailed the original and copies of this Second Amended Motion to File an Amended Claim to Water Right No. 37-04151, including all attachments, to the following persons:

1. Original to:

   Clerk of the District court
   Snake River Basin Adjudication
   253 Third Avenue North
   PO Box 2707
   Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

   Name: Idaho Foundation for Parks and Lands Inc.
   Address: 5657 Warm Springs Ave.
   Boise, ID 83716

3. Copies to:

   IDWR Document Depository
   PO Box 83720
   Boise, ID 83720-0098

   United States Department of Justice
   Environment & Nat'l Resources Div
   550 W Fort Street, MSC 033
   Boise, ID 83724

   Chief, Natural Resources Division
   Office of Attorney General
   PO Box 44449
   Boise, ID 83711-4449

   PEPIN CORSO-HARRIS
   Represented by:
   ALBERT P BARKER
   1010 W JEFFERSON, STE 102
   PO BOX 2139
   BOISE, ID 83701-2139
   Phone: 208-336-0700

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PETE VAN DER MEULEN
TOM O. GARA
Represented by:
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

BIG WOOD CANAL COMPANY
Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330
Phone: 208-934-4429

McDEVITT & MILLER LLP

SRBA Form No.42-1409-1 (Internet 2/09)

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 37-4151-M
Date Received: _____
Receipt No: _____
Received By: _____

Amended

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Idaho Foundation for Parks and Lands Phone (208) 344-7141

   Mailing Address 5657 Warm Springs Avenue (Street or Box) Boise (City) ID (State) ZIP 83716

2. Date of Priority (Only one (1) per claim) 01-01-1939 (Month Day Year (YYYY))

3. Source of water supply (Check one) Ground Water ( ) or Other (✓) (a) Elkhorn Creek

   which is tributary to (b) Big Wood River

4. a. Location of Point of Diversion is: Township 04N, Range 18E, Section 29,

   SW, 1/4 of NW, 1/4 Govt. Lot _____, BM., County of Blaine

   Parcel (PIN) no. _____

   Additional points of diversion if any: Pond thence returns to Big Wood River. See Exhibit A appended hereto.

   If available, GPS Coordinates _____

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

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

   Govt. Lot _____, BM., County of _____

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

   Govt. Lot _____, BM., County of Blaine

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. Pond is approximately 7.5' to 9' deep. See pond and dimensions on Exhibit A appended hereto. Outlet of pond returns flow to Big Wood River.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD) (cfs) (acre feet)

For Wildlife Storage purposes from 01/01 to 12/31 amount ____ or 2

For ____ purposes from ____ to ____ amount ____ or ____

For ____ purposes from ____ to ____ amount ____ or ____

For ____ purposes from ____ to ____ amount ____ or ____

7. Total quantity claimed (a) .975 (cfs) and/or (b) 2 (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) ____

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	18E	29							W										

Parcel (PIN) no(s). ____ Total number of acres irrigated ____

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

11. Do you own the property listed above as place of use? Yes (✓) No ( )
If your answer is No, describe in Remarks below the authority you have to claim this water right.

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

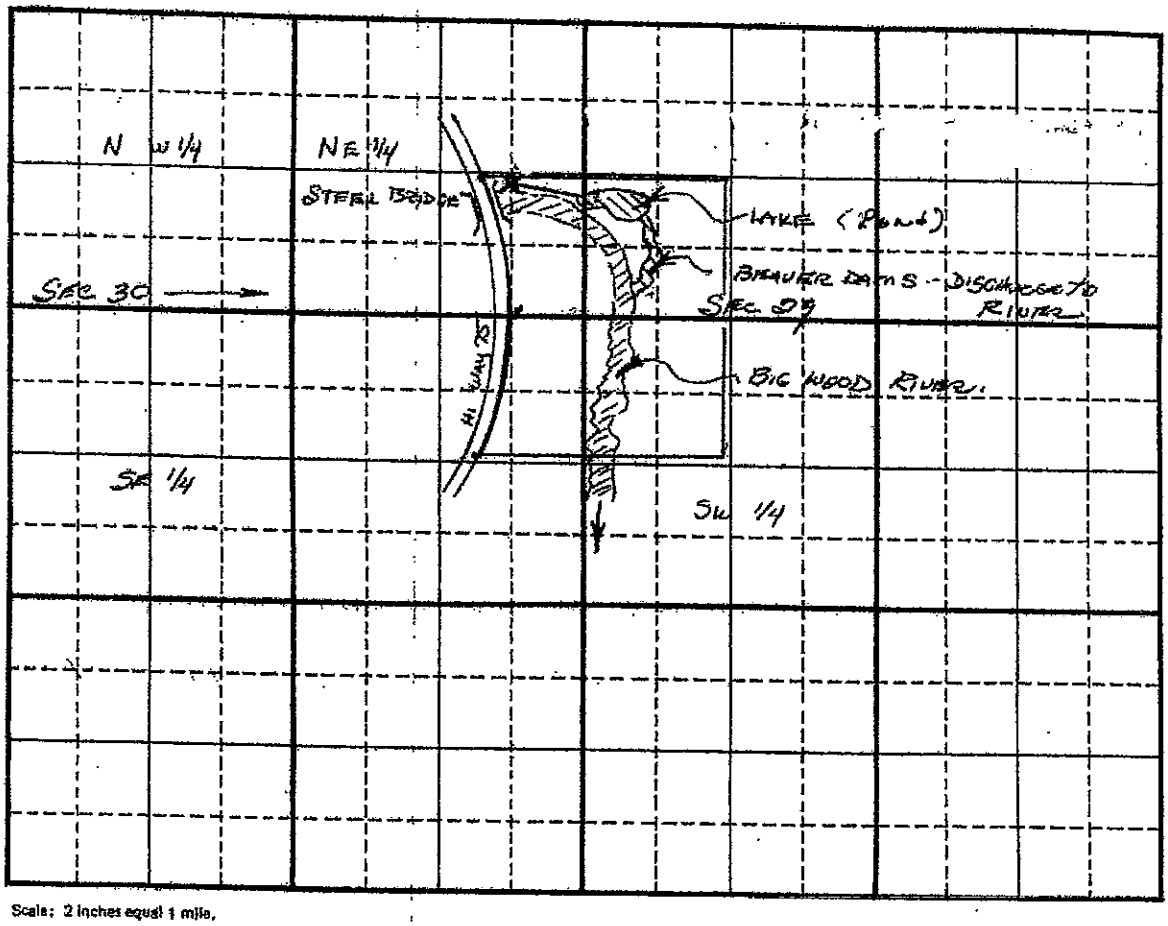
Wildlife habitat-water source for elk, deer, moose and various birds or None ( )

13. Remarks: This is an amended claim to water right 37-04151

Last Name ____ Identification No. ____

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

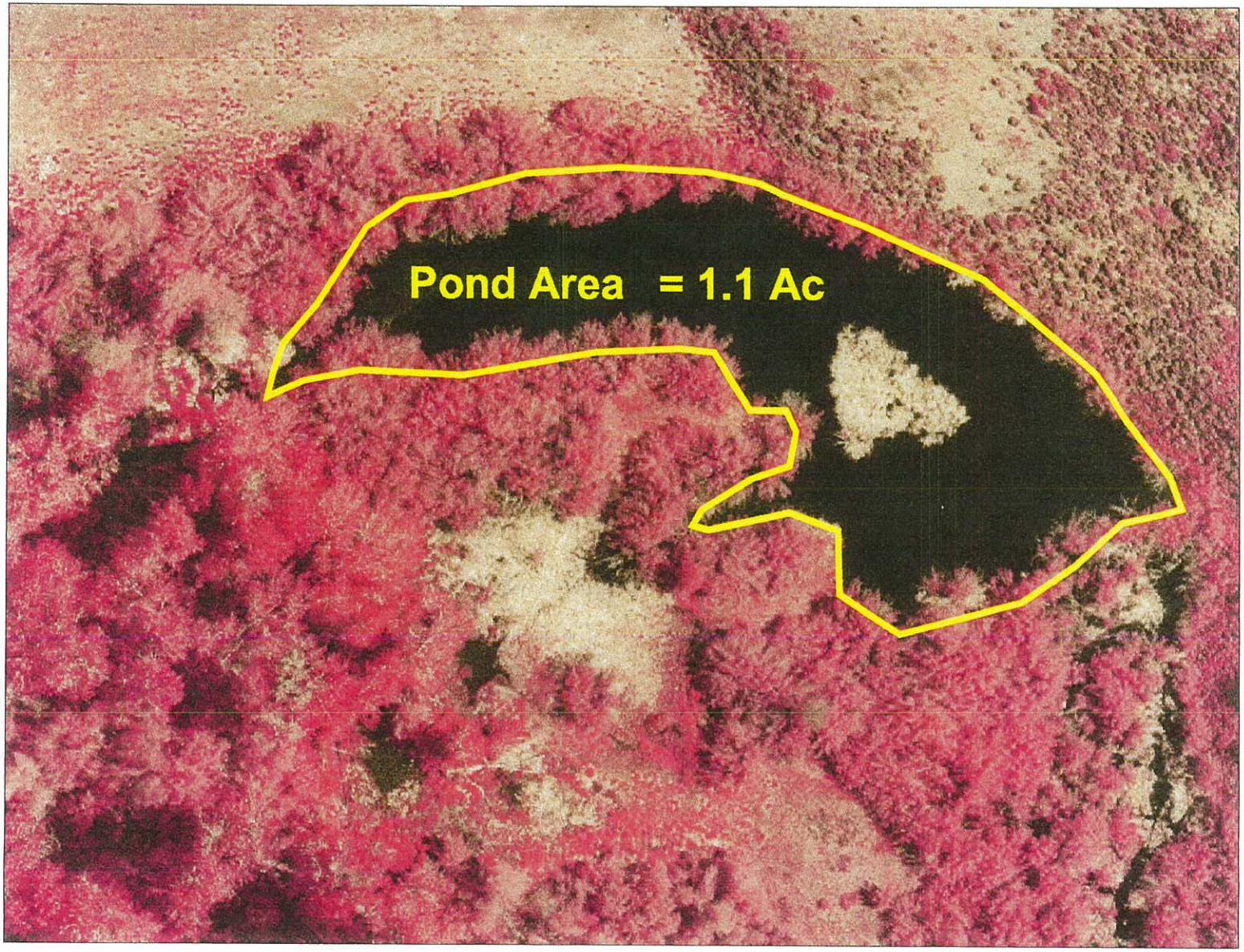
Scale: 2 Inches equals 1 mile



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.

IDAHO FOUNDATION FOR PARKS AND LANDS
POND AREA CALCULATION



Aerial Imagery: Valley Air Photo
May 19, 2006

Quadrant
Consulting, Inc.

14. Basis of Claim (Check One) Beneficial Use (✓) Posted Notice ( ) License ( ) Permit ( ) Decree ( )

Court _____ Decree Date_____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 37-04151

15. Signature(s)
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices 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: 3

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Attorney _____ of Idaho Foundation for Parks and Lands Inc. _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the forgoing document are true and correct.

Signature of Authorized Agent Chas F McDevitt Date 5/12/10

Title and Organization Idaho Foundation for Parks and Lands Inc.

16. Notice of Appearance:

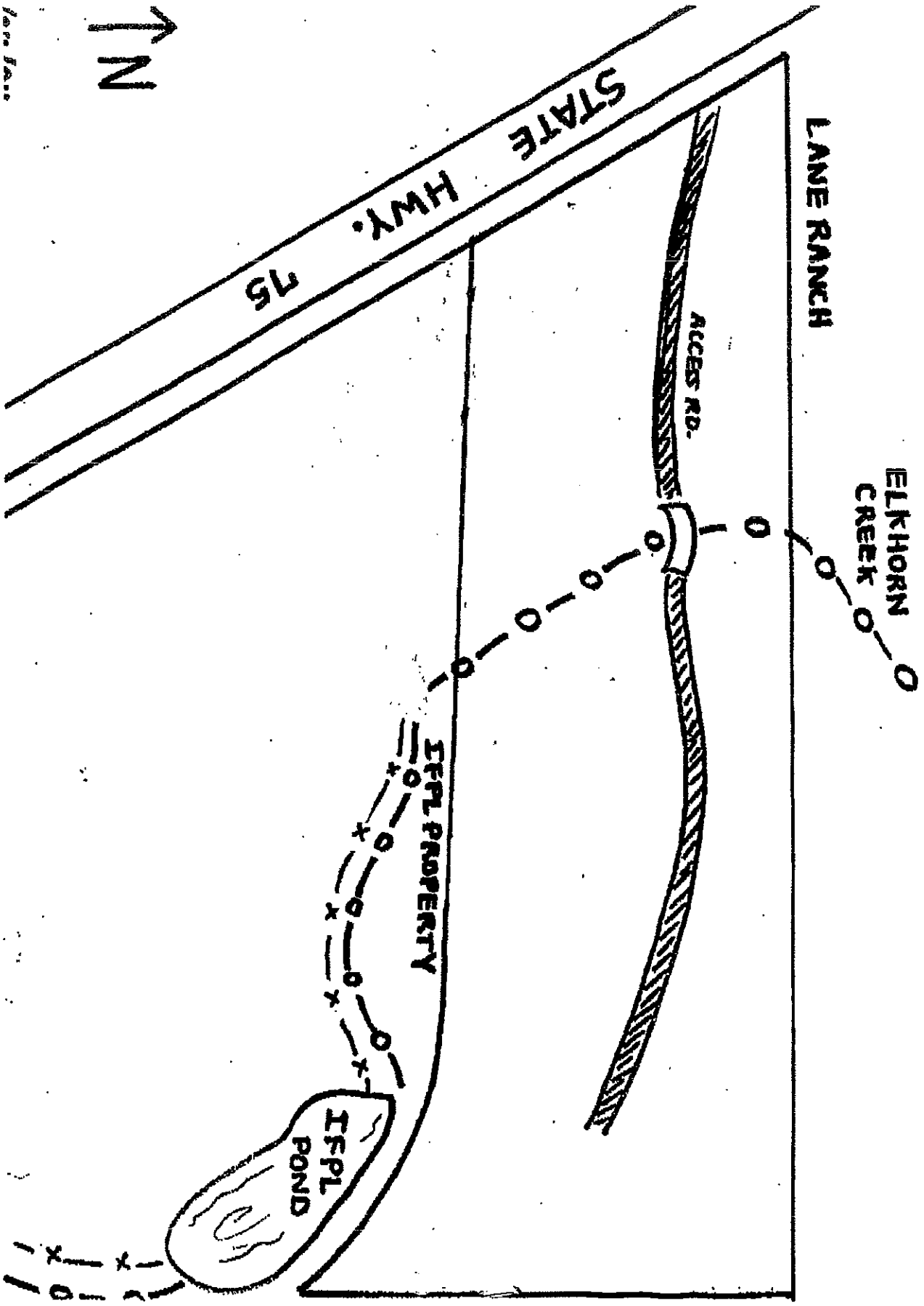
Notice is hereby given that I, Chas F. McDevitt, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Chas F McDevitt Date 5/12/10

Address P.O. Box 2564, Boise, Idaho 83702

_____

Last Name _____ Identification No. _____


N
STATE HWY. 75
LANE RANCH
ACCESS RD.
ELKHORN CREEK
IFPL PROPERTY
IFPL POND