

COPY

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RECEIVED

APR 18 2003

DEPARTMENT OF
WATER RESOURCES

Counsel for the Coeur d'Alene Tribe

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

In re CSRBA	)	
	)	Subcase No.: 91-7173
Case No. 49576	)	
	)	
	)	
Steve and Deanne Hawks,	)	
	)	
Claimant(s),	)	OBJECTOR'S AMENDED SECOND
	)	REQUESTS FOR DISCOVERY TO
v.	)	CLAIMANTS
	)	
Coeur d'Alene Tribe, a federally-recognized	)	
Indian Tribe,	)	
	)	
Objector.	)	
	)	
	)	

To: Claimants, Steve and Deanne Hawks, and their attorney of record, Norman Semanko, Esq., of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

Please respond and answer these discovery requests in the time periods allowed
under Idaho law.

OBJECTOR'S AMENDED SECOND REQUESTS
FOR DISCOVERY TO CLAIMANTS - 1

GENERAL INSTRUCTIONS

Please refer to the General Instructions contained in Objector's First Request for Discovery to Claimants, such instructions are hereby incorporated herein to control these requests and interrogatories as if expressly set forth herein.

In addition, please apply the following general instructions:

11. Responses. In responding to these requests for admission, interrogatories, and requests for production of documents, you must furnish all information available to you, including, but not limited to, information in the possession or control of your attorneys, experts, consultants, advisors, agents, associates, subcontractors, representatives, or any other person or entity over which you have control.
12. Objections. If there is any request for admission, interrogatory, or request for production of documents to which you object in whole or in part, state the nature and basis of your objection, *describe the facts upon which you base your objection*, and answer any remaining part to which you do not object.
13. Terms. Unless otherwise indicated, words used in these requests for admission, interrogatories, and requests for production of documents are to be taken and understood in their natural and ordinary sense. In the event that Claimants' believe a term is ambiguous or vague please contact Howard Funke, Howard Funke & Associates, at (208) 667-5486, for clarification.
14. Partial answers. If there are any requests for admission, interrogatory, or requests for production of documents which you cannot answer in its entirety or for which you cannot provide the exact information requested:
 - a. Answer any part as to which you have or can obtain information requested, and provide the information requested to the extent you know or can obtain such information;
 - b. State your best estimate of all information requests which you do not know and cannot obtain, including but not limited to, any names or dates for which you lack exact information; and
 - c. Identify each document, person, or communication upon which your estimate is based.
15. Entire document. If any portion of any document is response to any document request, you must produce the entire document.
16. Contact. If those persons responsible to answering these requests for admission, interrogatories, and requests for production have any questions about their scope, meaning, or intent, please contact Howard Funke, Howard Funke & Associates, at (208) 667-5486.

DEFINITIONS

Please refer to the Definitions contained in Objector's First Request for Discovery to Claimants, such definitions are hereby incorporated herein to control these requests and interrogatories as if expressly set forth herein.

In addition, unless otherwise indicated, the following definitions shall apply to these discovery requests:

14. "Legal description" means a formal description of real property complete enough that a particular piece of land can be located and identified.
15. "Ordinary low water mark" means that line or elevation on the bed of the waterbody marked or located by the average low water elevation over a period of years.
16. "Point of diversion" means, consistent with IDWR's instructions for filing notice of claim to a water right acquired under state law for domestic and/or stockwater purposes where daily use is less than 13,000 gallons per day, "the location at which the water is diverted from a natural water source."
17. "Right" means something that is due to a person by just claim, legal guarantee, or moral principle.
18. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.
19. "Any" as well as "each" shall be construed to include either one or all of a group as necessary to bring within the scope of these interrogatories and requests for production any information that might otherwise be construed to be outside their scope.
20. "Claim" means the water right claim that was filed in the Coeur d'Alene-Spokane River Basin Adjudication ("CSRBA") for the subcase number captioned above.
21. "Communication" means any transmittal or exchange of information (in the form of facts, ideas, inquiries or otherwise), whether oral, written, or electronic.
22. "Identify" or "identification of," when used to refer to a natural person, requests the following information
 - a. The person's full name and present or last-known address and telephone number;
 - b. The person's present title and employer or other business affiliation; and
 - c. The person's employer and title at the time of the actions which are the subject of the interrogatory or request for admission.

23. "Identify" or "identification of," when used to refer to an entity other than a natural person, requests the following information about the entity:
- a. Full name
 - b. The present or last-known address of its principal office or place of doing business and the telephone number; and
 - c. The type of entity (e.g., corporation, partnership, unincorporated association, municipality, etc.).
24. "Identify" or "identification of," when used with respect to a document, requests the following information:
- a. The title of the document;
 - b. A summary of the contents of the document;
 - c. The date of the document;
 - d. The identity of the person or persons who wrote, contributed to, prepared or originated such document;
 - e. The identity of the person or persons to whom the document was directed or who received or reviewed the document or copies of the document or any portion thereof;
 - f. The present or last-known address and custodian of the document and the address and phone number of each such custodian.
25. "Identify" or "identification of," when used in reference to a communication, means, without limitation, to describe the communication by:
- a. Identifying the date of the communication;
 - b. Identifying the place where the communication took place or was made;
 - c. Identifying the means (e.g., face-to-face, by telephone) by which the communication was made;
 - d. Identifying the person making and the person receiving the communication, and any other persons present and aware of the communication when the communication was made or when it was received; and
 - e. Describing the subject matter and content of the communication.
26. "Legal title" refers to any instrument in writing or by operation of law which conveys an interest in land from a grantor to the grantee.
27. "Objection" or "Objections" means the Objections filed by the Tribe to the Director's Report for the Claim in the subcase number captioned above.
28. "State the basis" or "describe the basis" or "identify the basis" means to describe all facts, analyses, opinions, conclusions, inferences, arguments, or conjectures supporting the matter, statement, or contention in question.

29. "You" or "your" refers to: Steve and Deanne Hawks or any employee, agent, representative, subcontractor, consultant, investigator, present or former attorney, and any other person or entity who was or presently is authorized to act or purported to act on behalf of the aforementioned.
30. "United States" means the United States of America, and includes all agencies, subdivisions, or agents, authorized to act in its behalf.
31. "Tribe" means the Coeur d'Alene Tribe of Idaho, a federally recognized Indian Tribe.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 16: Please admit that Claimants are citizens of the State of Idaho.

ANSWER:

REQUEST FOR ADMISSION NO. 17: Please admit that documents attached hereto as Attachment "1," bates numbers "CDAT OBJ-7173 0007 – 0023," are the documents Claimants referenced in their answer or amended answer to interrogatory number 7 and responses and/or amended responses to Objector's requests for production of documents numbers 1, 4, 5, 6, 7, 8, 9, 11, 12, and 13. If only some of the documents referenced are responsive to a certain interrogatory or request for production of documents, please qualify your answer indicating which document is responsive to such certain interrogatory or request for production.

ANSWER:

REQUEST FOR ADMISSION NO. 18: Pursuant to I.R.C.P. 36, please admit that the documents attached hereto as Attachment "1," bates numbers "CDAT OBJ-7173 0001 – 0023," are admissible, true, accurate, and correct copies of documents (or in other words are "authentic" and/or "genuine" within the meaning of I.R.E. 901) that Claimants referenced in their response and/or amended response to Objector's First Requests for Discovery to Claimants.

ANSWER:

REQUEST FOR ADMISSION NO. 19: Pursuant to I.R.C.P. 36, please admit that the documents attached hereto as Attachment "1," bates numbers "CDAT OBJ-7173 0001 – 0006," are admissible, true, accurate, and correct copies of documents (or in other words are "authentic"

and/or “genuine” within the meaning of I.R.E. 901) that Claimants produced to Objector or referenced in response to Objector’s First Requests for Discovery to Claimants as Exhibit “A” thereto.

ANSWER:

REQUEST FOR ADMISSION NO. 20: Please admit that the source of water of the Claimants’ water rights claim is the St. Joe River.

ANSWER:

REQUEST FOR ADMISSION NO. 21: Please admit that the point of diversion for the Claimants’ water right claim is a point at which water is diverted from the St. Joe River.

ANSWER:

REQUEST FOR ADMISSION NO. 22: Please admit that the Claimants, individually and/or collectively, are members of the group known as the North Idaho Water Rights Alliance which has filed a Response to Objection in the foregoing subcase.

ANSWER:

REQUEST FOR ADMISSION NO. 23: Please admit that Claimants’ diversionary works extend past the legal description of Claimants’ property on Blocks 1 and 2 of Sylvia’s Haven, Benewah County, Idaho. [Please review documents Bates CDAT OBJ-7173 0010, CDAT OBJ-7173 0011, CDAT OBJ-7173 0016, CDAT OBJ-7173 0017, and CDAT OBJ-7173 0023, attached hereto, prior to answering this request for admission.]

ANSWER:

REQUEST FOR ADMISSION NO. 24: Please admit that there is water at Claimants’ point of diversion at all times of the year. [Please review document at Bates CDAT OBJ-7173 0023, attached hereto as part of Attachment “1”, prior to answering this request for admission.]

ANSWER:

OBJECTOR’S AMENDED SECOND REQUESTS
FOR DISCOVERY TO CLAIMANTS - 6

REQUEST FOR ADMISSION NO. 25: Please admit that Claimants' point of diversion is below the ordinary low water mark.

ANSWER:

REQUEST FOR ADMISSION NO. 26: Please admit that neither IDWR water permit no. 91-7173 nor IDWR water right license no. 91-7173 could have been initiated in trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 27: Please admit that in issuing IDWR water permit no. 91-7173 and/or IDWR water right license no. 91-7173, IDWR could not have authorized trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 28: Please admit that neither IDWR water permit no. 91-7173 nor IDWR water right license no. 91-7173 authorize access to or across land not owned by Claimants.

ANSWER:

REQUEST FOR ADMISSION NO. 29: Please admit the Claimant(s) cannot enter any lands, including submerged lands, owned by the Coeur d'Alene Tribe or by the United States in trust for the benefit of the Coeur d'Alene Tribe without permission from either the Tribe or the United States.

ANSWER:

REQUEST FOR ADMISSION NO. 30: Please admit that Claimants' riparian and/or littoral rights do not include the right to make any consumptive use of the waters of the St. Joe River or any right of access for the purpose of appropriating water from the St. Joe River.

ANSWER:

OBJECTOR'S AMENDED SECOND REQUESTS
FOR DISCOVERY TO CLAIMANTS - 7

REQUEST FOR ADMISSION NO. 31: Please admit that Claimants' do not have title insurance for the real property associated with the above-captioned water right claim.

ANSWER:

REQUEST FOR ADMISSION NO. 32: Please admit that the Coeur d'Alene Tribe is entitled to the exclusive use, occupancy, and right to quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River that are owned by the United States in trust for the Coeur d'Alene Tribe.

ANSWER:

REQUEST FOR ADMISSION NO. 33: Please admit that the water level at Claimants' point of diversion is capable of floating boats or canoes.

ANSWER:

REQUEST FOR ADMISSION NO. 34: Please admit that the St. Joe River at Claimants' point of diversion is a natural water source.

ANSWER:

INTERROGATORIES

INTERROGATORY NO. 9: If your answer to any of the Requests for Admission is anything other than an unqualified "admit" identify and describe in detail the facts upon which you rely in making your responses, all individuals with knowledge regarding such facts, and all documents relating in any way to your response(s).

ANSWER:

INTERROGATORY NO. 10: If Claimants are claiming ownership of real property below the OHWM at the claimed point of diversion, please identify the basis of such an assertion of

ownership. If Claimants are not claiming ownership of such real property, please indicate such disclaimer.

ANSWER:

INTERROGATORY NO. 11: Please identify, by bates numbers, those documents contained in Attachment "1" hereto that Claimants reference and specifically rely upon in their response or amended response to request for production number 5 contained in Objector's first requests for discovery to Claimants.

ANSWER:

INTERROGATORY NO. 12: Please identify, by bates numbers, those documents contained in Attachment "1" hereto that Claimants reference and specifically rely upon in their response or amended response to request for production number 6 contained in Objector's first requests for discovery to Claimants.

ANSWER:

INTERROGATORY NO. 13: Please identify, by bates numbers, those documents contained in Attachment "1" hereto that Claimants reference and specifically rely upon in their response or amended response to request for production number 7 contained in Objector's first requests for discovery to Claimants.

ANSWER:

INTERROGATORY NO. 14: Please state whether Claimants are relying upon and/or referencing any other documents which are not produced as part of Attachment "1" hereto (bates CDAT OBJ-7173 0001-0023) in any of their answers to interrogatories or responses to requests for production of documents in response to Objector's First Requests for Discovery. If so, please identify such documents by the title and date of such document.

ANSWER:

INTERROGATORY NO. 15: Please state the Benewah County tax identification number for the real property upon which Claimants' point of diversion is physically located. If there is no such tax identification number, please indicate as much.

ANSWER:

INTERROGATORY NO. 16: Please give the legal description of the "current boundaries of the Coeur d'Alene Indian Reservation" as that term is understood by Claimants and used by Claimants in their amended response for admission number 5.

ANSWER:

INTERROGATORY NO. 17: Please state the basis or describe the basis Claimants' denials in Requests for Admission Nos. 1, 5 10, 11, and 13 wherein Claimants' deny that "the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion," and Claimants' response to Interrogatory No. 8 wherein Claimants' assert that "Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion."

ANSWER:

INTERROGATORY NO. 18: Please state, by legal citation, court cases which discuss the legal theory or theories set forth in the answer to interrogatory number 17 above. [In lieu of answering, Claimants may provide documents responsive to this interrogatory.]

ANSWER:

INTERROGATORY NO. 19: Please identify and describe in detail those facts that Claimants' rely upon in their denials of Requests for Admission Nos. 1, 5 10, 11, and 13 wherein Claimants' deny that "the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion," and Claimants' response to Interrogatory No. 8 wherein Claimants' assert that "Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion." Please identify all individuals with knowledge regarding any such facts, and all documents relating in any way to your response.

ANSWER:

INTERROGATORY NO. 20: Please state the elevation, in feet above mean sea level, of the ordinary, historic or natural high water mark of the St. Joe River, as referenced in Claimants' answers to Requests for Admission Nos. 6 and 7, and the ordinary low water mark of the St. Joe River. Please identify all individuals with knowledge regarding any facts stated in your response, and all documents relating in any way to your response.

ANSWER:

INTERROGATORY NO. 21: Please provide the basis or describe the basis for the answer to Interrogatory No. 20, as well as the basis for Claimants' denial in Responses to Request for Admission Nos. 6 and 7 that "the historic OHWM or the natural high water mark for Coeur d'Alene Lake and the St. Joe River is or has always been 2128 feet," and that "the point of diversion and/or some or all of the diversion works at issue in this claim are below the applicable natural or ordinary high water mark." Please identify all individuals with knowledge regarding any facts stated in your response, and all documents relating in any way to your response.

ANSWER:

INTERROGATORY NO. 22: Please provide the basis or describe the basis for Claimants' denial in Responses to Request for Admission Nos. 10 and 11 that "the United States or the Coeur d'Alene Tribe owns the land upon which the diversion works may have been constructed and further deny that any such permission was needed." Please identify all individuals with knowledge regarding any facts stated in your response, and all documents relating in any way to your response.

ANSWER:

INTERROGATORY NO. 23: Please provide the elevation of the submerged lands at your point of diversion and/or the lowest part of the diversion works within the St. Joe River, the elevation of the high/low point of the water line, the length of water line (in feet) that is located underwater at all times of the year, and the depth of the pump.

ANSWER:

INTERROGATORY NO. 24: If Claimants have any other water right claims filed in the CSRBA other than the above-captioned claim, please list the applicable claim numbers.

ANSWER:

INTERROGATORY NO. 25: Identify each person who provided information for, or participated in, the preparation of the responses to these discovery requests, and identify the specific discovery requests or parts thereof, for which each person provided information.

ANSWER:

INTERROGATORY NO. 26: Identify each person who has personal knowledge of the facts that form the basis for your claim and/or defense to the Tribe's objection.

ANSWER:

INTERROGATORY NO. 27: Identify all exhibits you may rely upon as evidence at trial and/or as evidence in support of, or in opposition to, dispositive motions.

ANSWER:

INTERROGATORY NO. 28: Describe all facts which support the basis for your claim and/or your defense to the Tribe's objections.

ANSWER:

INTERROGATORY NO. 29: Identify all documents that support your claim and/or your defense to the Tribe's objections.

ANSWER:

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 14: Please produce any other documents, if any, which Claimants relied upon, reviewed, and/or reference in their answers to interrogatories and/or requests for production of documents in response to Objector's First Requests for Discovery and which are not part of Attachment "1" hereto.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: Please produce all documents which you allege support your assertion of legal title to the property underlying your claimed point of diversion. If you took legal title to the by operation of law, in lieu of responding to the foregoing request, Claimants may state the method by which they took legal title, and give legal citation to legal authority which discusses Claimants' alleged legal title by operation of law.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: Please produce all documents you may rely upon at trial or any hearing in this matter, in support of dispositive motions, or in opposition to dispositive motions, or at any other stage of this proceeding.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: Please produce all exhibits you may rely upon at trial or any hearing in this matter, in support of dispositive motions, or in opposition to dispositive motions, or at any other stage of this proceeding.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18: Please produce those documents in your possession, as well as the location, if known, of any documents not in your possession you reviewed, referred to, rely upon, and/or you assert support your basis in answering Requests for Admission Nos. 1-34 and Interrogatories Nos. 1-24.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19: Please produce any other documents in your possession, as well as the location, if known, of any documents not in your possession you assert support the above-captioned claim.

RESPONSE:

Respectfully submitted this 13th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Hi H. Hil for
Howard A. Funke
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 13th day of April, 2016, a copy of the foregoing Objector's Amended Second Requests for Discovery to Claimants, with attachment, was served on the following counsel of record and other entities via the method indicated below:

Norman Semanko

Moffatt, Thomas, Barrett, Rock & Fields, Chtd.

P.O. Box 829

Boise, Idaho 83701-0829

☐ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 385-5384

☐ Hand-delivery

☒ Via Email @ SAM@moffatt.com;
nms@moffatt.com

Counsel for Claimant(s) and Respondent NIWRA members

Clive Strong

Steven Strack

Office of the Attorney General

State of Idaho

P.O. Box 83720

Boise, Idaho 83720-0010

☐ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 334-4143

☐ Hand-delivery

☒ steve.strack@ag.idaho.gov

Counsel for Respondent State of Idaho

U.S. Department of Justice

Environment & Nat'l Resources

550 W. Fort St., MSC 033

Boise, Idaho 83724

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (303) 844-1350

☐ Hand-delivery

Idaho Department of Water Resources

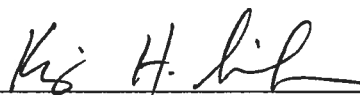
P.O. Box 83720

Boise, Idaho 83720-0098

☒ First Class Mail, Postage Prepaid

☐ Facsimile @ (208) 287-6700

☐ Hand-delivery


By: Kinzo H. Mihara

ATTACHMENT “1”

91-7173

SS 31-5-23 31

Deanna Wilson, clp.

RENE
KAY SATTER... K6 00
Deanna Hawks
HC 03 Box 86

CORRECTION DEED

THIS INSTRUMENT, made and entered into this 24th day of July, 1996, by and between EUPHROSIA PENNEY and RAY A. SWANSON and ANNA L. SWANSON, the Parties of the First Part and STEVE W. H. and DEANNE A. HAWKS, the Parties of the Second Part, whose address is HC 03 Box 86, SS, Benewah, ID 83801.

WITNESSETH

That the Parties of the First Part, for and in consideration of the sum of one and no/100 Dollars (\$1.00) as they in and by the said Parties of the Second Part, the receipt whereof is hereby acknowledged, does hereby grant, sell and convey to the Parties of the Second Part and their heirs, devisees and assigns forever the following described real property situated in the County of Benewah, State of Idaho, to-wit:

Lot Thirteen (13), Block Two (2), Sylvia's Haven Subdivision, together with an easement for purposes of moorage in and upon the riparian rights in the dockage located as shown on said plat adjacent and appertaining to the southerly forty (40) feet of the shore line of Lot Twelve (12), Block Two (2), Sylvia's Haven Subdivision, County of Benewah.

THIS INSTRUMENT is intended as a Correction Deed to correct an error in the a/scrip of the parties herein Correction Deed between the parties hereto recorded in the office of the Benewah County, State of Idaho, Recorded on the 30th day of November, 1996 as Instrument No. 134324.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, title, right and interest in and to the property as set in law as in equity, of the Parties of the First Part.

TO HAVE AND TO HOLD all and singular the above-mentioned and described premises together with the appurtenances unto the Parties of the Second Part, and to their heirs, devisees and assigns forever.

And the Parties of the First Part, and their heirs, shall and will WARRANT and by these presents forever DEFEND the premises.

1. CORRECTION DEED

in the quiet and peaceable possession of the Parties of the Second Part, their heirs, devisees and assigns against all and every person or persons whosoever lawfully claiming the same.

IN WITNESS WHEREOF, the Parties of the First Part have hereunto set their hands the day and year first above written.

Euphemia Penney
EUPHEMIA PENNEY

Ray A. Swanson
RAY A. SWANSON

Mina L. Swanson
MINA L. SWANSON

STATE OF IDAHO)
County of Shoshone)

On this 20th day of July, 1993, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared, EUPHEMIA PENNEY, to me known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as her free and voluntary act and deed for the purposes therein specified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this 20th day of July, 1993, and year in this certificate first above written.



Laura L. Chaffin
Notary Public in and for Idaho
Residing at: Kingston, therein
Commission expires: 07/08/99

STATE OF IDAHO)
County of Shoshone)

On this 20th day of July, 1993, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared, KAY A. SWANSON and MINA L. SWANSON, to me known to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the purposes therein specified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this 20th day of July, 1993, and year in this certificate first above written.



Laura L. Chaffin
Notary Public in and for Idaho
Residing at: Kingston, therein
Commission expires: 07/08/99

2. CORRECTION DEED

EXHIBIT B

STANLEY F. HAMILTON - DIRECTOR

BOARD OF LAND
COMMISSIONERSPHILIP E. BATT
GovernorPETE T. CENARPUSA
Secretary of StateALAN G. LANCE
Attorney GeneralJ.D. WILLIAMS
State ControllerANNE C. FOX
Sup't of Public
Instruction

ENCROACHMENT PERMIT NO. L-95-S-4339

Permission is hereby granted to STEVE HAWKS
of HCR 2 Box 86 St. Maries, ID 83861 to install and maintain
2.5' x 20' ramp & 8' x 30' float dock w/ 4 piling
located: St. Joe River, Sylvia's Haven, Block 2, Lot 13, Section 7,
Township 46 North, Range 2 West, Boise Meridian, Benewah County.

1. All applicable provisions of the Rules for Regulation of Beds, Waters, and Airspace over Navigable Lakes and Streams in the State of Idaho are incorporated herein by reference and made a part hereof.
2. Construction will follow details and specifications shown on the approved drawings and data provided by the applicant. Should such information and data prove to be materially false, incomplete and/or inaccurate, this authorization may be modified, suspended, or revoked in accordance with the Administrative Procedures Act, Idaho Code title 67, chapter 52.
3. This permit does not convey the State's title to or jurisdiction or management of lands lying below the natural or ordinary high water mark.
4. Acceptance of this permit constitutes permission by the Permittee for representatives of the Department of Lands to come upon Permittee's lands at all reasonable times to inspect the encroachment authorized by this permit.
5. The Permittee assumes all liability for damages which may result from the exercise of this permit.
6. This permit does not relieve the Permittee from obtaining additional local or federal permits as required.
7. This permit is not valid until the identification number is displayed on the outermost area of the encroachment.
8. If the activity authorized herein is not completed on or before the 15th day of August, 2000 (three years from the date of issuance), this permit shall automatically expire unless it was previously revoked or otherwise extended.

KEEP IDAHO GREEN
PREVENT WILDFIRE

9. White bead foam flotation shall be completely encased in a manner that will maintain the structural integrity of the foam. The encasement shall be resistant to the entry of rodents.
10. Removal of any pre-existing facilities is a condition of this permit.
11. This permit supersedes and voids any permit previously issued for this property unless otherwise noted.
12. Construction materials shall be natural or pressure treated utilizing only those preservative chemicals registered for the specific uses, such as CCA (Chromated Copper Arsenate), by the U.S. Environmental Protection Agency (EPA). All treated wood materials shall be produced in compliance with "Best Management Practices (BMPs) For the Use of Treated Wood in Aquatic Environments" issued by the Western Wood Preservers Institute (WWPI), July 1996. Treated materials not in contact with the water shall be completely dry before use near navigable waters. Contact Idaho Department of Health and Welfare, Division of Environmental Quality, at (208)769-1422 with questions regarding treated materials.
13. All construction material must be stockpiled landward of the ordinary high water mark.
14. Regardless of dock dimensions, the dock may only extend waterward to a water depth of six feet when measured at full pool (elevation 2,128 WWP datum).
15. This permit is issued subject to the established commercial navigational servitude. The permittee places this encroachment at his own peril and specifically waives any claim against commercial log tow operators who may accidentally damage this encroachment.
16. The permittee shall maintain the structure or work authorized herein in a good and safe condition and in accordance with the plans and drawings attached hereto.
17. All construction shall be completed in accordance with descriptions and methods provided unless otherwise specified. Any changes shall be approved in writing by the department prior to construction.

ENCROACHMENT PERMIT NO. L-95-S-4339
August 15, 1997
Page three

UPON TRANSFER OF THIS REAL PROPERTY, YOU ARE REQUIRED TO NOTIFY THIS
OFFICE OF THE SUBSEQUENT NAME CHANGE (SEE ENCLOSURE).

FOR THE DIRECTOR

By: Carl Washburn
CARL WASHBURN
Navigable Waters Specialist

STATE OF IDAHO)
) ss
COUNTY OF KOOTENAI)

Subscribed and sworn to before me this 15th day of
August, 1997.



Merna Cherry
Notary Public for Idaho
Residing at Post Falls, Idaho
Commission expires: 1/24/98

IDAHO DEPARTMENT OF WATER RESOURCES APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 91-7173

APPLICATION ID # 74859
INITIAL REVIEW

ENT 6/16 BCA 9/24 OK to Publish 6/25/08

APPLICANT: Steve Hawks

BY: [Signature]

DATE: 6/23/2008

- ITEM REQUIRED INFORMATION**
1. ☒ Name and Address
 2. ☒ Source
 3. ☒ Point of Diversion & County
 4. ☒ Quantity
☒ Nature of Proposed Use
☒ Period of Use
 5. ☒ Total Quantity
 6. ☒ Description of diverting works
 7. ☒ Time required for b/u
 8. ☒ Proposed use
 9. ☒ Place of use or acres irrigated
 10. ☒ Other water Rights
 11. ☒ Ownership
 12. ☒ Map
☒ Signature
☒ Fee (Amt, receipt, acknowledgement)

PROCESSING
(Yes)(No)

PRIORITY DATE: 6/16/2008

☒ (Include Moratorium Remark)

☒ Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

sm/wed

ADVERTISE IN:

Beneviah County

LETTERS SENT REQUESTING:

- ☐ Dam Information ☐ Fish Information
☐ Power Information ☐ Other: _____

INFORMATION RECEIVED:

☐ Dam Information ☐ Fish Information

☐ Power Information ☐ Other: _____

*** Send info sheet Y() N()

ADDITIONAL INFORMATION

(Yes)(No)

- ☒ Shape File Created Date 6/16/08 By: [Signature]
☐ Field check: by _____
☐ Field report attached
☐ Analysis Supp. attached(>5cfs/500af)
☐ Water delivered by water master? Water District # _____

GROUNDWATER SECTION

WD Permit No.'s:	Tag #	Type:	Fees	Receipt No.	Upgrade Needed?
_____	_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y() N()
_____	_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y() N()
_____	_____	Dom. _____ Non-Dom. _____	Paid \$ _____	_____	Y() N()

- ☐ Groundwater management area
☐ Critical ground water area
☐ Well Drilling Permit required
☐ Well Drilling Application and Fees received
☐ Well Drilling Application approved?

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

- ☐ Notice of pending void order issued. Final order response date: ____/____/____
☐ Further information required from applicant
7/11 ☒ Affidavit of publication received
7/14 ☒ Application published correctly. If not, record action taken: _____

6/26 Publication dates and paper recorded on application

Sr. Agent initial [Signature]

☐ Protests received, Final protest date: 7/21/08

☐ Measuring device required

☐ Measuring port required

☒ Special conditions: ASF ST JOE BRIDGE

☐ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by:

[Signature]

Date: 8/7/2008

74859

Ident. No. 91-7173

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

RECEIVED
JUN 20 2008
IDWR/North

1. Name: STEVE HAWKS
89231 HWY 3N
ST MARIES ID 83861
(208)245-2403

2. Source: ST JOE RIVER Tributary to: COEUR D ALENE LAKE

3. Location of Point of Diversion:

#1 ST JOE RIVER L7 (NE1/4SE1/4) Sec. 7, Twp 46N, Rge 02W, B.M.
BENEWAH County

4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u> <u>To</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	

5. Total quantity to be appropriated is: 0.04 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

a. Type and size of devices used to divert water from the source: 3/4 HP PUMP AND

DISCHARGE LINE

b. Height of storage dam _____ feet;

Active reservoir capacity _____ acre-feet;

Total reservoir capacity _____ acre-feet;

c. Proposed well diameter is _____ inches;

Proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85F being sought?

e. If well is already drilled, when? _____;

Drilling Firm _____;

Drilling Permit No. _____.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 year(s).

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

8.

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
46N 02W 7	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
													X				L7

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

9b. Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

10. Remarks:

SUMMER RECREATIONAL USE

11. Map of proposed point of diversion and place of use attached? [X]

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Spurthawke

Applicant

Received by Dianne Date 6/16/08 Time 10:49 Preliminary check by _____
 Publication prepared by [Signature] Date 6/25/08 Published in St. Maries Gazette 2/27/08
 Publication approved [Signature] Date 7/11/08

Receipt No. N019318

Date: 6/16/08Received by: Dianne

91-7173



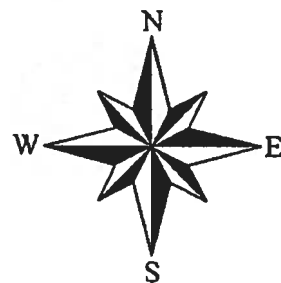
0 115 230 460 690 920 Feet

Legend

QQ

⊙ workingpod

workingpou



Tract 5

Castillo's
Tract 10

Block 1

Lot 1

Lot 2

JOHN

JOHN

TULLIO

ORMAN

Lot 4

-001A

Lot 3

STACKO
-010A

STACKOW
Lot 5
-003B

Lot 6

Lot 7

Tax # 602

COLIN

-006B

CAMPBELL

Part Tracts 68 7
Castillo's Tracts

Lot 9
STEVE #1084
1165 HAWKS
-009A

Lot 8

-008A

Tax # 754

OWEN

-01C

LOUNSBURY

LOUNSBURY

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10-

10 GALL

Hwy 3

Lot 12
COLIN
CAMPBELL

Lot 11

Lot 10
C.C.
CHASE

Lot 9

Lot 8

Lot 7

Lot 6
-007Q

Lot 5
-007Q

Lot 4
-004Q

Lot 3
JOHN

Lot 2

Tax # 552-B

-008

-008

-008

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Lot 8

Lot 7

Lot 6
C.C.
CHASE

Lot 5

Lot 4
C.C.
CHASE

Lot 3

Lot 2

Lot 1

DONALD
HARVEY, JR.
-01E1

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Lot 6
C.C.
CHASE

Lot 5

Lot 4
C.C.
CHASE

Lot 3

Lot 2

Lot 1

-01E1

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 91-07173

Priority: June 16, 2008

Maximum Diversion Rate: 0.04 CFS

This is to certify, that STEVE HAWKS
89231 HWY 3N
ST. MARIES ID 83861

has applied for a permit to appropriate water from:

Source: ST JOE RIVER

Tributary: COEUR D ALENE LAKE

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER L7 (NE1/4SE1/4) Sec. 7, Twp 46N, Rge 02W, B.M.
BENEWAH County

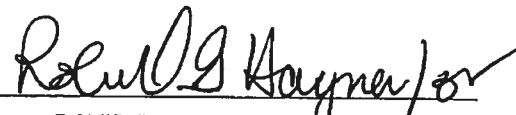
PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
46N 02W 7													X				L7

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2009**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 8th day of August, 2008.


DAVID R. TUTHILL, JR., Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 91-7173

Exam Date:

1. Current Owner: STEVE HAWKS
89231 HWY 3N
ST. MARIES ID 83861
208-245-2403
2. Accompanied by: Current Owner
Phone No: Same
Address: Same
Relationship to Permit Holder:

3. SOURCE

ST JOE RIVER

TRIBUTARY

COEUR D'ALENE LAKE

B. OVERLAP REVIEW

1. Other water rights with the same place of use;
2. Other water rights with the same point of diversion;

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

ST JOE RIVER

L7 NE1/4SE1/4

Sec. 7, Twp 46N, Rge 02W, B.M.

BENEWAH County

Method of Determination: Map and Aerial Photo

2.

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
46N	02W	7													X				
															L 7				

Method of Determination:

3. ☒ Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
☒ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
☒ Aerial Photo Attached (required for irrigation of 10+ acres).
☒ Photo of Diversion and System Attached

4.

<u>Well or Diversion ID No.*</u>	<u>Motor Make</u>	<u>Hp</u>	<u>Motor Serial No.</u>	<u>Pump Make</u>	<u>Pump Serial No. or Discharge Size</u>
	Dayton	1/2	7K649	TEC	1P852

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

<u>Measurement Equipment</u>	<u>Type</u>	<u>Make</u>	<u>Model No.</u>	<u>Serial No.</u>	<u>Size</u>	<u>Calib. Date</u>

2. Measurements:

E. FLOW CALCULATIONS

____ Additional Computation Sheets Attached

Measured Method:

5 gallon bucket in 20 sec = 18 gpm = 0.04 cfs

F. VOLUME CALCULATIONS**1. Volume Calculations for Irrigation:**

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 =$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$$

2. Volume Calculations for Other Uses: Domestic use volume = 1.2AF**G. NARRATIVE/REMARKS/COMMENTS: This water right is for one home with 1/2 ac of irrigation.**

Have conditions of permit approval been met? ☒ Yes ☐ No

H. RECOMMENDATIONS**1. Recommended Amounts**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.040 CFS	1.2 AF
<u>Totals:</u>		0.040 CFS	1.2 AF

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATION

Field Examiner's Name *E. J. P. [Signature]* Date 11/14/08

Reviewer *[Signature]* Date 11/20/8

DELIVERY SYSTEM



Legend

- ⊙ Right POD
- ▨ Right POU

0 50 100 200 300 400 Feet

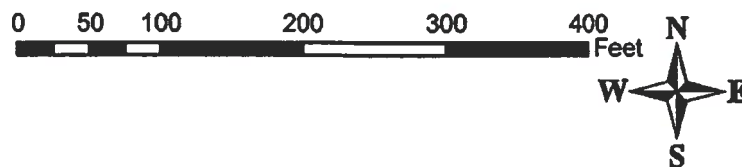


91-7173



Legend

- ⊙ Right POD
-  Right POU

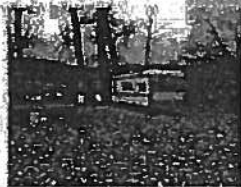




POWER BOX.JPG



PUMP HOUSE.JPG



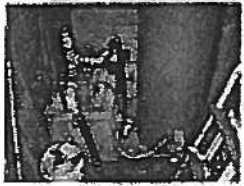
POU.JPG



POU.JPG



IMG_1043.JPG



SYSTEM.JPG



PUMP.JPG

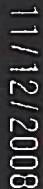


MOTOR.JPG

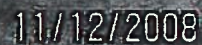


POD.JPG

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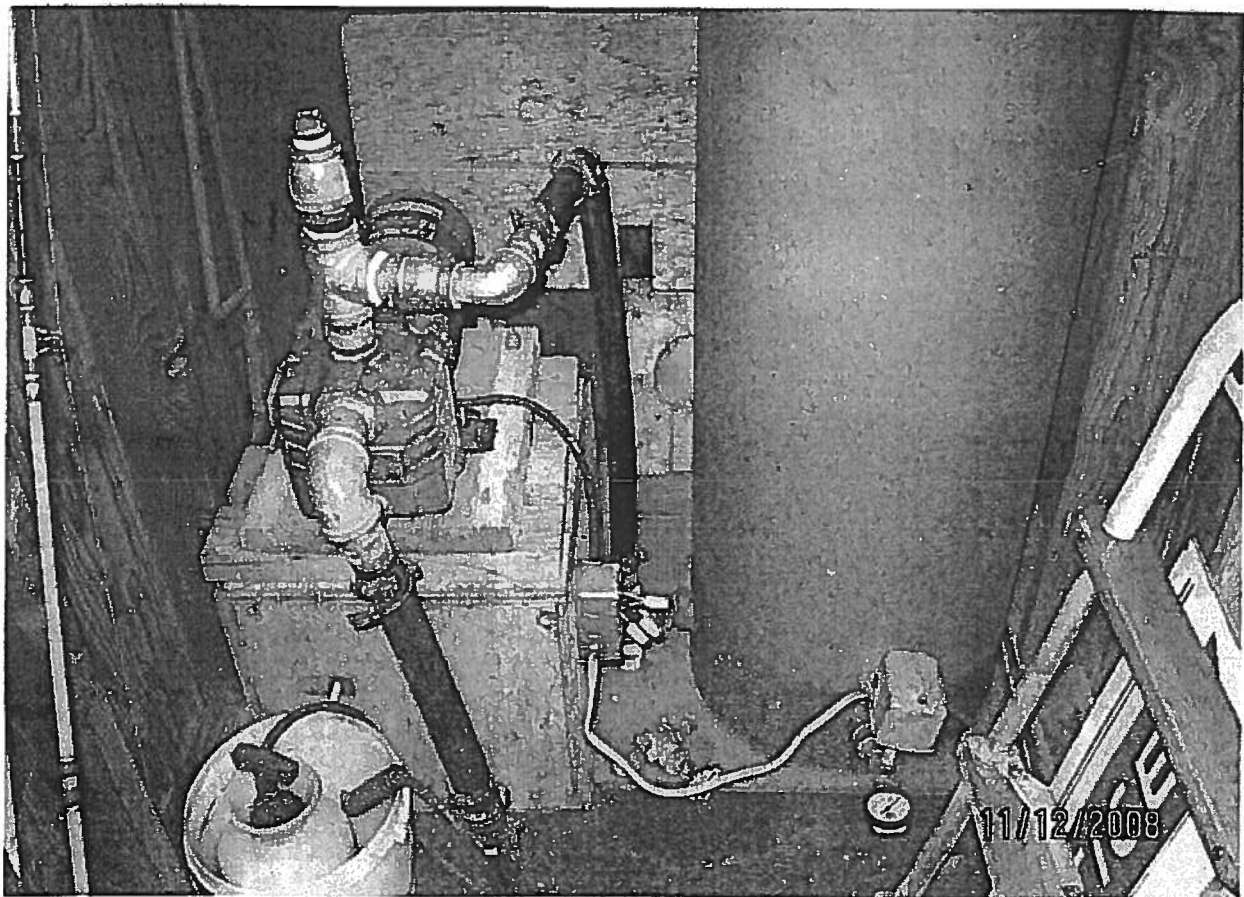


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9-773





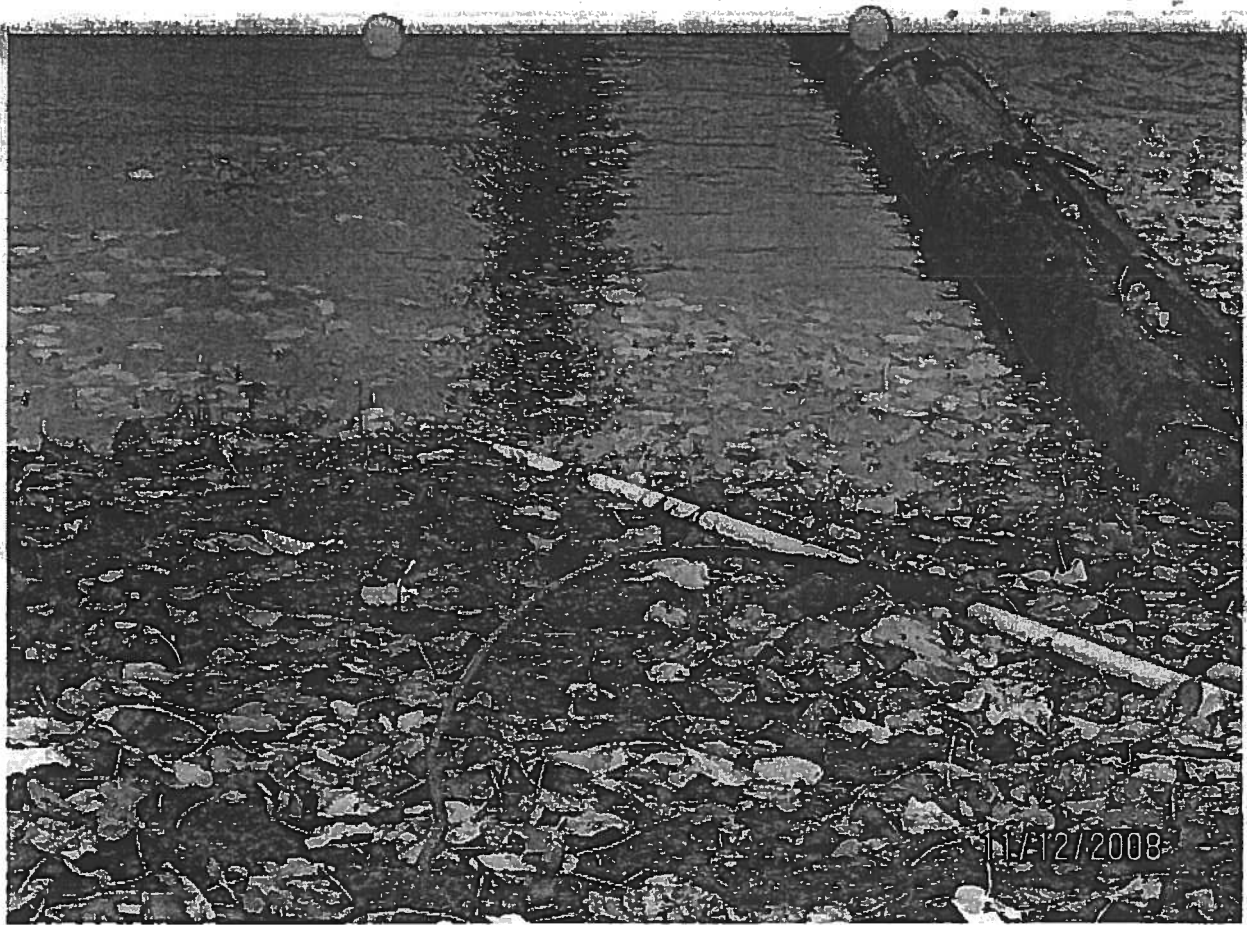
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