State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 91-07173

Priority: June 16, 2008

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 1.2 AF

It is hereby certified that STEVE HAWKS
89231 HWY 3N
ST. MARIES ID 83861 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 16, 2008; and has submitted Proof of Beneficial Use on August 21, 2008. An examination indicates that the works have a diversion capacity of 0.04 cfs of water from:

SOURCE
ST JOE RIVER **Tributary:** COEUR D ALENE LAKE

and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL DIVERSION VOLUME
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF

LOCATION OF POINT(S) OF DIVERSION:
ST JOE RIVER L7 (NE¼SE¼) 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. Domestic use is for 1 home.
2. This right does not grant any right-of-way or easement across the land of another.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 25th day of November, 2008.

DAVID R. TUTHILL, JR.
Director

RECEIVED
OCT 15 2014
IDWR/NORTHERN

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 91-7102
Date Received: 10/15/2014
Receipt No: N026574, N026575, C095439, C095440
Received By: LW

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

STEVE HAWKS Phone: 208-245-2403

89231 HWY 3N
SAINT MARIES ID USA 83861

DEANNE HAWKS Phone: (208)245-2403

89231 HIGHWAY 3 N
ST MARIES ID USA 83861

2. Date of Priority: 07/22/1988

3. Source: ST JOE RIVER Trib. to: COEUR D ALENE LAKE

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County	Type
46N	02W	7		NE	SE	7	BENEWAH	

5. Description of diverting works:

PUMP AND PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
DOMESTIC	03/15	11/15	0.02	0.6

7. Total Quantity Appropriated is:
0.02 C.F.S. and/or 0.6 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
46N	02W	7	NE	SE	7	DOMESTIC	

11. Place of use in counties: BENEWAH

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

13. Other Water Rights Used:

14. Remarks:

Domestic use is for irrigation of lawn & garden.

15. Basis of Claim: License

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): Duane Hawks Date: 10-15-14

_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this

of _____ 20__

_____
Notary Public

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

RECEIVED
JUN 25 2015
DEPARTMENT OF
WATER RESOURCES

A. Subcase 91-7102

In Re CSRBA)
)
Case No. 49576)
)
)
_____)

STANDARD FORM 1 OBJECTION

B. NAME AND ADDRESS OF PERSON OBJECTING

COEUR D'ALENE TRIBE of the COEUR D'ALENE INDIAN RESERVATION, 850 A Street, P.O. Box 408, Plummer, ID 83851

Name & Address of Attorney:

Howard Funke
Howard Funke & Associates, P.C.
424 Sherman Ave.
P.O. Box 969
Coeur d'Alene, ID 83816-0969
Telephone: (208) 667-5486
Email: hfunke@indian-law.org

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Steve & Deanne Hawks, 89231 Hwy 3 N, St. Maries, ID 83861

Name & Address of Attorney:

D. The United States objects to the following elements or general provision as recommended in the Director's Report.

1. ☐ **Name and Address**
Should be: _____

2. ☒ **Source**
Should be: A water source that is not overlying tribal submerged lands within the Coeur d'Alene Reservation.

3. ☐ **Quantity**
Should be: _____

4. ☐ **Priority Date**
Should be: _____

5. ☒ **Point of Diversion**
Should be: Located so as to not encroach upon tribal submerged lands within the Coeur d'Alene Reservation.

6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____

7. ☐ **Purpose(s) of Use**
Should be: _____

8. ☐ **Period of Year**
Should be: _____

9. ☐ **Place of Use**
Should be: _____

10. ☐ **General Provision** ☐ Individual Water Right ☐ All Water Rights
☐ Should not be recommended.

☐ This general provision was not recommended but should be recommended as described below.

Should be: _____

☐ General provision was recommended but should be modified as described below.

Should be: _____

11. ☐ I object because the recommendation contains an accomplished transfer under Idaho Code § 421425 resulting in injury to my water right(s) and/or enlargement of the original right.

12. ☒ I object because:

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS:

The United States has filed a number of claims for waters from groundwater and surface water sources within the North Idaho Adjudication in the State of Idaho to fulfill the permanent homeland purpose of the Coeur d'Alene Indian Reservation pursuant to *Winters v. United States*, 207 U.S. 564 (1908) and its progeny, as well as the operative documents and circumstances surrounding the creation of the Coeur d'Alene Reservation, including but not limited to, the Agreement dated July 28, 1873 between the United States and the Coeur d'Alene Tribe, the Executive Order signed by President Grant on November 8, 1873, 1 C. Kapler, Indian Affairs: Laws and Treaties 837 (1904), and the Agreement dated March 26, 1887 between the United States and the Coeur d'Alene Tribe, ratified by Act of Congress dated March 3, 1891, 26 Stat. 1027.

In 2001, the United States Supreme Court ruled that the lands underlying Lake Coeur d'Alene and its tributaries within the current boundaries of the Coeur d'Alene Indian Reservation ("Reservation") are owned by the United States as Trustee for the benefit of the Coeur d'Alene Tribe ("Tribe"). *Idaho v. United States, et al.*, 533 U.S. 262 (2001). In so doing, the Supreme Court affirmed the order of the district court that the United States and the Tribe are "entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation . . . ." *United States and Coeur d'Alene Tribe v. Idaho*, 95 F.Supp.2d 1094, 1117 (D. Idaho 1998). Therefore, the claimant must have authorization from the Tribe to encroach upon tribal submerged lands for the purpose of using the navigable waters within the Reservation. To date, no such authorization has been obtained by the claimant and therefore, this water right should not exist.

Exhibit A, attached, contains a list of claim numbers that the Tribe has also objected to that implicate the same issues raised in this objection.

F. CERTIFICATE OF MAILING

I certify that on June 23, 2015, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to: Clerk of the District Court
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North, PO Box 2707
Twin Falls, ID 83303-2707

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

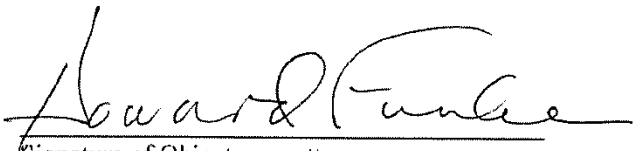
Steve & Deanne Hawks
89231 Hwy 3 N
St. Maries, ID 83861

3. Copies to:

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

Chief, Natural Resources Division
Office of Attorney General
PO Box 83720
Boise, ID 83720-0010

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



Signature of Objector or attorney
mailing on Objector's behalf

EXHIBIT A
LIST OF SUBCASE NOS.

Box 2, 5: Source and Point of Diversion

91-4015
91-4113
91-7003
91-7026
91-7048
91-7102
91-7104
91-7113
91-7120
91-7121
91-7125
91-7131
91-7136
91-7137
91-7140
91-7173
91-7339
91-7471
91-7519
91-7568

RECEIVED
JUL 28 2015
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 CSRBA	)	**A. Subcase No. 91-7102**
	)	
Case No. 49576	)	**STANDARD FORM 2**
	)	**RESPONSE TO OBJECTION**
	)	
	)	

Please **print** or **type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: State of Idaho
Address: P.O. Box 83720
Boise, ID 83720-0010
Phone: 208-334-2400

Attorney Name: LAWRENCE G. WASDEN
Attorney General
Clive J. Strong
Deputy Attorney General
Chief, Natural Resources Division
Steven W. Strack (ISB # 3906)
Anne E. Vonde (ISB # 8406)
Deputy Attorneys General
Attorney Address: P.O. Box 83720
Boise, Idaho 83720-0010
Attorney Phone No.: Telephone: (208) 334-2400

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO WHICH YOU ARE RESPONDING

Name: Coeur d'Alene Tribe of the Coeur D'Alene Indian Reservation
Address: 850 A. Street, PO Box 408Pl
Plummer, ID 83851

D. I am responding to the Objections to the following elements or general provision. (Please check the appropriate box(es)).

1.	☐	**Name and Address**
2.	☑	**Source**
3.	☐	**Quantity**
4.	☐	**Priority Date**
5.	☐	**Point of Diversion**
6.	☐	**Instream Flow Beginning and Ending**
7.	☐	**Purpose(s) of Use**
8.	☐	**Period of Year**
9.	☐	**Place of Use**
10.	☐	**General Provision**
11.	☑	**Recommendation:**

☑ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

Reasons for Response. The reservation of the beds and banks of a navigable waterway, and the reservation, if any, of the minimum amount of water rights necessary to fulfill the purposes of the Coeur d'Alene Indian Reservation, does not deprive the State of its authority to authorize the diversion of non - reserved waters by nonmembers residing within the Reservation. Waters within the Reservation in excess of the water, if any, found by this Court to be necessary to fulfill reserved water rights, are under the sovereign control of the State of Idaho, and may be appropriated as provided by the laws of the State of Idaho.

INSTRUCTIONS FOR MAILING

You must mail the Response, including all attachments, to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

E. CERTIFICATE OF MAILING

I certify that on July 27. 2015, I mailed the original and copies of this objection, 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:

Deanne Hawks
Steve Hawks
89231 Hwy. 3 N.
St Maries, ID 83861

3. Once copy to the party who filed the Objection at the following address:

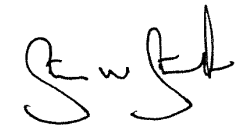
Howard Funke
Howard Funke & Associates, P.C.
P.O. Box 969
Coeur d'Alene, ID 83816-0969

Copies to

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

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

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



Your signature or signature of attorney mailing on your behalf

RECEIVED
AUG 19 2015
DEPARTMENT OF
WATER RESOURCES

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

In Re: CSRBA	)	A. Subcase No: 91-7102
	)	
Case No. 49576	)	
	)	STANDARD FORM 2
	)	RESPONSE TO OBJECTION
	)	
	)	

B. NAME AND ADDRESS OF PERSON RESPONDING

See Attachment A (members of the North Idaho Water Rights Alliance)

Attorney Name: Norman M. Semanko (ISB # 4761)
Attorney Address: P.O. Box 829
Boise, Idaho 83701-0829
Attorney Phone No. 208-385-5448

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO WHICH YOU ARE RESPONDING

Name: Coeur d'Alene Tribe of the Coeur d'Alene
Indian Reservation
Address: 850 A Street, P.O. Box 408
Plummer, ID 83851

D. I am responding to the objections to the following elements or general provision. (Please check the appropriate box(es)).

1 ☐. **Name and Address**

2 ☒ **Source**

3 ☐ **Quantity**

4 ☐ **Priority Date**

5 ☒ **Point of Diversion**

6.☐ **Instream Flow Beginning and Ending Point**

7.☐ **Purpose(s) of Use**

8.☐ **Period of Year**

9. ☐ **Place of Use**

10.☐ **General Provision**

11.☐ Recommendation

☐ **This water Right Should Not Exist**

☐ **This water right was not recommended, but should be recommended with the elements described above.**

E: Respondents Recommendation:

This water right should be decreed as recommended by the IDWR Director on the following grounds: In 1891 the Coeur d'Alene reservation was created by Congress, reserving the beds and the banks of submerged lands within the reservation. In 1906, Congress opened up the reservation under the Allotment and Homestead Acts and provided that the land, once patented, would be thereafter subject to the law of the State in which it was located. The U.S. reserved certain mineral and hydropower rights in regard to the subject lands. The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including with those waterfront lands sold by the U.S. and are subject to State law regulation as provided by the Acts of Congress enabling the alienation of those lands.

INSTRUCTIONS FOR MAILING

You must mail the Response, to the Clerk of the court.
FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on August 18, 2015 I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to: Clerk of the District Court

   Coeur d'Alene-Spokane River Basin Adjudication
   253 Third Avenue North
   P.O. Box 2707
   Twin Falls, ID 83303-2707

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

   Norman M. Semanko
   P.O. Box 829
   Boise, ID 83701-0829

3. One copy to the party who filed the Objection at the following address:

   Name: Coeur d'Alene Tribe of the Coeur d'Alene Indian Reservation
   Address: 850 A Street, P.O. Box 408
   Plummer, ID 83851

4. Copies to:

IDWR Document Depository
P.O. 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
P.O. Box 83720
Boise, ID 83720-0010

Signature of Respondent or Attorney mailing on Respondents behalf

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Steve	Addington	33037 S. Hells Gulch Road	St. Maries	ID	83861
June	Addington	33037 S. Hells Gulch Road	St. Maries	ID	83861
Tuck	Ainge	5151 Alder Creek	St. Maries	ID	83861
Linda K.	Alldredge	26914 Dudley E. Road	Cataldo	ID	83810
Billy	Anderson	440 Agency Road	Plummer	ID	83851
Conrad	Anderson	9486-A Coeur d' Alene River Rd	Kingston	ID	83839
Doris Jeanne	Anderson	9486-A Coeur d' Alene River Rd	Kingston	ID	83839
Edward	Anderson	P. O. Box 327	Kingston	ID	83839
Candace	Anderson	P. O. Box 327	Kingston	ID	83839
Joseph	Anderson	P. O. Box #56	Cataldo	ID	83810
Shannon	Anderson	P. O. Box #56	Cataldo	ID	83810
Joy	Averitt	389 Shady Lane	Wallace	ID	83873
Ed	Bailey	57 Deer Lane	Kellogg	ID	83837
Janice	Bailey	57 Deer Lane	Kellogg	ID	83837
Leroy	Bailey	705 "A" Street	Pinehurst	ID	83850
Betty	Bailey	705 "A" Street	Pinehurst	ID	83850
Jeffrey	Baker	715 N. Chisholm Court	Post Falls	ID	83854
Mary Lou	Baker	715 N. Chisholm Court	Post Falls	ID	83854
David	Banderob	8250 lHells Gulch Road	St. Maries	ID	83861
Gary	Barton	975 Watertower Road	St. Maries	ID	83861
Janet	Barton	975 Watertower Road	St. Maries	ID	83861
William	Becker	558 Placer Creek	Wallace	ID	83873

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Merrilee	Becker	558 Placer Creek	Wallace	ID	83873
Gary	Barton	975 Watertower Road	St. Maries	ID	83861
Janet	Barton	975 Watertower Road	St. Maries	ID	83861
William	Becker	558 Placer Creek	Wallace	ID	83873
Merrilee	Becker	558 Placer Creek	Wallace	ID	83873
Ron	Bertoch	209 Pine	Wallace	ID	83873
Judy	Bertoch	209 Pine	Wallace	ID	83873
Angelo	Bissell	5305 E. O'Gara Road	Harrison	ID	83833
Joyce	Bissell	5305 E. O'Gara Road	Harrison	ID	83833
George	Bloomsburg	27180 S. Wildwood Drive	Worley	ID	83876
Hilma	Bloomsburg	27180 S. Wildwood Drive	Worley	ID	83876
Leland	Boldt	4924 Honey Hill Road	Oak Hills	CA	92344
Danielle	Boldt	4924 Honey Hill Road	Oak Hills	CA	92344
Robert	Bostrom	P. O. Box 241	Potlatch	ID	83855
Dianna	Bostrom	P. O. Box 241	Potlatch	ID	83855
Willaim	Brandt	44 Ferguson Street	St. Maries	ID	83861
Vic	Brodie	P. O. Box 82	Santa	ID	83866
Rita	Brodie	P. O. Box 82	Santa	ID	83866
Mark	Brown	746 Bearsprings Road	St. Maries	ID	83861
Debra	Brown	746 Bearsprings Road	St. Maries	ID	83861
Wayne	Brown	Box #134	Kingston	ID	83839
Nona	Bruns	P. O. Box 105	St. Maries	ID	83861

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Jack	Buell	402 Shepherd Road	St. Mariea	ID	83861
Eleanor	Buell	402 Shepherd Road	St. Mariea	ID	83861
Terry	Burger	689 Hume Creek Road	St. Maries	ID	83861
Patricia	Burger	689 Hume Creek Road	St. Maries	ID	83861
Hap	Butler	2600-A E. Seltice Way #214	Post Falls	ID	83854
Geraldine	Butler	2600-A E. Seltice Way #214	Post Falls	ID	83854
Gordon	Canterbury	P. O. Box #967	Wallace	ID	83873
Barbara	Canterbury	P. O. Box #967	Wallace	ID	83873
James	Carpenter	1330 Shepherd Road	St. Maries	ID	83861
Ginger	Carpenter	1330 Shepherd Road	St. Maries	ID	83861
Sherry	Carriere	2668 Pettis Peak Road	St. Maries	ID	83861
James	Carney	19483 S. Latour Creek Road	Cataldo	ID	83810
Arlene	Carney	19483 S. Latour Creek Road	Cataldo	ID	83810
Thomas	Carver	2301 Cromwell Drive	St. Maries	ID	83861
Mary	Carver	2301 Cromwell Drive	St. Maries	ID	83861
Cassandra Hills Owners Association, Inc.		905 Cassandra Hills Road	St. Maries	ID	83861
City of Osburn		P. O. Box #865	Osburn	ID	83849
Mary	Combs	38079 S. Hwy 3	St. Maries	ID	83861
Jack	Conklin	41845 Silver Valley Road	Kingston	ID	83839
Yvonne	Conklin	41845 Silver Valley Road	Kingston	ID	83839
Robert	Coppa	P. O. Box #183	Santa	ID	83866
Connie	Coppa	P. O. Box #183	Santa	ID	83866

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

John	Cross	4600 E. Inverness Drive	Post Falls	ID	83854
Angela	Cross	4600 E. Inverness Drive	Post Falls	ID	83854
Crows Nest Co-Operative		P. O. Box 311	Harrison	ID	83833
Doug	Dana	19010 St. Joe River Road	St. Maries	ID	83861
Valorie	Dana	19010 St. Joe River Road	St. Maries	ID	83861
Brian	Davis	16604 Hwy 5	St. Maries	ID	83861
Megan	Davis	16604 Hwy 5	St. Maries	ID	83861
Kent	Davis	P. O. Box #453	Mullan	ID	83846
Donna	Davis	P. O. Box #453	Mullan	ID	83846
Rick	Day	59494 S. Hwy 97	St. Maries	ID	83861
Holly	Day	59494 S. Hwy 97	St. Maries	ID	83861
Robert	Day	P. O. Box #5	Santa	ID	83866
Sharon	Day	P. O. Box #5	Santa	ID	83866
Todd	Dellinger	P. O. Box #444	Silverton	ID	83867
Shannon	Dellinger	P. O. Box #444	Silverton	ID	83867
Ken	Devries	333 Lost Trail	St. Maries	ID	83861
Yvonne	Devries	333 Lost Trail	St. Maries	ID	83861
Mary E.	Dickson	P. O. Box #1138	Spirit Lake	ID	83869
Dale	Dimico	99 Bulter Drive	St. Maries	ID	83861
Pete	Dirlam	P. O. Box #155	Santa	ID	83866
Jean	Dohrman	59510 S. Hwy 97	St. Maries	ID	83861
Larry	Domingo	P. O. Box #963	Pinehurst	ID	83850

Joan	Dorsett	3007 Woodland Drive	Pinehurst	ID	83850
Tom	DuHamel	4300 E. Sunset Drive	Harrison	ID	83833
Eileen	DuHamel	4300 E. Sunset Drive	Harrison	ID	83833
Fred	Duncan	1684 Goosehaven Road	St. Maries	ID	83861
Cherie	Duncan	1684 Goosehaven Road	St. Maries	ID	83861
East Shoshone County Water District		606 Cedar Street	Wallace	ID	83873
Paul	Ebert	88680 Hwy 3 North	St. Maries	ID	83861
Don	Eckman	15459-B St. Joe River Road	St. Maries	ID	83861
Barbara	Eckman	15459-B St. Joe River Road	St. Maries	ID	83861
Betty A.	Ellis	174 S. Cda Street - Bldg H204	Spokane	WA	99201
Birdie M.	Ellison	360 Eagle Creek Road	Wallace	ID	83873
Lisa	Emerson	354 Ahrs Loop	St. Maries	ID	83861
Elmor	Evans	6776 Benewah Creek Road	St. Maries	ID	83861
Beverly	Evans	6776 Benewah Creek Road	St. Maries	ID	83861
F & H Mine Supply, Inc.		P. O. Box #747	Wallace	ID	83873
Fernwood Water & Sewer District		P. O. Box #215	Fernwood	ID	83830
Harold	Fee	1756 Shepherd Road	St. Maries	ID	83861
Carol	Fee	1756 Shepherd Road	St. Maries	ID	83861
Edmond	Ferrell	P. O. Box #125	Santa	ID	83866
Janet	Ferrell	P. O. Box #125	Santa	ID	83866
John	Ferris	7569 Windfall	St. Maries	ID	83861
Shirley	Ferris	7569 Windfall	St. Maries	ID	83861

Nick	Ferris	1967 Alder Creek Loop	St. Maries	ID	83861
Sabrina	Ferris	1967 Alder Creek Loop	St. Maries	ID	83861
Ray	Fink	P. O. Box #63	Santa	ID	83866
Janis	Fink	P. O. Box #63	Santa	ID	83866
Mike	Fish	2626 Railroad Grade Road	St. Maries	ID	83861
Jonny	Fish	2626 Railroad Grade Road	St. Maries	ID	83861
Eugene	Flamand	4970 N. Industrial Way STE-2	Coeur d' Aler	ID	83815
Nancy	Flamand	4970 N. Industrial Way STE-2	Coeur d' Aler	ID	83815
Walter	Floch	4661 Minaloosa Valley Road	Plummer	ID	83851
Denise	Floch	4661 Minaloosa Valley Road	Plummer	ID	83851
Mark	Fowler	380 Wagon Wheel Road	St. Maries	ID	83861
Marcie	Fowler	380 Wagon Wheel Road	St. Maries	ID	83861
Kent	Friede	2750 Linden Road	Kendrick	ID	83537
Debra	Friede	2750 Linden Road	Kendrick	ID	83537
James	Furth	16603 Hwy 5	St. Maries	ID	83861
Victoria	Furth	16603 Hwy 5	St. Maries	ID	83861
Steve	Geike	P. O. Box #35	St. Maries	ID	83861
Francine	Geike	P. O. Box #35	St. Maries	ID	83861
Grayson	Gerard	P. O. Box #23	Kingston	ID	83839
Carol	Gerard	P. O. Box #23	Kingston	ID	83839
Alan	Gilda	P. O. Box #498	Mullan	ID	83846
Malinda	Gilda	P. O. Box #498	Mullan	ID	83846

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Archie	Glisson	P. O. Box #82	Smelterville	ID	83868
Francis	Glisson	P. O. Box #82	Smelterville	ID	83868
Jon	Gravestock	1688 Shepherd Road	St. Maries	ID	83861
Bill	Gray	5767 Alder Creek Road	St. Maries	ID	83861
Angela	Gray	5767 Alder Creek Road	St. Maries	ID	83861
Martha	Green	1090 Ellis Lane	Plummer	ID	83851
Wendy	Green	1090 Ellis Lane	Plummer	ID	83851
Harry	Grubham	345 S. 15th Street	St. Maries	ID	83861
Pam	Grubham	345 S. 15th Street	St. Maries	ID	83861
Joseph L.	Haferman	2819 Oshaughnesy	Missoula	MT	59808
Timothy	Hall	141 Susie Drive	St. Maries	ID	83861
Susan	Hall	141 Susie Drive	St. Maries	ID	83861
Roderick	Halvorsen	P. O. Box 44	Santa	ID	83866
Beth	Halvorsen	P. O. Box 44	Santa	ID	83866
William	Harrison	12777 W. Cougar Gulch Road	Coeur d' Aler	ID	83814
Gretchen	Harrison	12777 W. Cougar Gulch Road	Coeur d' Aler	ID	83814
Patrice	Hartel	2213 Hawthorn Lane	St. Maries	ID	83861
Dick	Harwood	81527 Hwy 3 South	St. Maries	ID	83861
Carol	Harwood	81527 Hwy 3 South	St. Maries	ID	83861
Dan E.	Hay	P. O. Box #1086	Tekoa	WA	99033
Thomas	Hayes	214 W. Elder	Kellogg	ID	83837
Jacqueline	Hayes	214 W. Elder	Kellogg	ID	83837

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Rudy	Heicksen	P. O. Box #193	Santa	ID	83866
Judith	Heicksen	P. O. Box #193	Santa	ID	83866
Donald	Heikkila	12248 E. O'Gara Road	Harrison	ID	83833
Brian	Higdem	360 Lahde Hill Road	Pinehurst	ID	83850
Jann	Higdem	360 Lahde Hill Road	Pinehurst	ID	83850
Clifford	Hinsz	P. O. Box #810	Wallace	ID	83873
Kathy Jo	Hinsz	P. O. Box #810	Wallace	ID	83873
Randy	Holte	479 S. Newell Road	Coeur d' Aler	ID	83814
Jane	Holte	479 S. Newell Road	Coeur d' Aler	ID	83814
Edward	Howe	10373 W. Riverview	Coeur d' Aler	ID	83814
Claudia	Howe	10373 W. Riverview	Coeur d' Aler	ID	83814
Grace	Huff	20609 50th Avenue, East	Spanaway	WA	98387
Harvey	Hughett	2003 Ilene Drive	Moscow	ID	83843
Cheryl	Hughett	2003 Ilene Drive	Moscow	ID	83843
Darren	Jackson	135 Flat Creek Road	St. Maries	ID	83861
Marvina	Jackson	135 Flat Creek Road	St. Maries	ID	83861
Dean	Johnson	140 Arrhenius Lane	St. Maries	ID	83861
Marjean	Johnson	140 Arrhenius Lane	St. Maries	ID	83861
Fred	Johnson	4889 Alder Creek Road	St. Maries	ID	83861
John	Katovich	P. O. Box #385	St. Maries	ID	83861
Beverly	Katovich	P. O. Box #385	St. Maries	ID	83861
Kellogg School District		800 Bunker Avenue	Kellogg	ID	83837

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Kevin	Kilwein	3236 E. Hwy 8	Moscow	ID	83843
Mary Lou	Kilwein	3236 E. Hwy 8	Moscow	ID	83843
Ronald	Kinyon	606 Airway Drive	Lewiston	ID	83501
Donna	Kinyon	606 Airway Drive	Lewiston	ID	83501
Patrick	Kinsey	35 Main Woodland Park	Wallace	ID	83873
Janet	Kinsey	35 Main Woodland Park	Wallace	ID	83873
Melvin	Kirkman	502 Happy Valley Lane	St. Maries	ID	83861
Tim	Kraack	46499 Hwy. 3	St. Maries	ID	83861
Teresa	Kraack	46499 Hwy. 3	St. Maries	ID	83861
Joseph	Kren	1204 Shepherd Road	St. Maries	ID	83861
Mary E.	Kren	1204 Shepherd Road	St. Maries	ID	83861
Bob	Anderson	P. O. Box 2674	Everett	WA	98213
Patty	Anderson	P. O. Box 2674	Everett	WA	98213
Carolyn	Clark	1513 E. 56th Lane	Spokane	WA	99223
Elizabeth	Roberts	10015 W. Royal Oak #327	Sun City	AZ	85351
Marvin	Wheeler	33716 S. Benewah Road	Harrison	ID	83833
Maryanne	Wheeler	33716 S. Benewah Road	Harrison	ID	83833
Philip	Lampert	1195 Agency Road	Plummer	ID	83851
Connie	Lampert	1195 Agency Road	Plummer	ID	83851
Wilma	Lang	5112 B Coeur d' Alene River Rd	Kingston	ID	83839
Glen	Caldwell	5112 B Coeur d' Alene River Rd	Kingston	ID	83839
William	Latshaw	P. O. Box #187	St. Maries	ID	83861

Therese	Latshaw	P. O. Box #187	St. Maries	ID	83861
Rodney	Lindberg	16323 Hwy 5	St. Maries	ID	83861
Carol	Lindberg	16323 Hwy 5	St. Maries	ID	83861
David	Lindsay	252 Garnet Drive	St. Maries	ID	83861
Joan	Lindsay	252 Garnet Drive	St. Maries	ID	83861
Allen	Linscott	5112-A Coeur d' Alene River Rd	Kingston	ID	83839
Judy	Linscott	5112-A Coeur d' Alene River Rd	Kingston	ID	83839
Ivan	Linscott	7150 Burke Road	Wallace	ID	83873
Margo	Linscott	7150 Burke Road	Wallace	ID	83873
Robert	Lowry	640 Renlow Road	Plummer	ID	83851
Bennie	Lowry	640 Renlow Road	Plummer	ID	83851
Fredric	Manthey	P. O. Box #619	Mullan	ID	83846
Lorraine	Manthey	P. O. Box #619	Mullan	ID	83846
William	McAninch	205 Santa Marie Woods Drive	St. Maries	ID	83861
Nancy	McAninch	205 Santa Marie Woods Drive	St. Maries	ID	83861
Lance	McDaniel	P. Box 606	St. Maries	ID	83861
Jeanne Michele	McDaniel	P. Box 606	St. Maries	ID	83861
Mary	McDonald	18729 S. River Road	Cataldo	ID	83810
John	McFaddin	20189 S. Eagle Peak Road	Cataldo	ID	83810
Agnes	McFaddin	20189 S. Eagle Peak Road	Cataldo	ID	83810
Bob	McKay	P. O. Box #931	Osburn	ID	83849
Pat	McKay	P. O. Box #931	Osburn	ID	83849

John	McMahon	P. O. Box 872	Victorville	CA	92393
Michelle	McMahon	P. O. Box 872	Victorville	CA	92393
Dennis	McPoland	P. O. Box #517	St. Maries	ID	83861
Levene	McPoland	P. O. Box #517	St. Maries	ID	83861
Ronald	Mendive	3732 S. Dusty Lane	Coeur d' Aler	ID	83814
Sherlene	Mendive	3732 S. Dusty Lane	Coeur d' Aler	ID	83814
Roy	Michael	400 Michael Road	St. Maries	ID	83861
Linda	Michael	400 Michael Road	St. Maries	ID	83861
Doris	Miller	27002 E. Dudley Road	Cataldo	ID	83810
Gary	Miller	19388-A St. Joe River Road	St. Maries	ID	83861
Gary	Mitchell	30808 S. Hwy 3	Medimont	ID	83842
Patricia	Mitchell	30808 S. Hwy 3	Medimont	ID	83842
Van	Moir	P. O. Box #29	Harrison	ID	83833
Cathie	Moir	P. O. Box #29	Harrison	ID	83833
Mountain View Estates Water		P. O. Box #525	Pinehurst	ID	83850
Mullan School District #392		345 Park Street	Mullan	ID	83846
Terry	Murray	P. O. Box 263	Santa	ID	83866
Wilma	Murray	P. O. Box 263	Santa	ID	83866
Larry	Naccarato	1970 Benewah Road	St. Maries	ID	83861
Leslie	Naccarato	1970 Benewah Road	St. Maries	ID	83861
Steve,	Nelson	51 McCanse Road	Thornton	WA	99176
Scott	Nelson	51 McCanse Road	Thornton	WA	99176

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Paula	Nelson	51 McCanse Road	Thornton	WA	99176
Kim	Nelson	51 McCanse Road	Thornton	WA	99176
Adrienne	New	16673 S. Bull Run Road	Cataldo	ID	83810
Douglas	New	16673 S. Bull Run Road	Cataldo	ID	83810
Joel	Newsom	260 S. River Hideaway	St. Maries	ID	83861
Cindy	Newsom	260 S. River Hideaway	St. Maries	ID	83861
Carl	Nordstrom	404 Klette Road	Kingston	ID	83839
Sally	Nordstrom	404 Klette Road	Kingston	ID	83839
Pamela	Secord	391 Bella Rose Road	St. Maries	ID	83861
Tricia	O'Donnell	P. O. Box #3926	Coeur d' Aler	ID	83816
Kenny	Osier	P. O. Box #554	St. Maries	ID	83861
Jennifer	Osier	P. O. Box #554	St. Maries	ID	83861
Douglas	Payne	P. O. Box 315	St. Maries	ID	83861
Kristi	Payne	P. O. Box 315	St. Maries	ID	83861
Patrick	Petrie	349 Kathy Drive	St. Maries	ID	83861
Annette	Petrie	349 Kathy Drive	St. Maries	ID	83861
Steven	Pfeifer	2525 Arapahoe PMB 174 Ste. E-4	Boulder	CO	80302
John	Phillis	38079 S. Hwy 3	St. Maries	ID	83861
Pinehurst Water District		P. O. Box #98	Pinehurst	ID	83850
Gerrie Lee	Place	1066 Minaloosa Road	Plummer	ID	83851
Erling	Place	1066 Minaloosa Road	Plummer	ID	83851
Alexander	Podsaid	357 Mountain Ridge	Kingston	ID	83839

Julie	Pollard	P. O. Box #577	St. Maries	ID	83861
John	Pollard	P. O. Box #577	St. Maries	ID	83861
Rick L.	Powell	396 Powell Road	St. Maries	ID	83861
Dan	Price	42182 Silver Valley Road	Kingston	ID	83839
Jane	Price	42182 Silver Valley Road	Kingston	ID	83839
Gordon	Rathbun	P. O. Box #727	St. Maries	ID	83861
Ruth	Rathbun	P. O. Box #727	St. Maries	ID	83861
Lynn	Reddekopp	1551 - 15th Street	Clarkston	WA	99403
Barbara	Reddekopp	1551 - 15th Street	Clarkston	WA	99403
Kurt	Reed	P. O. Box #327	St. Maries	ID	83861
Anne	Reed	P. O. Box #327	St. Maries	ID	83861
Sheridan	Reiger	1516 E. Republican Street #10	Seattle	WA	98112
Reimann & Son Farm LLC		P. O. Box #481	St. Maries	ID	83861
Marzetta	Reimann	P. O. Box #481	St. Maries	ID	83861
Mark	Reimann	P. O. Box #481	St. Maries	ID	83861
Renaldo Land Surveying, Inc.		706 Center Avenue	St.Maries	ID	83861
Chris	Renaldo	706 Center Avenue	St.Maries	ID	83861
Robn	Renaldo	706 Center Avenue	St.Maries	ID	83861
William	Rogers	P. O. Box #227	Santa	ID	83866
Terry	Rogers	P. O. Box #227	Santa	ID	83866
Edward	Rozema	1765 Minaloosa Valley Road	Plummer	ID	83851
Mary	Rozema	1765 Minaloosa Valley Road	Plummer	ID	83851

Don	Rumpel	1957 Montgomery Gulch Road	Kellogg	ID	83837
Karen	Rumpel	1957 Montgomery Gulch Road	Kellogg	ID	83837
Vince	Sartain	1242 W. Cedar Court	Ontario	CA	91762
Elaine	Sartain	1242 W. Cedar Court	Ontario	CA	91762
Ernest	Scalberg	176 Mal Paso Road	Carmel	CA	93923
Selby	Scalberg	176 Mal Paso Road	Carmel	CA	93923
Andrew	Scott	27091 Hwy 41	Blanchard	ID	83804
Heather	Scott	27091 Hwy 41	Blanchard	ID	83804
Eldon	Shaw	378024 Hwy 95	DeSmet	ID	83824
Mary Ann	Shaw	378024 Hwy 95	DeSmet	ID	83824
John	Sherman	P. O. Box #458	Fernwood	ID	83830
Dean	Shick	P. O. Box #64	Santa	ID	83866
Claudia	Shick	P. O. Box #64	Santa	ID	83866
William	Shields	4889 Alder Creek Road	St. Maries	ID	83861
Dorothy	Shields	4889 Alder Creek Road	St. Maries	ID	83861
Jeff	Shippy	95 Ferguson Street	St. Maries	ID	83861
Dede	Shippy	95 Ferguson Street	St. Maries	ID	83861
Bob	Short	31054 Highway 6	St. Maries	ID	83861
Gail	Short	31054 Highway 6	St. Maries	ID	83861
Shoshone County Idaho		700 Bank Street	Wallace	ID	83873
Shoshone Co. Outdoor Sportsmen Assr		P. O. Box #725	Wallace	ID	83873
Agnes M.	Sibert	P. O. Box #506	Calder	ID	83808

Randy	Siler	P. O. Box #59	St. Maries	ID	83861
Clysta	Siler	P. O. Box #59	St. Maries	ID	83861
Darrell	Skaggs	335 Shady Lane	Wallace	ID	83873
Donna	Skaggs	335 Shady Lane	Wallace	ID	83873
Paul	Smith	88 Garden Tracts Road	St. Maries	ID	83861
Colleen	Smith	88 Garden Tracts Road	St. Maries	ID	83861
Larry	Sotin	82803 Hwy 3 South	St. Maries	ID	83861
Susan	Sotin	82803 Hwy 3 South	St. Maries	ID	83861
Bill	Stanley	51 A Placer Creek Road	Wallace	ID	83873
Eileen	Stanley	51 A Placer Creek Road	Wallace	ID	83873
Doug	Stanley	1818 135th Street, East	Tacoma	WA	98445
Linda	Stanley	1818 135th Street, East	Tacoma	WA	98445
Lance	Stanley	500 Cedar St	Wallace	ID	83873
Robin	Stanley	P. O. Box 268	Silverton	ID	83867
Leslee	Stanley	P. O. Box 268	Silverton	ID	83867
Samuel	Steele	303 Happy Valley Lane	St. Maries	ID	83861
Jennifer	Steele	303 Happy Valley Lane	St. Maries	ID	83861
Merton	Steward	Box #474	Pinehurst	ID	83850
Danielle	McClory	Box #474	Pinehurst	ID	83850
Michael	Stoltey	374 Promise Lane	Plummer	ID	83851
Cathy	Stoltey	374 Promise Lane	Plummer	ID	83851
Bob	Stowell	412 Main Avenue	St. Maries	ID	83861

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Koreena	Stowell	412 Main Avenue	St. Maries	ID	83861
Sunshine Silver Mine		2209 Big Creek Road	Kellogg	ID	83837
Dennis	Tate	Box #273	Kellogg	ID	83830
Donald	Taylor	31825 S. Indian Mountain Road	Harrison	ID	83833
Michael	Tenhonen	P. O. Box #14	Kingston	ID	83839
Connie	Tenhonen	P. O. Box #14	Kingston	ID	83839
William	Teninty	P. O. Box #732	Osburn	ID	83849
Diana	Teninty	P. O. Box #732	Osburn	ID	83849
Terrann	Tester	1251 Eagle Creek Road	Wallace	ID	83873
Grant	Tester	1251 Eagle Creek Road	Wallace	ID	83873
John	Tester	79 West Fork Eagle Creek Rd	Wallace	ID	83873
Sheree	Tester	79 West Fork Eagle Creek Rd	Wallace	ID	83873
John	Thomas	P. O. Box #220	Worley	ID	83876
Christie	Thomas	P. O. Box #220	Worley	ID	83876
Lois	Tuel	756 Shepherd Road	St. Maries	ID	83861
Tommy	Turcott	39211 S. Hwy 3	St. Maries	ID	83861
Deann	Turcott	39211 S. Hwy 3	St. Maries	ID	83861
Homer	Turner	P. O. Box #327	Fernwood	ID	83830
Sherry	Turner	P. O. Box #327	Fernwood	ID	83830
Stanton	Turner	740 Happy Creek Lane	St. Maries	ID	83861
Sally	Turner	740 Happy Creek Lane	St. Maries	ID	83861
Forest	VanDorn	P. O. Box #444	Osburn	ID	83849

Alice Lee	VanDorn	P. O. Box #444	Osburn	ID	83849
Calvin	Vork	27 Hunt Gulch Road	Kingston	ID	83839
Susan	Vork	27 Hunt Gulch Road	Kingston	ID	83839
Norris	Warner II	42674 S. Hwy 97	Harrison	ID	83833
Mary	Warner II	42674 S. Hwy 97	Harrison	ID	83833
Charlie	Warren	P. O. Box #331	Fernwood	ID	83830
Molly	Warren	P. O. Box #331	Fernwood	ID	83830
Water & Natural Resource Group, Inc.		P. O. Box #28755	Spokane	WA	99228
Edgar	Watts	P. O. Box "C"	Santa	ID	83866
Becky	Clark	P. O. Box "C"	Santa	ID	83866
Weber Farms		60553 Hwy 3 South	Fernwood	ID	83830
Bernard	Weber	60553 Hwy 3 South	Fernwood	ID	83830
Dawn M.	Weber	60553 Hwy 3 South	Fernwood	ID	83830
Jerry	Wemhoff	P. O. Box #446	St. Maries	ID	83861
Wanda	Wemhoff	P. O. Box #446	St. Maries	ID	83861
Neta	White (Titus)	16684 Hwy 5	St. Maries	ID	83861
John	Whitehead	P. O. Box #93	St. Maries	ID	83861
Linda	Whitehead	P. O. Box #93	St. Maries	ID	83861
Carl	Witten	4750 Alder Creek Road	St. Maries	ID	83861
Milinda	Witten	4750 Alder Creek Road	St. Maries	ID	83861
Verland	Woempner	6351 S. Arny's Road	Harrison	ID	83833
Carla	Woempner	6351 S. Arny's Road	Harrison	ID	83833

Attachment ' A'

The below identified are Respondents as Members of the North Idaho Water Rights Alliance

Marion C.	Woodstock	P. O. Box #257	Santa	ID	83866
Don	Yearout	300 Ragan Drive	St. Maries	ID	83861
Lorrie	Yearout	300 Ragan Drive	St. Maries	ID	83861
Jeff	Yearout	223 S. 11th Street	St. Maries	ID	83861
Cheryl	Yearout	223 S. 11th Street	St. Maries	ID	83861
Joe	Yearout	1117 Saint Maries River Road	St. Maries	ID	83861
Rustin	Young	541 E. Round Lake Road	St. Maries	ID	83861
Tina	Young	541 E. Round Lake Road	St. Maries	ID	83861
Tony	Zeller	P. O. Box #214	Kingston	ID	83839

RECEIVED
AUG 25 2015
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, ID 83701-0829
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com

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 Case No. 49576	Subcase No. 91-7102 **NOTICE OF APPEARANCE**

Norman M. Semanko of the firm Moffatt Thomas Barrett Rock & Fields, Chtd. hereby makes his appearance as counsel of record for Steve Hawks and Deanne Hawks in the above-captioned subcase.

DATED this 24 day of August, 2015.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of August, 2015, I caused a true and correct copy of the foregoing **NOTICE OF APPEARANCE** to be served by U.S. Mail, and addressed to the following:

Howard A. Funke
Howard Funke & Associates, PC
424 Sherman Ave., Suite 308
P. O. Box 969
Coeur d'Alene, ID 83816-0969

United States Department of Justice
Environmental & National Resources Div.
550 W. Fort Street, MSC 033
Boise, ID 83724

Coeur d'Alene Tribe of the Coeur d'Alene
Indian Reservation
850 A. Street
P. O. Box 408
Plummer, ID 83851

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief Natural Resources Division
Office of the Attorney General
P. O. Box 83720
Boise, ID 83720-0010

Norman M. Semanko

RECEIVED
SEP 16 2015
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
SEP 15 2015
By _____ Clerk
Deputy Clerk

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 Case No. 49576	**NOTICE SETTING SUBCASE FOR INITIAL HEARING** **SUBCASE NOS.: 91-4015, 91-4113, 91-7003, 91-7026, 91-7048, 91-7102, 91-7104, 91-7113, 91-7120, 91-7121, 91-7125, 91-7131, 91-7136, 91-7137, 91-7140, 91-7173, 91-7339, 91-7519, and 91-7568** (Issue: Submerged Lands / Encrochment)

The Initial Hearing for these subcases will be held before Special Master Brigette Bilyeu:

Tuesday, October 6, 2015 at 1:30 pm (PT)
BENEWAH COUNTY FEDERAL BLDG
CONFERENCE ROOM
128 - 7TH STREET
ST MARIES, IDAHO

ATTENDANCE IS MANDATORY. All parties are required to attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity to meet with a representative of the Idaho Department of Water Resources (IDWR) and /or objector in the attempt to reconcile any difference between the claim and the Director's Report. Bring any and all information you believe is relevant to your claim and/or objection. If the claim cannot be reconciled at the Initial Hearing, the court will set the subcase for trial. IF YOU INTEND TO AMEND YOUR CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by October 1, 2015 or hearing will not be vacated.

Dated: September 15, 2015.

Janet Connell
JANET CONNELL, Deputy Clerk
Coeur d'Alene-Spokane River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE SETTING SUBCASE(S) FOR INITIAL HEARING was mailed on September 15, 2015 with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, Idaho 83720-0098

Chief Natural Resources Div
Office of the Attorney General
State of Idaho
PO Box 83720
Boise, Idaho 83720-2400

Norman Semanko
PO Box 829
Boise, Idaho 83701-0829

Howard Funke
PO Box 969
Coeur d'Alene, Idaho 83816

Kelvin & Karen Badgett
88653 Hwy 3 N
St. Maries, Idaho 83861

Duane & Catherine Pierce
65 Grandmas Way
St. Maries, Idaho 83861

Briget Waldon
1011 S Carousel Ln
Spokane, WA 99224

Krupp Living Trust
125 Quail Run Ln
St. Maries, Idaho 83861

John Meister Williams
1560 Cottonwood Dr
St. Maries, Idaho 83861

William Kopp
1558 Cottonwood Dr
St, Maries, Idaho 83861

Janet L. Counell
Deputy Clerk

RECEIVED
OCT 20 2015
DEPARTMENT OF
WATER RESOURCES

2015 OCT 19 PM 02:40
DISTRICT COURT - CSRBA
TWIN FALLS CO., IDAHO
FILED _____

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	)	NOTICE SETTING HEARING
	)	
Case No. 49576	)	
	)	SUBCASE NOS: SEE ATTACHED EXHIBIT A

Please be advised that Special Master BRIGETTE BILYEU has set for hearing the SCHEDULING CONFERENCE.

WEDNESDAY, DECEMBER 02, 2015 at 01:00 PM (PT)

COURTROOM
253 - 3RD AVENUE NORTH
TWIN FALLS, ID

Parties may participate by telephone by dialing the number 720-279-0026 and when prompted entering the code 476045.

Dated: OCTOBER 19, 2015

/S/ JANET CONNELL
Deputy Clerk
Coeur d'Alene-Spokane River Adjudication

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Exhibit A

Subcase Nos:

91-04015
91-04113
91-07003
91-07026
91-07048
91-07102
91-07104
91-07113
91-07120
91-07121
91-07125
91-07131
91-07136
91-07137
91-07140
91-07173
91-07339
91-07519
91-07568

CERTIFICATE OF MAILING

I certify that a true and correct copy of the Notice Setting Hearing was mailed on October 19, 2015, with sufficient first-class postage to the following:

1011 S CAROUSEL LN
SPOKANE, WA 99224
Phone: 509-227-0081

KRUPP LIVING TRUST
125 QUAIL RUN LN
SAINT MARIES, ID 83861
Phone: 208-245-3575

JOHN MEISTER WILLIAMS
1560 COTTONWOOD DR
SAINT MARIES, ID 83861-9448
Phone: 208-245-6785

CATHERINE A PIERCE
DUANE L PIERCE SR
65 GRANDMAS WAY
ST MARIES, ID 83861
Phone: 208-245-3979

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

HOWARD A. FUNKE
424 SHERMAN AVE STE 308
PO BOX 969
COEUR D ALENE, ID 83816-0969
Phone: 208-667-5486

NORMAN M SEMANKO
101 S CAPITOL BLVD 10TH FL
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BRIDGET WALDEN

/S/ JANET CONNELL
Deputy Clerk

RECEIVED
DEC 07 2015
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
DEC 04 2015
By _____ Clerk
Deputy Clerk

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	)	**TRIAL SCHEDULING ORDER**
	)	
Case No. 49576	)	**SUBCASE NO.: 91-7120, 91-7102, and 91-7173**
	)	

Please be advised that Special Master Brigette Bilyeu has set the following dates in the above listed subcases:

January 13, 2016	**9:00 am (PT)** **10:00 am (MT)**	Additional Scheduling Conference **Location:** Snake River Basin Adjudication 253 3rd Ave. North Twin Falls, Idaho 83301

Parties may participate by telephone for the Cont. Scheduling Conference by dialing 1-720-279-0026 and when prompted enter Guest code 476045#. If you have any questions regarding telephone participation, please contact the Clerk's office at (208) 736-3011.

May 20, 2016	**5:00 pm (MT)**	Deadline to Complete Discovery.
May 27, 2016	**5:00 pm (MT)**	Deadline to Join Parties or Amend Pleadings. Deadline for Motion to Consolidate. Deadline to File Motion for Summary Judgment.
July 13, 2016	**9:00 am (PT)** **10:00 am (MT)**	Summary Judgment Hearing **Location: Snake River Basin Adjudication** **253 3rd Ave. North** **Twin Falls, Idaho 83301**

Parties may participate by Video Tele-Conferencing (VTC) for the Summary Judgment Hearing in Boise @ the Idaho Water Center OR IN Coeur d'Alene @ IDWR Northern Regional Office. Please contact the Court at (208) 736-3011 by July 8, 2016 if you wish to participate by VTC.

DATED: December 4, 2015.

Brigette Bilyeu

BRIGETTE BILYEU, Special Master
Coeur d'Alene-Spokane River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the TRIAL SCHEDULING ORDER was mailed on December 4, 2015 with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, Idaho 83720-0098

Chief Natural Resources Div
Office of the Attorney General
State of Idaho
PO Box 83720
Boise, Idaho 83720-2400

Norman Semanko
PO Box 829
Boise, Idaho 83701-0829

Howard Funke
PO Box 969
Coeur d'Alene, Idaho 83816

Janet Connell
Deputy Clerk

RECEIVED
DEC 18 2015
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
DEC 17 2015
By _____ Clerk
Deputy Clerk

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 Case No. 49576	**ADDITIONAL TRIAL SCHEDULING ORDER** **SUBCASE NO.: 91-7120, 91-7102, and 91-7173**

Please be advised that Special Master Brigette Bilyeu has set the following dates in the above listed subcases:

September 7, 2016	**9:00 am (PT)** **10:00 am (MT)**	Pretrial Conference **Location:** Snake River Basin Adjudication 253 3rd Ave. North Twin Falls, Idaho 83301
		Deadline to Exchange Witness/Exhibit Lists. Trial Brief Deadline.
October 6-7, 2016	**10:00 am (PT)**	Trial (2 days) **Location:** Federal Court Building 6450 North Mineral Drive Coeur d'Alene, Idaho 83815

Parties may participate by telephone for the Pretrial Conference by dialing 1-720-279-0026 and when prompted enter Guest code 476045#. If you have any questions regarding telephone participation, please contact the Clerk's office at (208) 736-3011.

DATED: December 17, 2015.

Brigette Bilyeu

BRIGETTE BILYEU
Special Master
Coeur d'Alene-Spokane River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ADDITIONAL TRIAL SCHEDULING ORDER was mailed on December 17, 2015, with sufficient first-class postage to the following:

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

HOWARD A. FUNKE
424 SHERMAN AVE STE 308
PO BOX 969
COEUR D ALENE, ID 83816-0969
Phone: 208-667-5486

NORMAN M SEMANKO
101 S CAPITOL BLVD 10TH FL
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Janet Connell
Deputy Clerk

RECEIVED
JAN 19 2016
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JAN 15 2016
By _____ Clerk
Deputy Clerk

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	)	
	)	**ORDER SETTING DEADLINE AND STATUS CONFERENCE**
Case No. 49576	)	
	)	
	)	**SUBCASE NOS.: 91-7102, 91-7120, AND 91-7173**
	)	
	)	

Please be advised that Special Master Brigette Bilyeu has set the following dates in the above subcases:

February 17, 2016	**5:00 pm (PT)**	Deadline to Identify Correct Subcase Numbers that are set for Trial
March 16, 2016	**9:00 am (PT)** **10:00 am (MT)**	Status Conference **Location**: Snake River Basin Adjudication 253 3rd Ave. North Twin Falls, Idaho 83301

Parties may participate by telephone for the Status Conference by dialing 1-720-279-0026 and when prompted enter Guest Code 476045#. Any questions regarding telephone participation, please contact the Clerk's office at (208) 736-3011.

DATED: January 15, 2016.

Brigette Bilyeu
BRIGETTE BILYEU
Special Master
Coeur d'Alene-Spokane River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING DEADLINE AND STATUS CONFERENCE was mailed on January 15, 2016, with sufficient first-class postage to the following:

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

HOWARD A. FUNKE
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PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Deputy Clerk

RECEIVED
FEB 09 2016
DEPT. OF WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
FEB - 5 2016
By _____ Clerk
Deputy Clerk

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
P. O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

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 Case No. 49576	Subcase Nos.: 91-4015; 91-7003; 91-7102; 91-7104; 91-7113; 91-7121; 91-7125; 91-7129; 91-7136; 91-7137; 91-7140; 91-7173; 91-7339; 91-7519; 91-7568; 92-7027; 92-7211; 92-7219; 92-7220; 92-7221; 92-7234; 92-10521 NOTICE OF SERVICE OF OBJECTOR'S FIRST REQUESTS FOR DISCOVERY TO CLAIMANT(S)

NOTICE IS HEREBY GIVEN that on the 5th day of February, 2016, individual copies of OBJECTOR'S FIRST REQUESTS FOR DISCOVERY TO CLAIMANT(S) in the above-noted subcases and a copy of this NOTICE OF SERVICE were served by email and/or U.S. First Class Mail, postage prepaid, addressed to the following counsel of record at the addresses shown below:

Norman Semanko
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, Idaho 83701-0829
nms@moffatt.com

Co-Counsel for Claimant(s) and Counsel for Respondent NIWRA members

Clive Strong
Steven Strack
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, Idaho 83720-0010
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

Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Respectfully submitted this 5th day of February, 2016.

HOWARD FUNKE & ASSOC., P.C.

By: Howard A. Funke, Of the Firm
Counsel for the Coeur d'Alene Tribe

RECEIVED
FEB 09 2016
DEPARTMENT OF
WATER RESOURCES

COPY

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
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Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

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 Case No. 49576	Subcase No.: 91-7102
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S FIRST REQUESTS FOR DISCOVERY TO CLAIMANT(S)

To: Claimant(s), 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.

GENERAL INSTRUCTIONS

1. Scope of Discovery. These discovery requests are directed to the above-named CSRBA Claimant(s) and cover all information in its possession, custody and control, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on their behalf or otherwise subject to their control, and any merged, consolidated, or acquired predecessor or successor, parent, subsidiary, division, or affiliate.

2. Time Period. Unless otherwise indicated, these discovery requests apply to the time period from the priority date of the claim at issue in this litigation to the present.

3. Supplemental Responses. These document requests are continuing; supplemental documents must be provided pursuant to applicable civil discovery rules.

4. Deletions from Documents. Where anything has been deleted from a document produced in response to a document request:

a. specify the nature of the material deleted;
b. specify the reason for the deletion; and
c. identify the person responsible for the deletion.

5. Organization of Documents in Response. Documents submitted pursuant to a document request should be produced in the manner in which they are kept in the ordinary course of business and/or grouped and labeled according to the individual paragraph(s) of the document request. Within each group, the documents should be arranged, to the extent possible, in chronological order. If any document is responsive to more than one document request, you may provide a single copy indicating the requests to which it is responsive.

6. Document No Longer in Possession. If any document requested is no longer in the possession, custody, or control of the Claimant(s), state:

a. what was done with the document;
b. when such document was made;
c. the identify and address of the current custodian of the document;
d. the person who made the decision to transfer or dispose of the document; and
e. the reasons for the transfer or disposition.

7. Privilege as Applied to Document Production. If objection is made to producing any document, or any portion thereof, or to disclosing any information contained therein, on the basis of any claim of privilege, the Claimant(s) is requested to specify in writing the nature of such

information and documents, and the nature of the claim of privilege, so that the Court may rule on the propriety of the objection. In the case of documents, the Claimant(s) should state:

a. the title of the document;
b. the nature of the document (e.g., interoffice memorandum, correspondence, report, etc.);
c. the author or sender;
d. the addressee;
e. the date of the document;
f. the name of each person to whom the original or a copy was shown or circulated;
g. the names appearing on any circulation list relating to the document;
h. the basis on which privilege is claimed; and
i. a summary statement of the subject matter of the document in sufficient detail to permit the Court to rule on the propriety of the objection.

Upon the agreement of counsel, certain documents may be excluded from these requirements.

8. Singular/Plural. Words used in the plural shall also be taken to mean and include the singular. Words used in the singular shall also be taken to mean and include the plural.

9. "And" and "Or." The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

10. Reservation of Rights. The Coeur d'Alene Tribe ("Tribe") reserves all rights, including its sovereign immunity from suit. No part of this discovery request should be interpreted or construed as a waiver of tribal sovereign immunity or as an acknowledgement by the Tribe that any particular issue will be litigated in this subcase.

DEFINITIONS

Unless otherwise indicated, the following definitions shall apply to these discovery requests:

1. "Court" or "CSRBA Court" shall mean the Coeur d'Alene-Spokane River Basin Adjudication Court, District Court in and for Twin Falls County, Idaho, Hon. Eric Wildman, or his successor, presiding.

2. "Coeur d'Alene Lake" or "Lake Coeur d'Alene" means the lake identified by the U.S. Supreme Court in the case *Idaho v. United States*, 533 U.S. 262 (2001) to which title was quieted in favor of the United States and Coeur d'Alene Tribe.

3. "Document" means all writings of any kind, including, without limitation, the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, bills of lading, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books,

governmental records, interoffice and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications), bulletins, printed matter, computer printouts, teletypes, telefax, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic, mechanical, or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), and all drafts, alterations, modifications, changes and amendments of any of the foregoing.

3. "Elevation" means the elevation in feet above mean sea level.

4. "Legal basis" means any source of law you assert supports your legal position including, but not limited to, case law, common law, the Constitution, statutes, executive orders, executive actions, and regulations.

5. "Objection" means the objection filed by the Tribe against Claimant(s) water rights in the above-encaptioned matter. If this term is used in any other context, it will be specifically noted where set forth herein.

6. "Ordinary High Water Mark" or "OHWM" means the presumed Ordinary High Water Mark of Coeur d'Alene Lake and the St. Joe River of 2128 feet elevation consistent with the holding of *In re Sanders Beach*, 143 Idaho 443 (2008).

7. "Response to Objection" means the Standard Form 2 – Response to Objection filed by you, or your attorney on your behalf, and the language contained therein. If this term is used in any other context, it will be specifically noted where set forth herein.

8. "Relate to," "relating to," or "relates to" means constituting, defining, concerning, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

9. "Saint Joseph River" or "St. Joe River" means the river identified by the U.S. Supreme Court in the case *Idaho v. United States*, 533 U.S. 262 (2001) to which title was quieted in favor of the United States and Coeur d'Alene Tribe.

10. "Subject matter of this action" shall mean the facts and legal doctrines at issue and/or disputed in the Objection and Response(s) to Objection filed in the above-encaptioned matter.

11. "Submerged lands" and/or "bed and banks" shall mean the lands underlying the navigable waters of either Coeur d'Alene Lake or the St. Joe River.

12. "Tribe" and/or "Objector" shall mean the Coeur d'Alene Tribe.

13. "You" and "your," unless otherwise indicated, means the Claimant(s) and every past or present employee, agent, and authorized representative.

You are requested to file within thirty (30) days a written response to the following and to produce those documents for inspection and/or copying.

(a) Your written response shall state with respect to each item or category, that inspection-related activities will be permitted as requested, unless request is refused, in which event the reasons for refusal shall be stated. If the refusal relates to part of an item or category, that part shall be specified.

(b) In accordance, the documents shall be produced as they are covered in the usual course of business or you shall organize and label them to correspond with the categories in the request.

(c) These requests shall encompass all items within your possession, custody or control.

(d) These requests are continuing in character so as to require you to promptly amend or supplement your response if you obtain further material information.

(e) If in responding to these requests you encounter any ambiguity in construing any request, instruction or definition, set forth the matter deemed ambiguous in the construction used, in responding.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 3: Please admit that the State if Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

ANSWER:

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

ANSWER:

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s) water diversion point are navigable.

ANSWER:

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

ANSWER:

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

ANSWER:

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s) diversionary works.

ANSWER:

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

ANSWER:

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

ANSWER:

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

ANSWER:

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER:

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER:

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER:

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s) predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER:

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER:

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;
(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;
(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;
(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,
(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER:

INTERROGATORY NO. 7: Please describe the Claimant(s) diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER:

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER:

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE:

Respectfully submitted this 5th day of February, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 5th day of February, 2016, a copy of the foregoing Objector's First Requests for Discovery to Claimant(s) was served on the following counsel of record and other entities via email and/or hard-copy via first class mail, postage pre-paid:

Norman Semanko
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829
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
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

Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Marcella J Harrison
By: Marcella J. Harrison

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WATER RESOURCES

COPY

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
P. O. Box 969
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P (208) 667-5486
F (208) 667-4695

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 Case No. 49576	Subcase Nos.: 91-4015; 91-7003; 91-7102; 91-7104; 91-7113; 91-7121; 91-7125; 91-7136; 91-7137; 91-7140; 91-7173; 91-7339; 91-7519; 91-7568; 92-7027; 92-7211; 92-7219; 92-7220; 92-7221; 92-7234; 92-10521 AMENDED NOTICE OF SERVICE OF OBJECTOR'S FIRST REQUESTS FOR DISCOVERY TO CLAIMANT(S)

NOTICE IS HEREBY GIVEN that on the 5th day of February, 2016, individual copies of OBJECTOR'S FIRST REQUESTS FOR DISCOVERY TO CLAIMANT(S) in the above-noted subcases and a copy of this NOTICE OF SERVICE were served by email and/or U.S. First Class Mail, postage prepaid, addressed to the following counsel of record at the addresses shown below:

Norman Semanko
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
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Boise, Idaho 83701-0829
T (208) 345-2000
F (208) 385-5384
nms@moffatt.com

Co-Counsel for Claimant(s) and Counsel for Respondent NIWRA members

Clive Strong
Steven Strack
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, Idaho 83720-0010
steve.strack@ag.idaho.gov

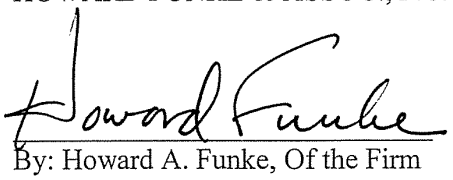
Counsel for Respondent State of Idaho

U.S. Department of Justice
Environment & Nat'l Resources
550 W. Fort St., MSC 033
Boise, Idaho 83724

Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Respectfully submitted this 8th day of February, 2016.

HOWARD FUNKE & ASSOC., P.C.



By: Howard A. Funke, Of the Firm
Counsel for the Coeur d'Alene Tribe

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DEPARTMENT OF
WATER RESOURCES

COPY

Norman M. Semanko, ISB No. 4761
Sarah A. McCormack, ISB No. 9683
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26002.0000

Attorneys for Steve Hawks and Deanne Hawks, Stephen G. Hopkins, and Members of the North Idaho Water Rights Alliance

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 Case No. 49576	Subcase No. 91-7102, 91-7120, 91-7173, AND 91-7104 **NOTICE OF CORRECT SUBCASE NUMBERS**

COMES NOW, Steve and Deanne Hawks, Stephen G. Hopkins, and the members of the North Idaho Water Rights Alliance, by and through undersigned counsel of record, pursuant to the Court's *Order Setting Deadline and Status Conference* (January 15, 2016), and hereby provides notice to the court and the parties that the correct subcase numbers that should be set for trial are Subcase Nos. 91-7102 and 91-7104. Subcase Nos. 91-7120 and 91-7173 were inadvertently identified previously. Undersigned counsel will be prepared to discuss with the

court and the parties further scheduling for the above-mentioned subcases at the status conference on March 16, 2016.

DATED this 10th day of February, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Members of the North Idaho Water Rights Alliance

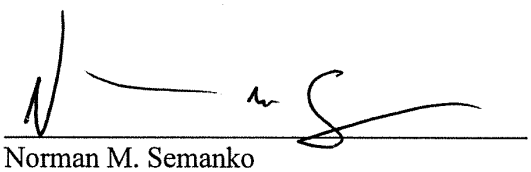
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of February, 2016, I caused a true and correct copy of the foregoing **NOTICE OF CORRECT SUBCASE NUMBERS** to be served by U.S. Mail and addressed to the following:

Chief Natural Resources Div.
OFFICE OF THE ATTORNEY GENERAL
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

Howard A. Funke
HOWARD FUNKE & ASSOCIATES, PC
424 Sherman Ave., Suite 308
P. O. Box 969
Coeur d'Alene, ID 83816-0969

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098



Norman M. Semanko

RECEIVED
MAR 08 2016
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
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nms@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7102 **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COPY

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, and respond to Objector's First Requests for Discovery as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 1 because it seeks a legal conclusion regarding the ownership of "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants deny Request for Admission No. 1.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms

defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 2 because it seeks a legal conclusion regarding the ownership of "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants deny Request for Admission No. 2.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to Request for Admission No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 3 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that it is vague and overly broad. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 4 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 5.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that it seeks a legal conclusion regarding the "OHWM for Coeur d'Alene and the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving these objections, Claimants deny Request for Admission No. 6.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that it seeks a legal conclusion regarding the "OHWM of the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 7 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that it is vague, overly broad, unduly burdensome

and not reasonably calculated to lead to the discovery of any admissible evidence. With waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 8 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion regarding "the point of diversion for a water right" and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 9.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 10 because it seeks a legal conclusion. Without waiving these objections, Claimants lack sufficient information to either admit or deny Request for Admission No. 10 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 11 because it seeks a legal conclusion. Without waiving these objections, Claimants lack sufficient information to either admit or deny Request for Admission No. 11 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 12.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that it is vague. Responding Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion and is not

reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimants deny Request for Admission No. 13.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 14.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 15 because it seeks a legal conclusion. Without waiving these objections, Claimants deny Request for Admission No. 15.

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admissions No. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that it seeks a legal conclusion. Notwithstanding the objection, the statement in Claimants' response to the Tribe's objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Objection is made to Interrogatory No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, the encroachment permits of Claimants, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)['] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, Claimants did not request the

permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants, Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;

(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;

(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,

(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for

the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)['] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, either Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimants do not have documents responsive to this request.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 5 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the

location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 6 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. The responding Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property

at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. The responding Claimants do not have possession, custody or control of any additional deeds, surveys, plats, or other documents which relate to the property at the location of the Claimants' point of diversion. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and by public records request to the Idaho Department of Lands.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection,

documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

DATED this 7th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko - Of the Firm
Attorneys for Claimants Steve and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 7th day of March, 2016.

KATHLEEN MENASCO NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/9/19

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Norman M. Semanko

EXHIBIT A

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Morris & Wolff, P.A.
722 Main Avenue
St. Maries, Idaho 83861

91-7102
Lot 4

Instrument # 269173
BENEWAH COUNTY
7-30-2014 04:36:15 No. of Pages: 5
Recorded for : MORRIS AND WOLFF PA
DEANNA BRAMBLETT Fee: 22.00
Ex-Officio Recorder Deputy
Index to: DEEDS, OTHER

(Space Above For Recorder's Use)

DEED OF DISTRIBUTION SUBJECT TO A LIFE ESTATE

THIS DEED is made and executed by Deanne Hawks, as Personal Representative of the ESTATE OF JILL LORENE PERKINS, hereinafter referred to as the ("Grantor"), to BRANDON PERKINS, a married man dealing in his sole and separate property, with an address of 155 NW Woodbrook Drive, Grants Pass, Oregon 97526, hereinafter referred to as the ("Grantee").

WHEREAS, Grantor is the qualified Personal Representative of said Estate, filed as Probate Case Number CV 2013-311 in Benewah County, Idaho;

WHEREAS, Grantee is entitled to distribution of the hereafter described real property;

THEREFORE, Grantor quitclaims, transfers, and conveys to Grantee the following described real property in Benewah County, Idaho:

Lot 4, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

Lot 5, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

Lot 6, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

That part of LOT 9, BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144646, recorded December 9, 1968, records of Benewah County, Idaho; situated in the SE1/4, section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho; more particularly described as follows:

COMMENCING at the Northwest corner of LOT 9, BLOCK 1 of said Plat, monumented with a drill steel;

thence South 1°14'51" East, 40.32 feet (of record as South 1°12'00" East and South 1°12'00" West) along the West line of said LOT 9 to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence leaving said West line, South 84°47'53" East, 162.15 feet (of record as South 85°14'00" East, 162.01 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South 0°49'26" East, 46.96 feet (of record as South 1°12'00" East, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South 85°45'10" East, 123.93 feet (of record as South 86°11'15" East, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703, the POINT OF BEGINNING;

thence South 0°47'17" East, 96.11 feet (of record as South 0°12'00" East, 96.00 feet) to a point on the northerly right-of-way line of STATE HIGHWAY No. 3, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 703;

thence South 84°03'16" East, 161.53 feet (of record as 161.88 feet) along said northerly right-of-way line to a drill steel;

thence South 82°00'39" East, 40.26 feet (of record as South 82°53'00" East) along said northerly right-of-way line, to a point on the centerline of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 45°38'42" West, 160.12 feet (of record as North 46°18' West) along said centerline, and leaving said northerly right-of-way line, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to the POINT OF BEGINNING.

And

Those parts of LOTS 5, 8 and 9, all in BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144646, recorded December 9, 1968, records of Benewah County, Idaho and that part of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County; all situated in the E1/2, section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho; more particularly described as follows:

COMMENCING at the Southeast corner of said LOT 8, monumented with a drill steel;

thence North 0°03'18" West, 187.29 feet (of record as North 1°06' West, 187.29 feet and North 1°06'00" West) along the East line of said LOT 8, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766, the POINT OF BEGINNING;

thence North 88°57'18" West, 90.95 feet (of record as West, 90.95 feet), and leaving said East line to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 0°03'18" East, 99.96 feet (of record as South 1°06' East, 98.76 feet) to a point on the northeasterly right-of-way line of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 44°21'18" West, 20.00 feet, and leaving said northeasterly line, to an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2 inches diameter, marked WITNESS CORNER - PLS 6766;

thence continuing South 44°21'18" West, 5.00 feet to a point on the centerline of said vacated roadway, which is witnessed by the aforementioned monument;

thence traversing said centerline, as follows:

North 45°38'42" West, 66.78 feet (of record as North 46°18' West) to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence continuing North 85°45'10" West, 123.93 feet (of record as North 86°11'15" West, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 0°49'26" West, 46.96 feet (of record as North 1°12'00" West, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 84°47'53" West, 162.15 feet (of record as North 85°14'00" West, 162.01 feet) to a point on the West line of said LOT 9, said point monumented with an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 1°14'51" West, 40.32 feet (of record as North 1°12'00" West and North 1°12'00" East) along said West line to the Northwest corner of said LOT 9, said corner monumented with a drill steel;

thence North 88°08'45" East, 54.77 feet (of record as North 87°55' East, 54.77 feet) along the North line of said LOT 9 and an easterly extension of said North line, and leaving said West line, to a point on the centerline of said vacated roadway, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence traversing said centerline, as follows:

North 70°29'35" East, 107.75 feet (of record as North 70°04' East, 107.65 feet), and leaving said North line extended, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 40°33'35" East, 130.58 feet (of record as North 40°08' East, 130.45 feet) to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 74°12'43" East, 180.90 feet (of record as North 73°23' East, 180.44 feet) to a point on the westerly extension of the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 86°24'28" East, 12.00 feet (of record as South 87°35' East) along said westerly extension, and leaving said centerline, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 7°00'00" West, 14.50 feet, and leaving said westerly extension, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 83°00'00" East, 28.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 7°00'00" East, 19.74 feet to a point on the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 86°24'28" East, 71.97 feet (of record as South 87°35' East) along said North line to the Northeast corner of said LOT 8, said corner monumented with a drill steel;

thence South 0°55'51" East, 150.49 feet (of record as South 1°06' East and South 1°06'00" East) along the East line of said LOT 8, and leaving said North line, to an iron pipe, 1 inch diameter;

thence South 0°03'18" East, 76.81 feet (of record as South 1°06' East and South 1°06'00" East) continuing along said East line, to the POINT OF BEGINNING.

SUBJECT TO A LIFE ESTATE GRANTED TO DEANNE HAWKS AND STEVE HAWKS, HUSBAND AND WIFE, WHOSE ADDRESS IS 89231 HWY 3 N, ST. MARIES, BENEWAH COUNTY, IDAHO 83861, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP.

This conveyance shall include any and all appurtenances, estate, right, title, interest, tenements, hereditaments, reversions, remainders, easements, rents, issues, profits, rights-of-way and water rights in anywise appertaining to the property herein described, as well in law as in equity.

DATED this 30th day of July, 2014.

ESTATE OF JILL LORENE PERKINS

Deanne Hawks P.R.
Deanne Hawks, Personal Representative

STATE OF IDAHO)
) ss.
County of Benewah)

On this 30th day of July, 2014, before me, a notary public, personally appeared Deanne Hawks, known to me to be the person whose name is subscribed to the within instrument as Personal Representative of the ESTATE OF JILL LORENE PERKINS, and acknowledged to me that she executed the same as such personal representative.

TINA J. RHODES
NOTARY PUBLIC
STATE OF IDAHO

Tina J Rhodes
NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires 11/6/2016

RECEIVED
MAR 08 2016
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7102 **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

NOTICE IS HEREBY GIVEN that on the 7th day of March, 2016, the original of **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST**

COPY Client:4088335.1

REQUESTS FOR DISCOVERY and a copy of the **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following at the address shown below:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

and true copies of the **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** and **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following:

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko - Of the Firm
Attorneys for Claimants Steve and Deanne Hawks

RECEIVED
MAR 18 2016
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - CSRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
MAR 16 2016
By _____ Clerk
Deputy Clerk

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 Case No. 49576	)	**ORDER SETTING SETTLEMENT CONFERENCE AND STATUS CONFERENCES** **SUBCASE NOS.: 91-7102, 91-7120, AND 91-7173**

Please be advised that Special Master Brigette Bilyeu has set the following dates in the above subcases:

March 24, 2016	**10:00 am (PT)** **11:00 am (MT)**	Mandatory Settlement Conference **Location**: Idaho Water Adjudication Court 253 3rd Ave. North Twin Falls, Idaho 83301

Parties may participate by VTC at the Idaho Water Center, Boise, Idaho or IDWR Northern Regional Office, Coeur d'Alene, Idaho. Any questions regarding participation, please contact Boise office at (208) 334-4800 or Coeur d'Alene Office at (208) 762-2800.

March 28, 2016	**1:00 pm (PT)** **2:00 pm (MT)**	Status Conference **Location**: Idaho Water Adjudication Court 253 3rd Ave. North Twin Falls, Idaho 83301
May 18, 2016	**9:00 am (PT)** **10:00 am (MT)**	Status Conference **Location**: Idaho Water Adjudication Court 253 3rd Ave. North Twin Falls, Idaho 83301

Parties may participate by telephone for the Status Conference by dialing 1-720-279-0026 and when prompted enter Guest Code 476045#. Any questions regarding telephone participation, please contact the Clerk's office at (208) 736-3011.

DATED: March 16, 2016.

Brigette Bilyeu

BRIGETTE BILYEU, Special Master
Coeur d'Alene-Spokane River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING SETTLEMENT CONFERENCE AND STATUS CONFERENCES was mailed on March 16, 2016, with sufficient first-class postage to the following:

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

HOWARD A. FUNKE
424 SHERMAN AVE STE 308
PO BOX 969
COEUR D ALENE, ID 83816-0969
Phone: 208-667-5486

NORMAN M SEMANKO
101 S CAPITOL BLVD 10TH FL
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Deputy Clerk

RECEIVED
APR 01 2016
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED
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Facsimile (208) 385-5384
nms@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7102 **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COPY

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, and provide amended responses to Objector's First Requests for Discovery, which replace in total Claimants' previous Responses to Objector's First Requests for Discovery, dated March 7, 2016, as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is vague. Responding Claimants also object to this Request for Admission No. 1 because it seeks a legal conclusion or opinion regarding who owns "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]itle is quieted in favor of the United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the

trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it seeks a legal conclusion or opinion regarding who owns "the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe are entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to this Request for Admission No. 3 because it seeks a legal conclusion or opinion regarding the State of Idaho's right, title or interest "in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without

waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he State of Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the State of Idaho is permanently enjoined from asserting a right, title or interest in or to the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that the terms "inherent right," "non-members," and "tribally owned lands within the Coeur d'Alene Reservation" are vague and that this Request is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, [is] entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the Coeur d'Alene Tribe has any right to exclude Claimants from the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that the term "exterior boundary of the Coeur d'Alene Indian Reservation" is vague. Without waiving this objection, Claimants admit that the point of diversion for this claim is located within the current boundary of the Coeur d'Alene Indian Reservation. However, Claimants deny that the United States and the Coeur d'Alene Tribe own the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur d'Alene v. Mackin (In re Ownership of Sanders Beach)*, the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur*

d'Alene v. Mackin (In re Ownership of Sanders Beach), the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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 further deny 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.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that the term "navigable" is vague. Responding Claimants also object to this Request for Admission No. 8 because it seeks a legal conclusion or opinion regarding whether "the waters overlying the bed and banks at the location of Claimants' water diversion point are navigable." Without waiving these objections, Claimants admit that said waters are "navigable" according to Claimants' understanding of the definition in Idaho Code Section 36-1601 and the definition in 33 U.S.C. § 1362.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion or opinion on what constitutes "the point of diversion for a water right" under Idaho law and is not reasonably

calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague. Responding Claimants also object to this Request for Admission No. 10 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they did not have a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague and the Request is vague as to time. Responding

Claimants also object to this Request for Admission No. 11 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they have never received a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for Claimants' diversion works. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversionary works may have been constructed and further deny that any such permission was needed.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion or opinion on initiating a water right and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that the terms "right" and "purposes of maintaining" are vague. Responding Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion regarding who owns the lands at Claimants' point of diversion and the rights of Claimants to their diversion works. Without waiving these

objections, Claimants deny the Request for Admission No. 13, including any assertion that the Coeur d'Alene Tribe owns the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that the terms "IDWR water permit or license" and "for any purpose" are vague. Responding Claimants also object to this Request for Admission No. 14 because it seeks a legal conclusion or opinion on the rights of a water right holder and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving these objections, Claimants therefore deny the same, including any assertion that Claimants have trespassed or are trespassing on the land of another.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that the term "right to maintain adjacency to navigable waters" is vague. Responding Claimants also object to this Request for Admission No. 15 because it seeks a legal conclusion or opinion on riparian rights under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same, including

any assertion that Claimants have no right to make any consumptive use of water or right of access for the appropriation of water.

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admission Nos. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that the Claimants did not file the above-mentioned response to the Tribe's objection. Notwithstanding the objection, the response to the Tribe's objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Claimants' encroachment permits from the Coeur d'Alene Tribe, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)['] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that the term "permission...to encroach upon the submerged lands of the St. Joe River" is vague and the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 4 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants did not request permission of either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for the installation of their diversionary works. However, Claimants did not need such permission because the United States and the Coeur d'Alene Tribe do not own the land upon which the diversionary works may have been installed.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;

(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;

(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,

(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)['] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional description of their

diversion works and water system, but reserve the right to supplement this answer in a timely manner.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 8 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands underlying the claimant's point of diversion." Notwithstanding the objection, Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion. The name and contact information are as follows: Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829; State of Idaho, c/o Attorney General's Office, P.O. Box 83720, Boise, ID 83720-0010.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your

property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimants do not have documents responsive to this request, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/ apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimants' water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at

issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 5, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 6, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/ WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/ SREPT.HTM. Claimants do not have possession, custody or control of any additional deeds, surveys, plats, or other documents that relate to the property at the location of the Claimants'

point of diversion, but reserve the right to supplement this answer in a timely manner. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/ apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and by public records request to the Idaho Department of Lands.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional documents related to available water use data for the diversion works and/or the property, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly broad and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional documents which may be relevant to, or support, Claimants' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter, but reserve the right to supplement this answer in a timely manner.

DATED this 25th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 28th day of March, 2016.

KATHLEEN MENASCO NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/09/2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th 28 day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
~~(X) Facsimile~~

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Norman M. Semanko

EXHIBIT A

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Morris & Wolff, P.A.
722 Main Avenue
St. Maries, Idaho 83861

91-7102
Lot 6

Instrument # 269173
BENEWAH COUNTY
7-30-2014 04:36:15 No. of Pages: 5
Recorded for : MORRIS AND WOLFF PA
DEANNA BRAMBLETT Fee: 22.00
Ex-Officio Recorder Deputy
Index to: DEEDS, OTHER

(Space Above For Recorder's Use)

DEED OF DISTRIBUTION
SUBJECT TO A LIFE ESTATE

THIS DEED is made and executed by Deanne Hawks, as Personal Representative of the ESTATE OF JILL LORENE PERKINS, hereinafter referred to as the ("Grantor"), to BRANDON PERKINS, a married man dealing in his sole and separate property, with an address of 155 NW Woodbrook Drive, Grants Pass, Oregon 97526, hereinafter referred to as the ("Grantee").

WHEREAS, Grantor is the qualified Personal Representative of said Estate, filed as Probate Case Number CV 2013-311 in Benewah County, Idaho;

WHEREAS, Grantee is entitled to distribution of the hereafter described real property;

THEREFORE, Grantor quitclaims, transfers, and conveys to Grantee the following described real property in Benewah County, Idaho:

Lot 4, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

Lot 6, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

Lot 6, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

That part of LOT 9, BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144646, recorded December 9, 1968, records of Benewah County, Idaho; situated in the SE1/4, section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho; more particularly described as follows:

COMMENCING at the Northwest corner of LOT 9, BLOCK 1 of said Plat, monumented with a drill steel;

thence South 1°14'51" East, 40.32 feet (of record as South 1°12'00" East and South 1°12'00" West) along the West line of said LOT 9 to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence leaving said West line, South 84°47'53" East, 162.15 feet (of record as South 85°14'00" East, 162.01 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South 0°49'26" East, 46.96 feet (of record as South 1°12'00" East, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South 85°45'10" East, 123.93 feet (of record as South 86°11'15" East, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703, the POINT OF BEGINNING;

thence South 0°47'17" East, 96.11 feet (of record as South 0°12'00" East, 96.00 feet) to a point on the northerly right-of-way line of STATE HIGHWAY No. 3, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 703;

thence South 84°03'16" East, 161.53 feet (of record as 161.88 feet) along said northerly right-of-way line to a drill steel;

thence South 82°00'39" East, 40.26 feet (of record as South 82°53'00" East) along said northerly right-of-way line, to a point on the centerline of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 45°38'42" West, 160.12 feet (of record as North 46°18' West) along said centerline, and leaving said northerly right-of-way line, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to the POINT OF BEGINNING.

And

Those parts of LOTS 5, 8 and 9, all in BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144646, recorded December 9, 1968, records of Benewah County, Idaho and that part of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County; all situated in the E1/2, section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho; more particularly described as follows:

COMMENCING at the Southeast corner of said LOT 8, monumented with a drill steel;

thence North 0°03'18" West, 187.29 feet (of record as North 1°06" West, 187.29 feet and North 1°06'00" West) along the East line of said LOT 8, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766, the POINT OF BEGINNING;

thence North 88°57'18" West, 90.95 feet (of record as West, 90.95 feet), and leaving said East line to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 0°03'18" East, 99.96 feet (of record as South 1°06' East, 98.76 feet) to a point on the northeasterly right-of-way line of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 44°21'18" West, 20.00 feet, and leaving said northeasterly line, to an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2 inches diameter, marked WITNESS CORNER - PLS 6766;

thence continuing South 44°21'18" West, 5.00 feet to a point on the centerline of said vacated roadway, which is witnessed by the aforementioned monument;

thence traversing said centerline, as follows:

North 45°38'42" West, 66.78 feet (of record as North 46°18' West) to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence continuing North 85°45'10" West, 123.93 feet (of record as North 86°11'15" West, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 0°49'26" West, 46.96 feet (of record as North 1°12'00" West, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 84°47'53" West, 162.15 feet (of record as North 85°14'00" West, 162.01 feet) to a point on the West line of said LOT 9, said point monumented with an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 1°14'51" West, 40.32 feet (of record as North 1°12'00" West and North 1°12'00" East) along said West line to the Northwest corner of said LOT 9, said corner monumented with a drill steel;

thence North 88°08'45" East, 54.77 feet (of record as North 87°55' East, 54.77 feet) along the North line of said LOT 9 and an easterly extension of said North line, and leaving said West line, to a point on the centerline of said vacated roadway, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence traversing said centerline, as follows:

North 70°29'35" East, 107.75 feet (of record as North 70°04' East, 107.65 feet), and leaving said North line extended, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 40°33'35" East, 130.58 feet (of record as North 40°08' East, 130.45 feet) to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 74°12'43" East, 180.90 feet (of record as North 73°23' East, 180.42 feet) to a point on the westerly extension of the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 86°24'28" East, 12.00 feet (of record as South 87°35' East) along said westerly extension, and leaving said centerline, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 7°00'00" West, 14.50 feet, and leaving said westerly extension, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 83°00'00" East, 28.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 7°00'00" East, 19.74 feet to a point on the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 86°24'28" East, 71.97 feet (of record as South 87°35' East) along said North line to the Northeast corner of said LOT 8, said corner monumented with a drill steel;

thence South 0°55'51" East, 150.49 feet (of record as South 1°06' East and South 1°06'00" East) along the East line of said LOT 8, and leaving said North line, to an iron pipe, 1 inch diameter;

thence South 0°03'18" East, 76.81 feet (of record as South 1°06' East and South 1°06'00" East) continuing along said East line, to the POINT OF BEGINNING.

SUBJECT TO A LIFE ESTATE GRANTED TO DEANNE HAWKS AND STEVE HAWKS, HUSBAND AND WIFE, WHOSE ADDRESS IS 89231 HWY 3 N, ST. MARIES, BENEWAH COUNTY, IDAHO 83861, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP.

This conveyance shall include any and all appurtenances, estate, right, title, interest, tenements, hereditaments, reversions, remainders, easements, rents, issues, profits, rights-of-way and water rights in anywise appertaining to the property herein described, as well in law as in equity.

DATED this 30th day of July, 2014.

ESTATE OF JILL LORENE PERKINS

Deanne Hawks P.R.
Deanne Hawks, Personal Representative

STATE OF IDAHO)
) ss.
County of Benewah)

On this 30th day of July, 2014, before me, a notary public, personally appeared Deanne Hawks, known to me to be the person whose name is subscribed to the within instrument as Personal Representative of the ESTATE OF JILL LORENE PERKINS, and acknowledged to me that she executed the same as such personal representative.

TINA J. RHODES
NOTARY PUBLIC
STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires 11/6/2016

RECEIVED
APR 01 2016
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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

Case No. 49576

Subcase No. 91-7102

NOTICE OF SERVICE OF CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY

Steve and Deanne Hawks,

Claimants,

vs.

Coeur d'Alene Tribe, a federally-recognized Indian tribe,

Objector.

COPY

NOTICE IS HEREBY GIVEN that on the 25th day of March, 2016, the original of **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** and a copy of the **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following at the address shown below:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

and true copies of the **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** and **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following:

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve and Deanne Hawks

COPY

RECEIVED
APR 11 2016
DEPARTMENT OF
WATER RESOURCES

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
P. O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

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 Case No. 49576 STEVE AND DEANNE HAWKS, Claimants, v. COEUR D'ALENE TRIBE, a federally-recognized Indian Tribe, Objector.	Subcase Nos. 91-7102; 91-7173 **NOTICE OF TAKING DEPOSITION DUCES TECUM OF CLAIMANT DEANNE HAWKS**

To: Claimant(s), Steve and Deanne Hawks, and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, ID 83701-0829.

To: Respondents, North Idaho Water Rights Alliance, and their individual members and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, ID 83701-0829.

To: Respondent, State of Idaho, and its attorneys of record, Clive Strong and Steven Strack, Office of the Attorney General, P.O. Box 83720, Boise, ID 83720-0010.

YOU WILL PLEASE TAKE NOTICE that the Objector, Coeur d'Alene Tribe, by and through its counsel of record, HOWARD FUNKE & ASSOCIATES, P.C., will take the deposition of, **Ms. Deanne Hawks**, at the offices of Morris & Wolff, P.A., 722 Main Ave., St. Maries, Idaho 83861 commencing at **9:00 a.m. on Monday, May 2, 2016,** and continuing from that time until completed, you are invited to appear and take part in such deposition as you deem proper.

The deponent is required to bring with her the following:

A. A complete and legible copy of all documents or materials that Claimants rely upon, produced, and/or reference in the document "Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery" served on or about March 28, 2016;

The above deposition will be conducted pursuant to the Idaho Rules of Civil Procedure before a Notary Public of the State of Idaho, or such other officer authorized by law to administer oaths.

DATED this 8th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Kinzo H. Mihara, Of the Firm

Attorneys for the Coeur d'Alene Tribe

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April, 2016, I caused to be served a true and correct copy of the foregoing document, by the method indicated below, and addressed to the following:

Norman Semanko
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 385-5384
[ ] Hand-delivery

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

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 334-4143
[ ] Hand-delivery

Counsel for Respondent State of Idaho

U.S. Department of Justice
Environment & Nat'l Resources
550 W. Fort St., MSC 033
Boise, Idaho 83724

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (303) 844-1350
[ ] Hand-delivery

Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 287-6700
[ ] Hand-delivery

Naegeli Court Reporters
1900 Northwest Blvd #106a
Coeur d'Alene, ID 83814

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (503) 227-7123
[ ] Hand-delivery

Marcella J. Harrison

COPY

RECEIVED
APR 11 2016
DEPARTMENT OF
WATER RESOURCES

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
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Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

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 Case No. 49576 STEVE AND DEANNE HAWKS, Claimants, v. COEUR D'ALENE TRIBE, a federally-recognized Indian Tribe, Objector.	Subcase Nos. 91-7102; 91-7173 **NOTICE OF TAKING DEPOSITION DUCES TECUM OF CLAIMANT STEVE HAWKS**

To: Claimant(s), Steve and Deanne Hawks, and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, ID 83701-0829.

To: Respondents, North Idaho Water Rights Alliance, and their individual members and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, ID 83701-0829.

To: Respondent, State of Idaho, and its attorneys of record, Clive Strong and Steven Strack, Office of the Attorney General, P.O. Box 83720, Boise, ID 83720-0010.

Hawks 0627

YOU WILL PLEASE TAKE NOTICE that the Objector, Coeur d'Alene Tribe, by and through its counsel of record, HOWARD FUNKE & ASSOCIATES, P.C., will take the deposition of, **Mr. Steve Hawks**, at the offices of Morris & Wolff, P.A., 722 Main Ave., St. Maries, Idaho 83861 commencing at **1:00 p.m. on Monday, May 2, 2016,** and continuing from that time until completed, you are invited to appear and take part in such deposition as you deem proper.

The deponent is required to bring with her the following:

A. A complete and legible copy of all documents or materials that Claimants rely upon, produced, and/or reference in the document "Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery" served on or about March 28, 2016;

The above deposition will be conducted pursuant to the Idaho Rules of Civil Procedure before a Notary Public of the State of Idaho, or such other officer authorized by law to administer oaths.

DATED this 8th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Kinzo H. Mihara, Of the Firm

Attorneys for the Coeur d'Alene Tribe

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April, 2016, I caused to be served a true and correct copy of the foregoing document, by the method indicated below, and addressed to the following:

Norman Semanko
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 385-5384
[ ] Hand-delivery

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

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Counsel for Respondent State of Idaho

U.S. Department of Justice
Environment & Nat'l Resources
550 W. Fort St., MSC 033
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[ ] Hand-delivery

Marcella J. Harrison

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APR 15 2016
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
Sarah A. McCormack, ISB No. 9683
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nms@moffatt.com
sam@moffatt.com
26002.0001

Attorneys for Claimant(s) Steve and Deanne Hawks

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 Case No. 49576	Subcase Nos. 91-7102 and 91-7173 **CLAIMANTS' FIRST SET OF DISCOVERY REQUESTS TO OBJECTOR COEUR D'ALENE TRIBE**
Claimant Steve and Deanna Hawks, Claimant(s), vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COME NOW Claimants Steve and Deanna Hawks ("Claimants"), by and through undersigned counsel of record, pursuant to Idaho Rules of Civil Procedure 26, 33, 34 and 36 and Special Master Brigette Bilyeu's ("Special Master") Trial Scheduling Order dated December 4, 2015, and hereby submit their First Set of Discovery Requests to Objector Coeur d'Alene Tribe as follows:

INSTRUCTIONS

In responding to these Requests for Admission, Interrogatories and Requests for Production of Documents, you are requested to furnish all information available to you, or subject to your reasonable inquiry, including information in the possession of your attorneys, investigators, employees, agents, representatives, guardians, consultants, expert witnesses and any other person or persons acting on your behalf, and not merely such information as is known to you by your own personal knowledge.

In responding to these discovery requests you must make a diligent search of your Records and all other papers and materials that are in your possession or available to you, or to the individuals described in the preceding paragraph. If any item has subparts, please answer each part separately and in full. If you cannot answer any of the following requests in full after exercising due diligence to secure the information necessary to do so, please so state and answer or respond to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

If you object to any discovery request on the ground that the information sought is privileged and nondiscoverable, please state the basis for your claim of privilege and, in the case of any request for production, identify the documents and records that you object to producing in sufficient detail as to enable the Hearing Officer to rule upon the claim of privilege.

These discovery requests are deemed to be continuing. If, after responding to these requests you acquire any further information responsive to them, you are hereby requested, pursuant to the above-referenced Order and Rules, to file and serve supplemental answers or responses containing such further information.

If you fail to respond to one or more of these discovery requests or if your response to one or more of these requests is evasive or incomplete, Claimants may move the Special Master for an order compelling you to fully respond to these requests and to pay the reasonable expenses, including attorney fees, incurred by them in obtaining the order.

If you fail to produce documents and records requested herein on the ground that the necessary information, records or documents are not within your care, custody, possession or control, please state what efforts you have made to obtain such information, documents or records.

If you fail to respond to any of these discovery requests in full or fail to supplement your answers or responses as requested, Claimants may move the Special Master for an order precluding you from introducing into evidence, or otherwise using at hearing, any testimony, witness, exhibit, document, record, publication or other item or information not timely disclosed in your responses to these discovery requests.

The discovery requests that follow are directed to Objector Coeur d'Alene Tribe.

DEFINITIONS

1. The terms "Document(s)" and/or "Record(s)" mean any tangible thing upon which has been placed handwriting, e-mail transmission, typewriting, printing, photocopying, photographing, digital or computerized data, or any other form of recording, communication or representation, including but not limited to letters, words, pictures, sounds,

magnetic impulses, symbols, numbers or any combination thereof, whether or not visible to the unassisted human eye. This definition shall include, but is not limited to, any and all originals, copies or drafts of any and all of the following: Records, notes, summaries, schedules, contracts, agreements, orders, design manuals, inventories, audits, acknowledgments, diaries, findings, forecasts, tests, appraisals, reports, memoranda, telephone recordings, telephone logs, telephone lists, diaries, calendars, planners, daytimers, correspondence and letters, e-mail, telegrams, telexes, facsimiles and faxes, cables, tapes, tape recordings, statements, receipts, invoices, transcripts, digital or other recordings, photographs, witness statements, pictures, films, videotapes, computer programs, computer databases, models, things and materials of any nature whatsoever. Any "Document" that contains any comment, notation, addition, insertion or marking of any kind which is not part of another document is to be considered as a separate "Document."

2. When asked to "identify" a person or entity or when asked for the "identity" of a person or entity, please include:

(a) The name of the person or entity;

(b) The present or last known address and telephone number of the person or entity;

(c) The present or last known occupation, title, business, and employer of the person or entity; and

(d) The present or last known address and telephone number of the employer of the person or entity.

3. When asked to "identify" a Record or Document please include:

(a) The nature or type of Record or Document (e.g., letter, photograph, map, drawing, tape recording, etc.);

(b) The subject matter of the Record or Document and/or a general description of its contents;

(c) The "identity" of the person who authored or created the Record or Document;

(d) The date of the Document or, if it bears no date, the date on which it was prepared or created; and

(e) The physical location of the original and any copies of the Document or Record of which you are aware and the "identity" of the present custodian of the Record or Document.

4. The terms "you" and "your" shall mean Objector Coeur d'Alene Tribe.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the owner of any submerged lands that you claim an interest in.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America is not a party in the two above-captioned subcases.

REQUEST FOR ADMISSION NO. 3: Please admit that you did not file a protest to the application for water right permit for either of the water rights claimed in the two above-captioned subcases and that a water right license was issued by the State of Idaho for both water rights.

REQUEST FOR ADMISSION NO. 4: Please admit that the St. Joe River is the source of water for the water rights claimed in the two above-captioned subcases.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for each water right claimed in the above-captioned subcases is at the point described in the Director's Report for those water rights.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify each and every individual known to you who has any knowledge of, or who claims to have knowledge of, any facts or evidence discoverable in this matter, together with a summary of each person's knowledge, including your own.

INTERROGATORY NO. 2: Please identify each person who participated in preparing answers, responses and producing Documents pursuant to this first set of discovery requests.

INTERROGATORY NO. 3: Please identify any and all expert witnesses you intend to call at the trial of this matter, and please:

(a) Summarize each expert's background and qualifications;

(b) State the subject matter of each expert's expected testimony;

(c) State the substance of the facts and opinions to which each expert is expected to testify; and

(d) Disclose all underlying facts and data upon which each expert bases his or her opinions.

INTERROGATORY NO. 4: If you contend that Claimants have made any admission or statement against Claimants' interests in this matter, please state the following:

(a) The identity of the individual making the admission or statement;

(b) The date, time and location where the admission or statement was made;

(c) Whether the admission or statement was written or oral; and

(d) If the admission or statement was oral, please state the complete content of the admission or statement to the best of your recollection and knowledge.

INTERROGATORY NO. 5: Please identify each and every Document or item that you intend to offer as an exhibit at the trial of this matter.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: For every expert you intend to call to testify as an expert witness at a hearing of this matter, please produce any and all reports (both formal and informal), opinions, analyses and summaries relating in any way to the issues in this matter, and any other Document that reflects an opinion relating to this matter.

REQUEST FOR PRODUCTION NO. 2: If any of the admissions or statements identified in Interrogatory No. 4 were written, please produce a copy of any and all documentation of the admissions and statements.

REQUEST FOR PRODUCTION NO. 3: Please produce any and all exhibits identified in your answer to Interrogatory No. 5.

REQUEST FOR PRODUCTION NO. 4: Please produce any and all Documents and things that you may offer into evidence at the trial of this matter.

REQUEST FOR PRODUCTION NO. 5: Please produce any and all Documents and Records in your possession that indicate, or in any way relate to, the historic level of the St. Joe River.

REQUEST FOR PRODUCTION NO. 6: Please produce any and all Documents and Records in your possession that indicate, or in any way relate to, the historic ownership of the land at Claimants' point(s) of diversion.

REQUEST FOR PRODUCTION NO. 7: Please produce any and all additional documentation that is in any way supportive of your answers to any of the foregoing interrogatories.

DATED this 14th day of April, 2016.

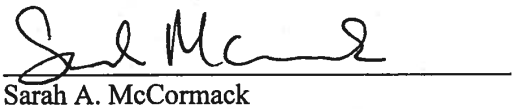
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Sarah A. McCormack – Of the Firm
Attorneys for Claimant(s)
Steve and Deanna Hawks

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of April, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS' FIRST SET OF DISCOVERY REQUESTS TO OBJECTOR COEUR D'ALENE TRIBE** to be served by the method indicated below, and addressed to the following:

Howard A. Funke Kinzo H. Mihara Dylan Hedden-Nicely HOWARD FUNKE & ASSOCIATES, P.C. 424 Sherman Avenue, Suite 308 P.O. Box 969 Coeur d'Alene, ID 83816-0969 Facsimile (208) 667-4695 hfunke@indian-law.org kmihara@indian-law.org dhedden@indian-law.org	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail (x) Facsimile (x) E-Mail
Chief, Natural Resources Division OFFICE OF THE ATTORNEY GENERAL STATE OF IDAHO 700 W. State St., 2nd Floor P.O. Box 83720 Boise, ID 83720-0010 Facsimile (208) 854-8072	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile ( ) E-Mail
Director IDAHO DEPARTMENT OF WATER RESOURCES 322 E. Front St. P.O. Box 83720 Boise, ID 83720-0098 Facsimile (208) 287-6700 gary.spackman@idwr.idaho.gov	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile ( ) E-Mail



Sarah A. McCormack

COPY

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
P. O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

Counsel for the Coeur d'Alene Tribe

RECEIVED
APR 15 2016
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 CSRBA Case No. 49576	Subcase No.: 91-7102
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S SECOND REQUESTS FOR DISCOVERY TO CLAIMANTS

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.

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 objection.

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-7102 0006 – 0037," 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-7102 0001 – 0037," 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-7102 0001 – 0005," 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-7102 0022 and CDAT OBJ-7102 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-7102 0008, attached hereto as part of Attachment "1", prior to answering this request for admission.]

ANSWER:

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. 91-7102 nor IDWR water right license no. 91-7102 could have been initiated in trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 27: Please admit that in issuing IDWR water permit no. 91-7102 and/or IDWR water right license no. 91-7102, IDWR could not have authorized trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 28: Please admit that neither IDWR water permit no. 91-7102 nor IDWR water right license no. 91-7102 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:

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-7102 0001-0037) 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 19th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: _____
Howard A. Funke
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 12th day of April, 2016, a copy of the foregoing Objector's Second Requests for Discovery to Claimant(s) 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 [X] Facsimile @ (208) 385-5384 [ ] Hand-delivery

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	[X] First Class Mail, Postage Prepaid [ ] Facsimile @ (208) 334-4143 [ ] Hand-delivery

Counsel for Respondent State of Idaho

U.S. Department of Justice Environment & Nat'l Resources 550 W. Fort St., MSC 033 Boise, Idaho 83724	[X] First Class Mail, Postage Prepaid [ ] Facsimile @ (303) 844-1350 [ ] Hand-delivery
Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098	[X] First Class Mail, Postage Prepaid [ ] Facsimile @ (208) 287-6700 [ ] Hand-delivery

Marcella J. Harrison

By: Marcella J. Harrison

COPY

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
P. O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

Counsel for the Coeur d'Alene Tribe

RECEIVED
APR 18 2016
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 CSRBA	Subcase Nos.: 91-7102; 91-7173
Case No. 49576	AMENDED NOTICE OF SERVICE

NOTICE IS HEREBY GIVEN that on the 13th th day of April, 2016, individual copies of OBJECTOR'S SECOND REQUESTS FOR DISCOVERY TO CLAIMANTS in subcase 91-7102 and OBJECTOR'S AMENDED SECOND REQUESTS FOR DISCOVERY TO CLAIMANTS in subcase 91-7173, with attachments thereto, and a copy of this AMENDED NOTICE OF SERVICE were served the method noted below to the following counsel of record:

Norman Semanko
Sarah McCormack
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

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Steven Strack
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State of Idaho
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[✓] 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

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Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

[✓] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 287-6700
[ ] Hand-delivery

Respectfully submitted this 13th day of April, 2016.

HOWARD FUNKE & ASSOC., P.C.

Kip H. Link for

By: Howard A. Funke, Of the Firm
Counsel for the Coeur d'Alene Tribe

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APR 15 2016
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
Sarah A. McCormack, ISB No. 9683
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
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nms@moffatt.com
sam@moffatt.com
26002.0001

Attorneys for Claimant(s) Steve and Deanne Hawks

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 Case No. 49576	Subcase Nos. 91-7102 and 91-7173 **NOTICE OF SERVICE OF CLAIMANTS' FIRST SET OF DISCOVERY REQUESTS TO OBJECTOR COEUR D'ALENE TRIBE**
Claimant Steve and Deanna Hawks, Claimant(s), vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

NOTICE IS HEREBY GIVEN that on the 14th day of April, 2016, a copy of **CLAIMANTS' FIRST SET OF DISCOVERY REQUESTS TO OBJECTOR COEUR D'ALENE TRIBE** and a copy of the **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following at the address shown below:

Howard A. Funke Kinzo H. Mihara Dylan Hedden-Nicely HOWARD FUNKE & ASSOCIATES, P.C. 424 Sherman Avenue, Suite 308 P.O. Box 969 Coeur d'Alene, ID 83816-0969 Facsimile (208) 667-4695 hfunke@indian-law.org kmihara@indian-law.org dhedden@indian-law.org	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail (x) Facsimile
Chief, Natural Resources Division OFFICE OF THE ATTORNEY GENERAL STATE OF IDAHO 700 W. State St., 2nd Floor P.O. Box 83720 Boise, ID 83720-0010 Facsimile (208) 854-8072	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Director IDAHO DEPARTMENT OF WATER RESOURCES 322 E. Front St. P.O. Box 83720 Boise, ID 83720-0098 Facsimile (208) 287-6700 gary.spackman@idwr.idaho.gov	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Sarah A. McCormack – Of the Firm
Attorneys for Claimant(s)
Steve and Deanna Hawks

COPY

RECEIVED
APR 15 2016
DEPARTMENT OF
WATER RESOURCES

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
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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 Nos.: 91-7102; 91-7173
Case No. 49576	
	NOTICE OF SERVICE OF OBJECTOR'S SECOND REQUESTS FOR DISCOVERY TO CLAIMANTS

NOTICE IS HEREBY GIVEN that on the 12th day of April, 2016, individual copies of OBJECTOR'S SECOND REQUESTS FOR DISCOVERY TO CLAIMANT(S) in the above-noted subcases and a copy of this NOTICE OF SERVICE were served the method noted below to the following counsel of record:

Norman Semanko
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829

[ ] First Class Mail, Postage Prepaid
[X] Facsimile @ (208) 385-5384
[ ] Hand-delivery

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

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[ ] Hand-delivery

Counsel for Respondent State of Idaho

U.S. Department of Justice
Environment & Nat'l Resources
550 W. Fort St., MSC 033
Boise, Idaho 83724

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[ ] Facsimile @ (303) 844-1350
[ ] Hand-delivery

Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 287-6700
[ ] Hand-delivery

Respectfully submitted the 12th day of April, 2016.

HOWARD FUNKE & ASSOC., P.C.

By: Howard A. Funke, Of the Firm
Counsel for the Coeur d'Alene Tribe

COPY

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
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P (208) 667-5486
F (208) 667-4695

Counsel for the Coeur d'Alene Tribe

RECEIVED
APR 18 2016
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 CSRBA Case No. 49576	Subcase No.: 91-7102
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S SECOND REQUESTS FOR DISCOVERY TO CLAIMANTS

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.

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 objection.

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-7102 0006 – 0037," 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-7102 0001 – 0037," 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-7102 0001 – 0005," 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-7102 0022 and CDAT OBJ-7102 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-7102 0008, attached hereto as part of Attachment "1", prior to answering this request for admission.]

ANSWER:

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. 91-7102 nor IDWR water right license no. 91-7102 could have been initiated in trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 27: Please admit that in issuing IDWR water permit no. 91-7102 and/or IDWR water right license no. 91-7102, IDWR could not have authorized trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 28: Please admit that neither IDWR water permit no. 91-7102 nor IDWR water right license no. 91-7102 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:

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-7102 0001-0037) 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 19th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: _____
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 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"

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Morris & Wolff, P.A.
722 Main Avenue
St. Maries, Idaho 83861

91-7102
Lot 4

Instrument # 269173
BENEWAH COUNTY
7-30-2014 04:36:15 No. of Pages: 5
Recorded for : MORRIS AND WOLFF PA
DEANNA BRAMBLETT Fee: 22.00
Ex-Officio Recorder Deputy
Index to: DEEDS, OTHER

(Space Above For Recorder's Use)

DEED OF DISTRIBUTION SUBJECT TO A LIFE ESTATE

THIS DEED is made and executed by Deanne Hawks, as Personal Representative of the ESTATE OF JILL LORENE PERKINS, hereinafter referred to as the ("Grantor"), to BRANDON PERKINS, a married man dealing in his sole and separate property, with an address of 155 NW Woodbrook Drive, Grants Pass, Oregon 97526, hereinafter referred to as the ("Grantee").

WHEREAS, Grantor is the qualified Personal Representative of said Estate, filed as Probate Case Number CV 2013-311 in Benewah County, Idaho;

WHEREAS, Grantee is entitled to distribution of the hereafter described real property:

THEREFORE, Grantor quitclaims, transfers, and conveys to Grantee the following described real property in Benewah County, Idaho:

Lot 4, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

Lot 5, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

CDAT OBJ-7102 0001

And

Lot 6, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Benewah County, Idaho.

And

That part of LOT 9, BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144646, recorded December 9, 1968, records of Benewah County, Idaho; situated in the SE1/4, section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho; more particularly described as follows:

COMMENCING at the Northwest corner of LOT 9, BLOCK 1 of said Plat, monumented with a drill steel;

thence South 1°14'51" East, 40.32 feet (of record as South 1°12'00" East and South 1°12'00" West) along the West line of said LOT 9 to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence leaving said West line, South 84°47'53" East, 162.15 feet (of record as South 85°14'00" East, 162.01 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South 0°49'26" East, 46.96 feet (of record as South 1°12'00" East, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South 85°45'10" East, 123.93 feet (of record as South 86°11'15" East, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703, the POINT OF BEGINNING;

thence South 0°47'17" East, 96.11 feet (of record as South 0°12'00" East, 96.00 feet) to a point on the northerly right-of-way line of STATE HIGHWAY No. 3, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 703;

thence South 84°03'16" East, 161.53 feet (of record as 161.88 feet) along said northerly right-of-way line to a drill steel;

thence South 82°00'39" East, 40.26 feet (of record as South 82°53'00" East) along said northerly right-of-way line, to a point on the centerline of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 45°38'42" West, 160.12 feet (of record as North 46°18' West) along said centerline, and leaving said northerly right-of-way line, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to the POINT OF BEGINNING.

And

Those parts of LOTS 5, 8 and 9, all in BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144646, recorded December 9, 1968, records of Benewah County, Idaho and that part of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County; all situated in the E1/2, section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho; more particularly described as follows:

COMMENCING at the Southeast corner of said LOT 8, monumented with a drill steel;

thence North 0°03'18" West, 187.29 feet (of record as North 1°06' West, 187.29 feet and North 1°06'00" West) along the East line of said LOT 8, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766, the POINT OF BEGINNING;

thence North 88°57'18" West, 90.95 feet (of record as West, 90.95 feet), and leaving said East line to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 0°03'18" East, 99.96 feet (of record as South 1°06' East, 98.76 feet) to a point on the northeasterly right-of-way line of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 44°21'18" West, 20.00 feet, and leaving said northeasterly line, to an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2 inches diameter, marked WITNESS CORNER - PLS 6766;

thence continuing South 44°21'18" West, 5.00 feet to a point on the centerline of said vacated roadway, which is witnessed by the aforementioned monument;

thence traversing said centerline, as follows:

North 45°38'42" West, 66.78 feet (of record as North 46°18' West) to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence continuing North 85°45'10" West, 123.93 feet (of record as North 86°11'15" West, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 0°49'26" West, 46.96 feet (of record as North 1°12'00" West, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 84°47'53" West, 162.15 feet (of record as North 85°14'00" West, 162.01 feet) to a point on the West line of said LOT 9, said point monumented with an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 1°14'51" West, 40.32 feet (of record as North 1°12'00" West and North 1°12'00" East) along said West line to the Northwest corner of said LOT 9, said corner monumented with a drill steel;

thence North 88°08'45" East, 54.77 feet (of record as North 87°55' East, 54.77 feet) along the North line of said LOT 9 and an easterly extension of said North line, and leaving said West line, to a point on the centerline of said vacated roadway, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence traversing said centerline, as follows:

North 70°29'35" East, 107.75 feet (of record as North 70°04' East, 107.65 feet), and leaving said North line extended, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 40°33'35" East, 130.58 feet (of record as North 40°08' East, 130.45 feet) to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 74°12'43" East, 180.90 feet (of record as North 73°23' East, 180.44 feet) to a point on the westerly extension of the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 86°24'28" East, 12.00 feet (of record as South 87°35' East) along said westerly extension, and leaving said centerline, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 7°00'00" West, 14.50 feet, and leaving said westerly extension, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 83°00'00" East, 28.00 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 7°00'00" East, 19.74 feet to a point on the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 86°24'28" East, 71.97 feet (of record as South 87°35' East) along said North line to the Northeast corner of said LOT 8, said corner monumented with a drill steel;

thence South 0°55'51" East, 150.49 feet (of record as South 1°06' East and South 1°06'00" East) along the East line of said LOT 8, and leaving said North line, to an iron pipe, 1 inch diameter;

thence South 0°03'18" East, 76.81 feet (of record as South 1°06' East and South 1°06'00" East) continuing along said East line, to the POINT OF BEGINNING.

SUBJECT TO A LIFE ESTATE GRANTED TO DEANNE HAWKS AND STEVE HAWKS, HUSBAND AND WIFE, WHOSE ADDRESS IS 89231 HWY 3 N, ST. MARIES, BENEWAH COUNTY, IDAHO 83861, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP.

This conveyance shall include any and all appurtenances, estate, right, title, interest, tenements, hereditaments, reversions, remainders, easements, rents, issues, profits, rights-of-way and water rights in anywise appertaining to the property herein described, as well in law as in equity.

DATED this 30th day of July, 2014.

ESTATE OF JILL LORENE PERKINS

Deanne Hawks, P.R.
Deanne Hawks, Personal Representative

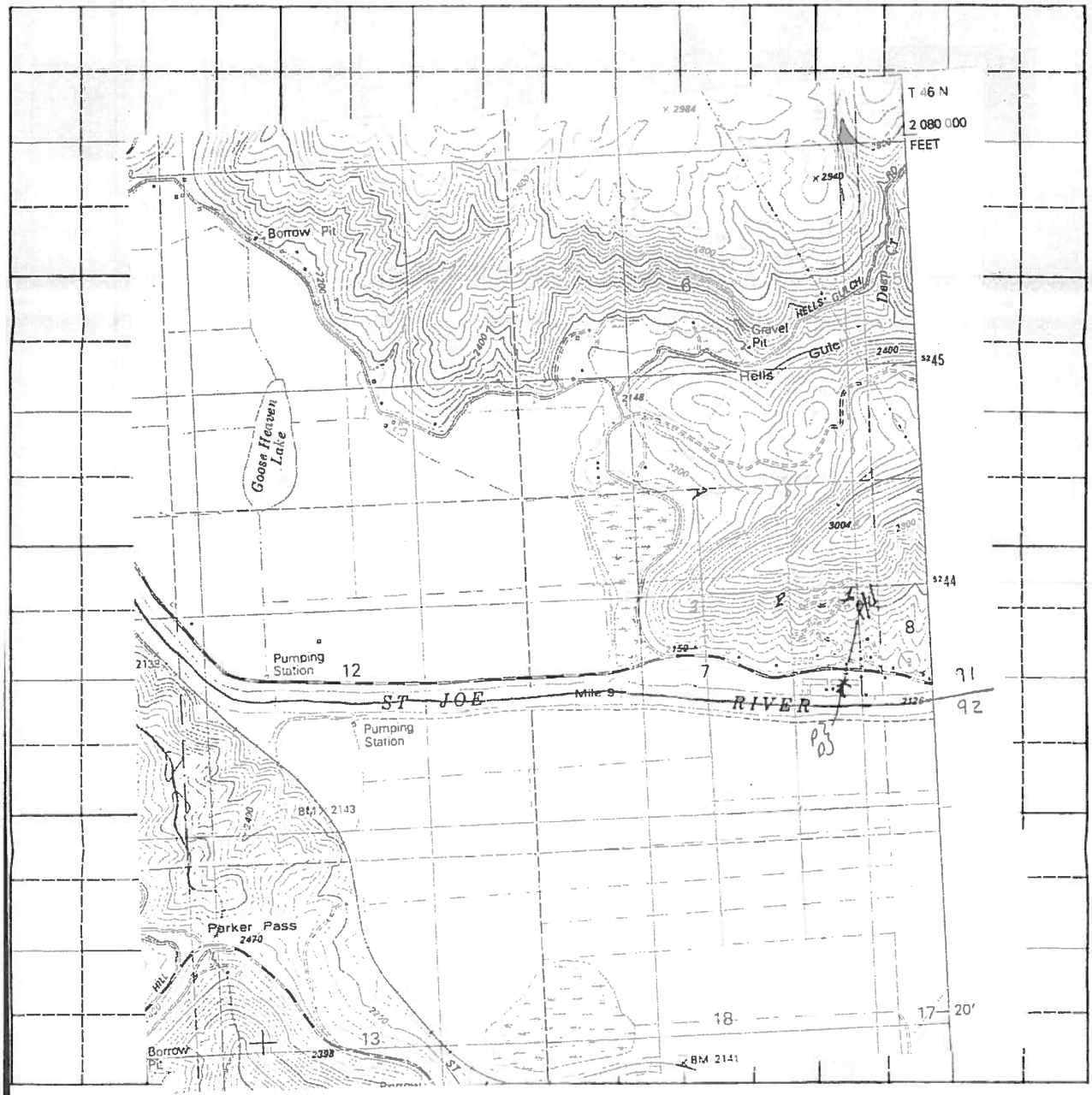
STATE OF IDAHO)
) ss.
County of Benewah)

On this 30th day of July, 2014, before me, a notary public, personally appeared Deanne Hawks, known to me to be the person whose name is subscribed to the within instrument as Personal Representative of the ESTATE OF JILL LORENE PERKINS, and acknowledged to me that she executed the same as such personal representative.

TINA J. RHODES
NOTARY PUBLIC
STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires 11/8/2016

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



Scale: 2 inches equal 1 mile.

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.

RECEIVED
DEC 27 1988

Steve Hawks
(Applicant)

CDAT OBJ-7102 0006

CDAT OBJ-7102 0007

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT SUPPLEMENT

C O N T E N T S

( ) B/U Acknowledgment Letter Sent

This Examination Report Contains the Following Documents.

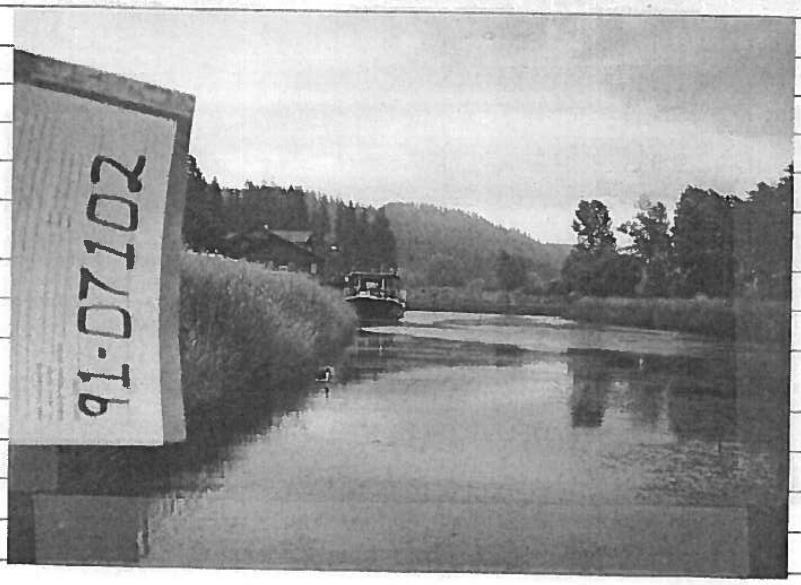
(✓)Field Report (✓)Quad Sheet (✓)Gov. Lot Plat ( )Rules Check list

( )Aerial Photo ( )Photo PD/PU ( )Well Log

Number of Diagrams Attached _____ Number of Calculation Sheets Attached _____

( ) Correspondence (Date) _____

( ) Other (List) _____



Contacts:

Remarks: The PD

Exam Completed By Doris Johnson Date 8/8/89

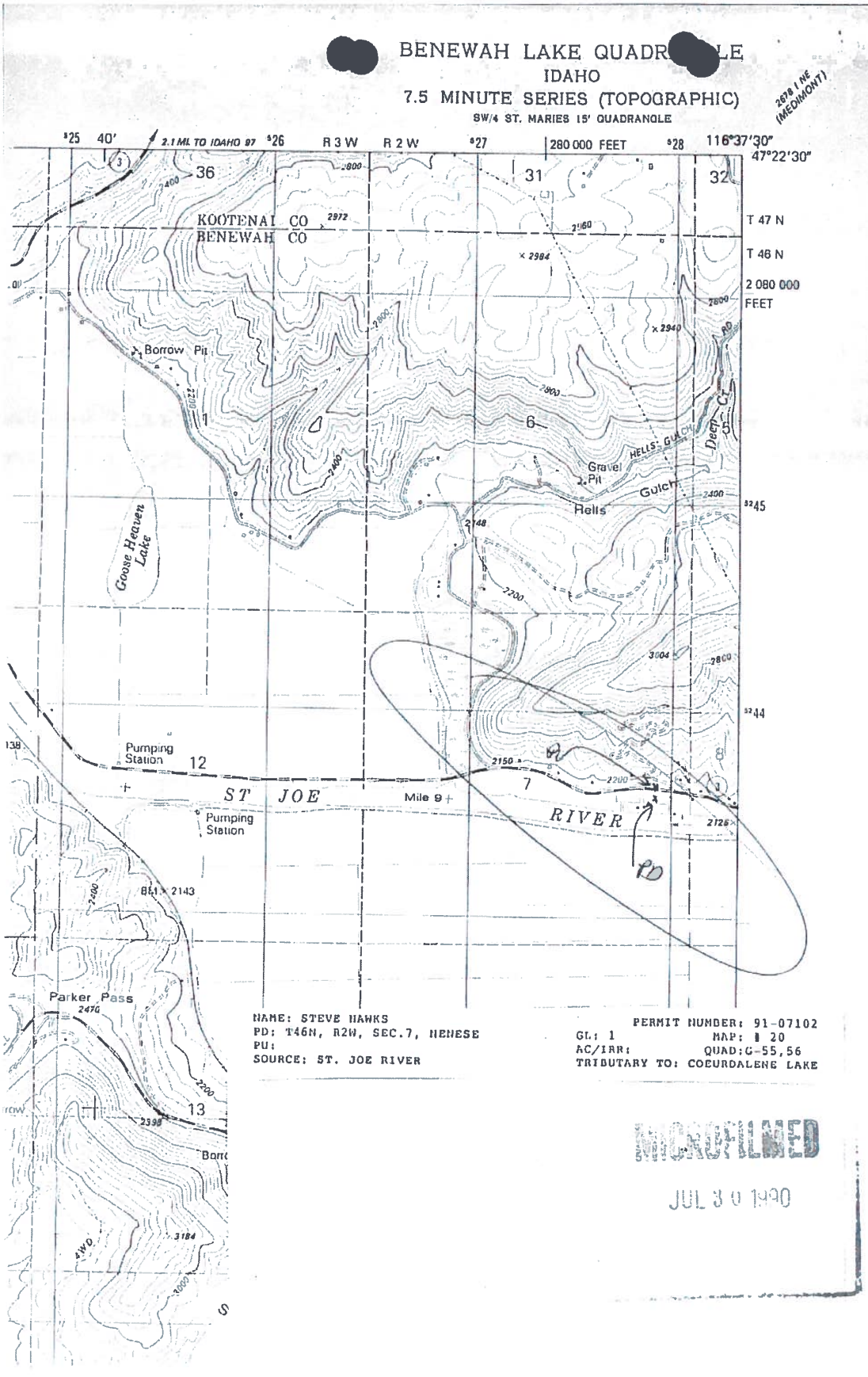
Sr. Agent Review _____ Date _____

Regional Manager Review _____ Date _____

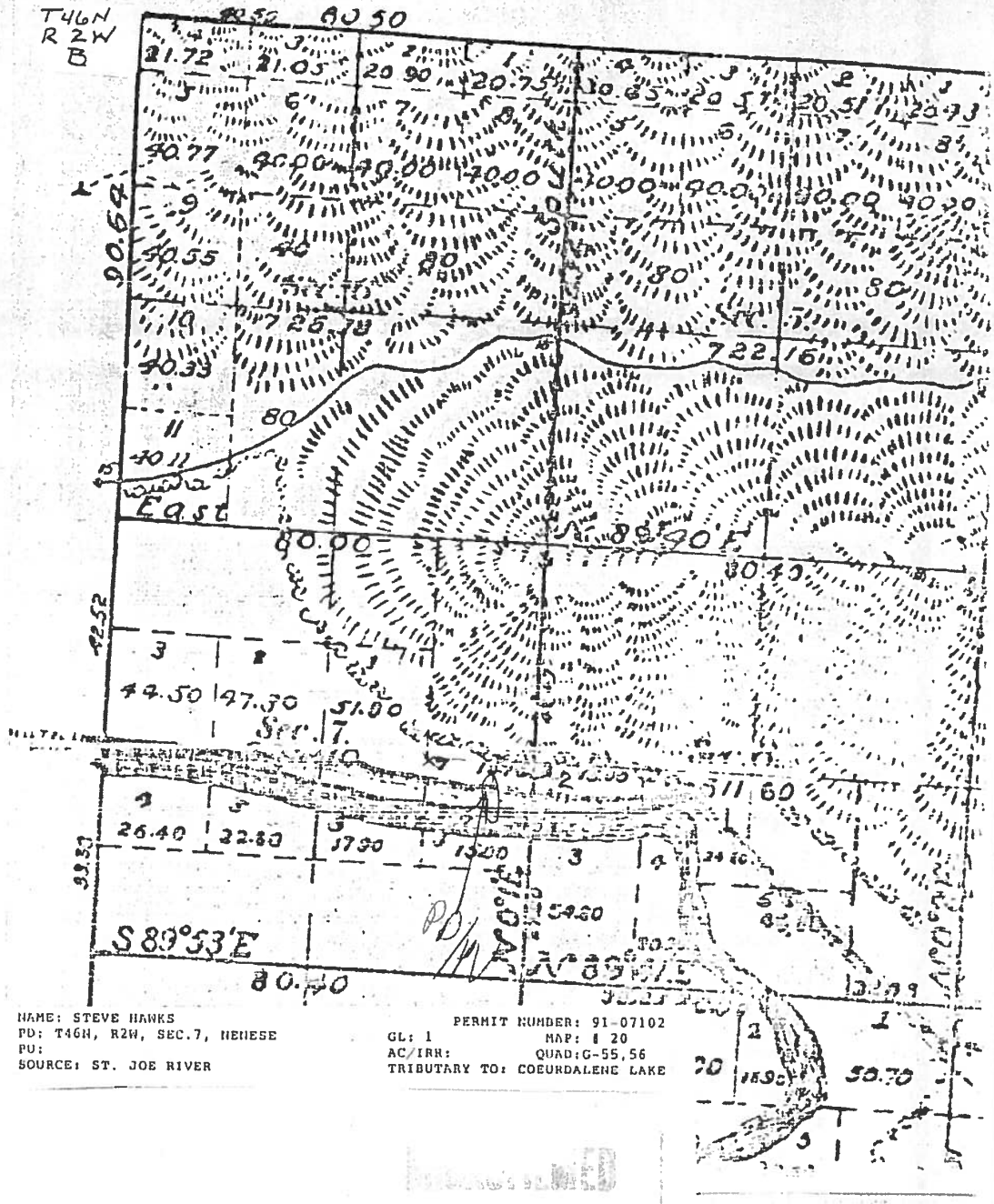
PERMIT NUMBER

91-07102

MICROFILMED



CDAT OBJ-7102 0009



CDAT OBJ-7102 0010

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 91-07102

Priority: July 22, 1988 Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume:[1] 0.6 AF

This is to certify, that STEVE HAWKS
RT 2 BOX 86
ST. MARIES, ID 83861 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 22, 1988; and has submitted Proof of Beneficial Use on October 19, 1988. An examination indicates that the works have a diversion capacity of .020 cfs of water from:

ST. JOE RIVER tributary to COEUR D ALENE LAKE

source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
DOMESTIC	03/15 to 11/15	0.02 CFS	0.6 AF

LOCATION OF POINT(S) OF DIVERSION: LOT 7(NESE), Sec. 7, Township 46N, Range 02W BENEWAH County

PLACE OF USE: DOMESTIC

TWN	RGE	SEC	
46N	02W	7	LOT 7(NESE)

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Domestic use is for irriagation of lawn & garden.

MICROFILMED

JUL 30 1990

CDAT OBJ-7102 0011

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 91-07102

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 20TH day of July, 1990.

Acting for R. Keith Higginson, Director

JUL 30 1990

Form 202
6/85

Ident. No. 91-07102

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Steve Hawks Phone 245-2403

   Post office address Rt. 2 Box 86 St. maries, Id. 83861

2. Source of water supply St Joe River which is a tributary of Coeur d'Alene Lake

3. Location of point of diversion is NE ¼ of NE ¼ of SE ¼, Govt. Lot 1

   Sec. 7 Township 46N Range 2W B.M. Benewah County; additional

   points of diversion if any: _____

4. Water will be used for the following purposes:

   Amount .02 (cfs ~~or acre-feet per annum~~) for Domestic garden watering purposes from 1 MAR to 1 Dec (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated is (a) .02 cubic feet per second and/or (b) _____ acre feet per annum

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. 1¼" pipe through culvert to canal

   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.

   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

   d. Is ground water with a temperature of greater than 90°F being sought? _____

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

MICROFILMED
DEC 27 1988

CDAT OBJ-7102 0013

8. Description of proposed uses (*if irrigation only, go to item 9*):

a. Hydropower; show total feet of head and proposed capacity in KW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. _____

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 the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
46N	2W	7													D				.35

Total number of acres to be irrigated .35

10. Describe any other water rights used for the same purposes as described above. Drinking water from well. I am ¼ partner

11. a. Who owns the property at the point of diversion? Cyril Chase

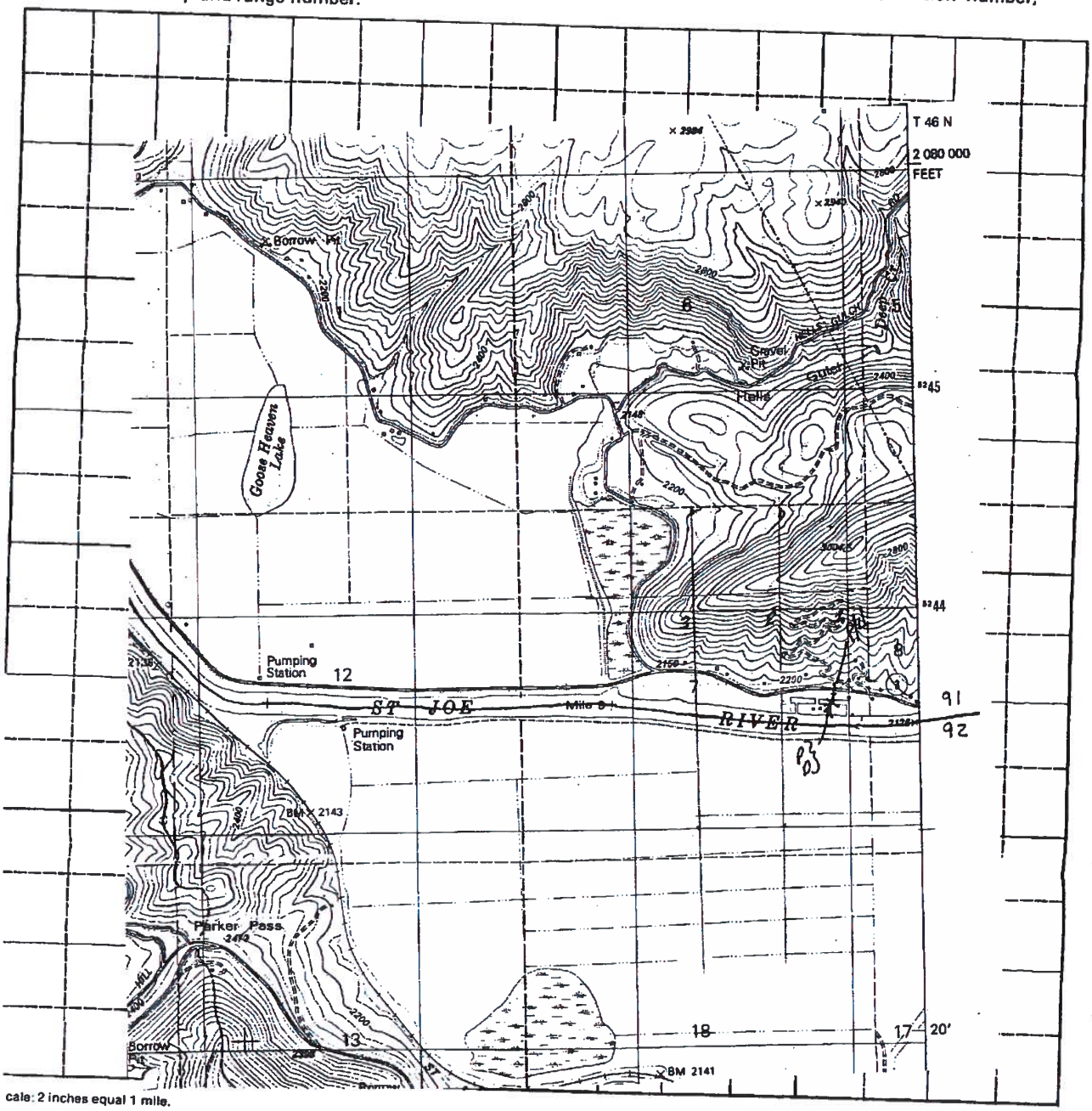
b. Who owns the land to be irrigated or place of use? Steve Hawks

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

MICROFILMED
DEC 2 1 1988

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



cale: 2 inches equal 1 mile.

BE IT KNOWN that the undersign[illegible] cation for permit to appropriate the public waters of the State of Idaho as herein set forth.

RECEIVED
DEC 27 1988

Steve Hawks
(Applicant)

CDAT OBJ-7102 0015

Proposed Priority 7/22/88

Received by KK Date 7/22/88 Time 1:00 PM Preliminary check by JK

Fee $ 30.00 Receipted by JK # N 741 Date 7/26/88

Publication prepared by [signature] Date 8/16/88 Published in Ft. Hawks Dispatch 8/17-24/88

Publication approved [signature] Date 8/29/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 91-7102, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 19 89.

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

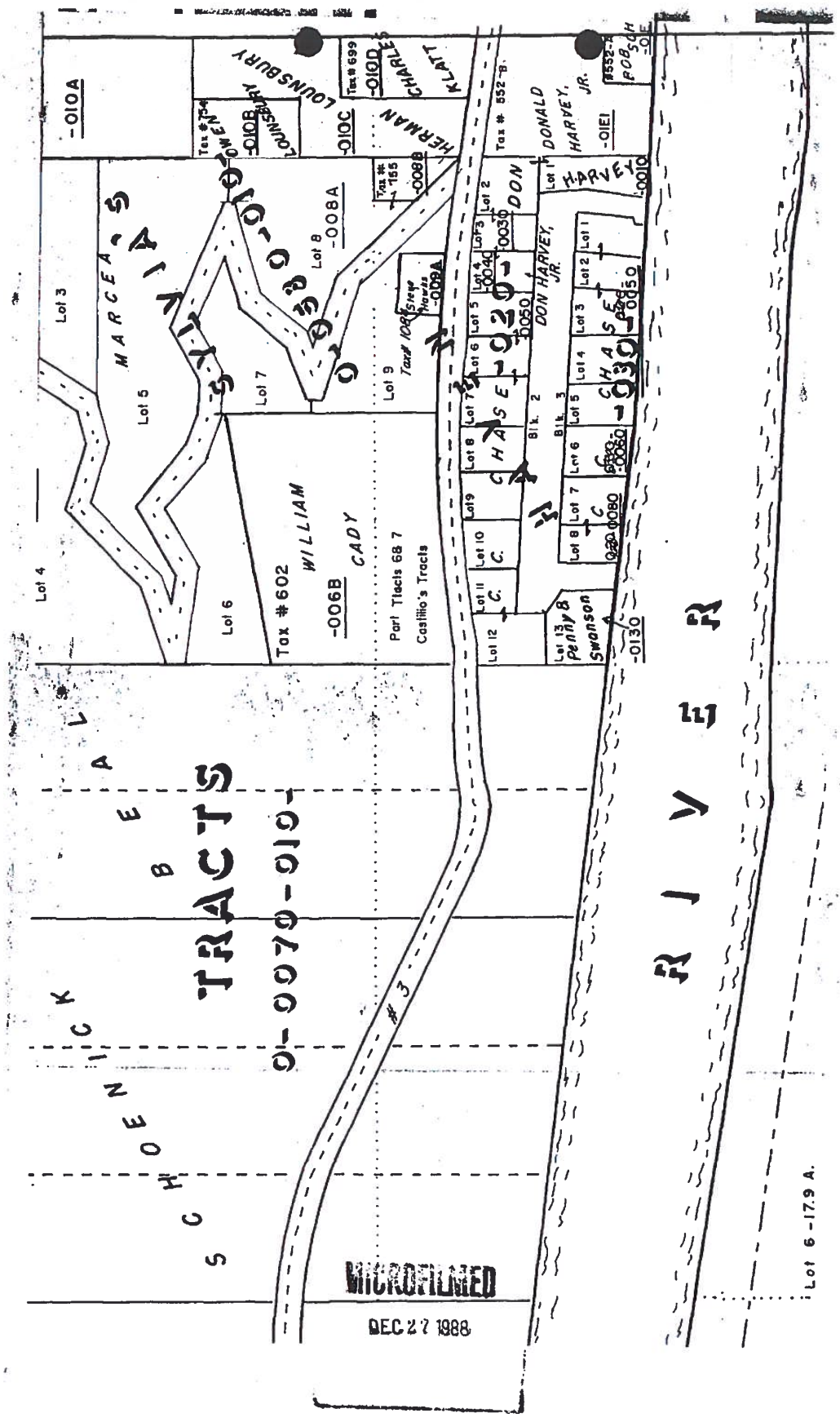
   d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

   e. Other: The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Witness my hand this 6th day of October, 1988.

for L. Glen Saxton
Director

MICROFILMED
DEC 27 1988



CDAT OBJ-7102 0017

Affidavit of Publication

STATE OF IDAHO
County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah county, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of the notice of advertisement hereon.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of 2 issues, the first publication being on the 17th day of Aug., 19 88 and the last on the 24th day of Aug., 19 88.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 26th day of Aug., 19 88

Cynthia Ann Hammes

STATE OF IDAHO }
COUNTY OF BENEWAH } ss.

On this 26th day of Aug in the year 19 88 before me, a Notary Public, personally appeared Cynthia Ann Hammes known or identified to me to be the person whose name subscribed to the within instrument, and acknowledged to me that she executed the same.

Sharon D. Blackburn
Notary Public
Residing at St. Maries, Idaho

Application for water right filed by Hawks

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

91-07102

Hawks, Steve
Rt 2 Box 86
St. Maries, ID 83861
Source: St. Joe River
Tributary: Coeur d'Alene Lake
Diversion Pt: Lot 1 (NENESE) Sec 7 T 46N R 02W
Use: Domestic (.020 CFS)
Date Filed: 7/22/1988
In: T46N R02W S07 Lot 1 (NESE)
... The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Northern Region, Government Way Suite 9, Coeur d'Alene, Idaho 83814 on or before September 6, 1988.

R. Keith Higginson, Director
No. 549 — Aug. 17-24.

OK
8/29/88

CDAT OBJ-7102 0018

July 20, 1990

STEVE HAWKS
RT 2 BOX 86
ST. MARIES, ID 83861

RE: PERMIT NO. 91-07102

Dear Permit Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure



CDAT OBJ-7102 0019

RECEIVED
JUN 27 1990
Department of Water Resources

SENIOR AGENT REVIEW

Check List
for
Beneficial Use Field Report

Permit 91-07102

A. GENERAL INFORMATION
- ✓ 1. Name and address are most current available. (Check BU statement)
- ✓ 2. Exam Date
- ✓ 3. Source (Check Permit)

B. OVERLAP REVIEW
- ✓ 1. & 2. (Rule 5,1,4)

C. SYSTEM DESCRIPTION
- ✓ 1. Diversion System Diagram (Rule 5,1,3 / 5,1,4)
- ✓ 2. USGS (Rule 5,1,7 / 5,1,9) Aerial (Rule 5,1,17)
- ✓ 3. Word Picture (Rule 5,1,3 / 5,1,4)
- ✓ 4. Diversion (Rule 5,1,3)
- ✓ 5. Compare with USGS Map, Land Survey Maps, Aerial Photos and Permit.
- ✓ 6. Irrigation (Rule 5,1,8)

✓ D. FLOW MEASUREMENTS Check math (Rule 5,1,13 / 5,1,14)

✓ E. FLOW CALCULATIONS Check math (Rule 5,1,13 / 5,1,14)

✓ F. OPTIONAL

G. VOLUME CALCULATIONS
- ✓ Three significant figures and no more than 1/10's (Rule 6,1,2)
- Fish (Rule 5,1,11) number stock, homes, etc... (Rule 5,1,12)

H. REMARKS AND OVERLAP ANALYSES
- ✓ All actual uses listed; all permitted uses not used, also listed; (Rule 5,1,2):
- ✓ Overlaps (Rule 5,1,4):
- ✓ Return flows (Rule 5,1,5):
- ✓ Conditions (Rule 5,1,6).

I. RECOMMENDATIONS
- ✓ 1. Municipal (Rule 5,1,10): Compare with items E & G, permit, fee, capacity (Rule 5,1,15): Measured flows for each use listed separately (Rule 5,1,14). Period of year (Rule 5,1,13)
- ✓ 2. Compare permit to exam for amendments (Rule 5,1,16)

J. AUTHENTICATION
- ✓ Name, Signature, Certification Date, Exam Date.

WELL INSPECTION REPORT
- ✓ Check with permit and well log for discrepancies

Signature [signature] Date 8/19/89

CDAT OBJ-7102 0020

Hawks 0697

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT SUPPLEMENT

C O N T E N T S

( ) B/U Acknowledgment Letter Sent

This Examination Report Contains the Following Documents.

(✓)Field Report (✓)Quad Sheet (✓)Gov. Lot Plat (✓)Rules Check list

( )Aerial Photo ( )Photo PD/PU ( )Well Log

Number of Diagrams Attached _____ Number of Calculation Sheets Attached _____

( ) Correspondence (Date) _____

( ) Other (List) _____



Contacts:

Remarks: The PD

Exam Completed By _____ Date 8/8/89

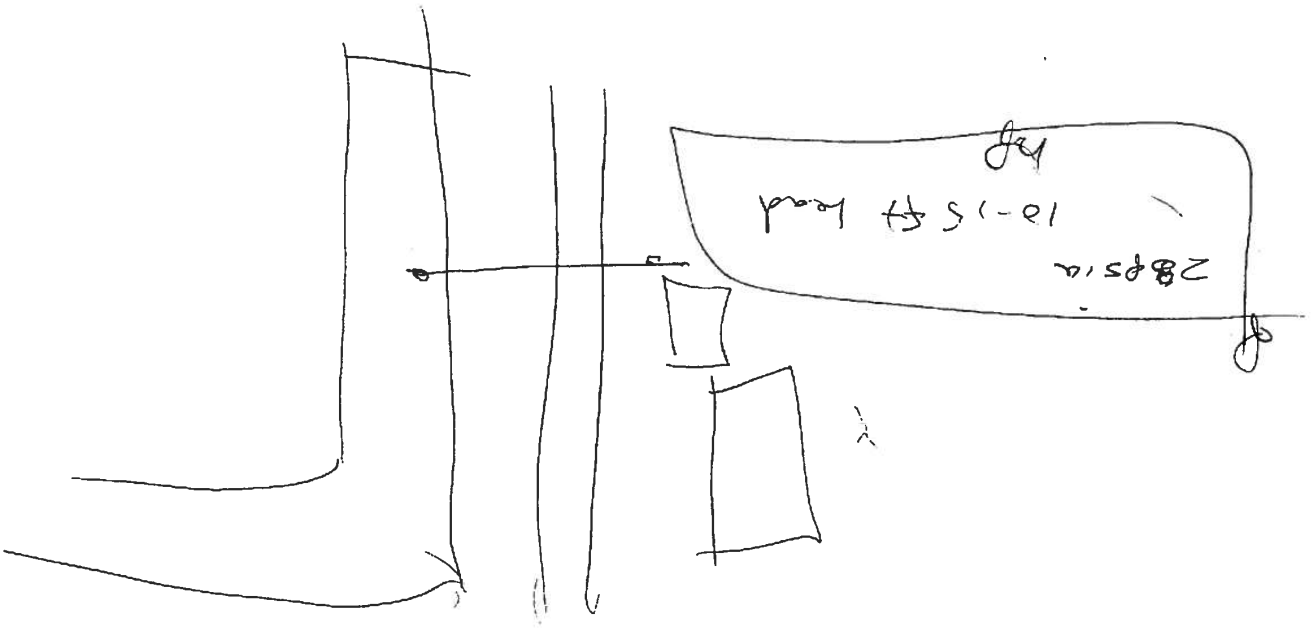
Sr. Agent Review _____ Date _____

Regional Manager Review _____ Date _____

PERMIT NUMBER

91-07102

CDAT OBJ-7102 0021



CDAT OBJ-7102 0022

Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

RECEIVED
JUN 27 1990
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 91-7102

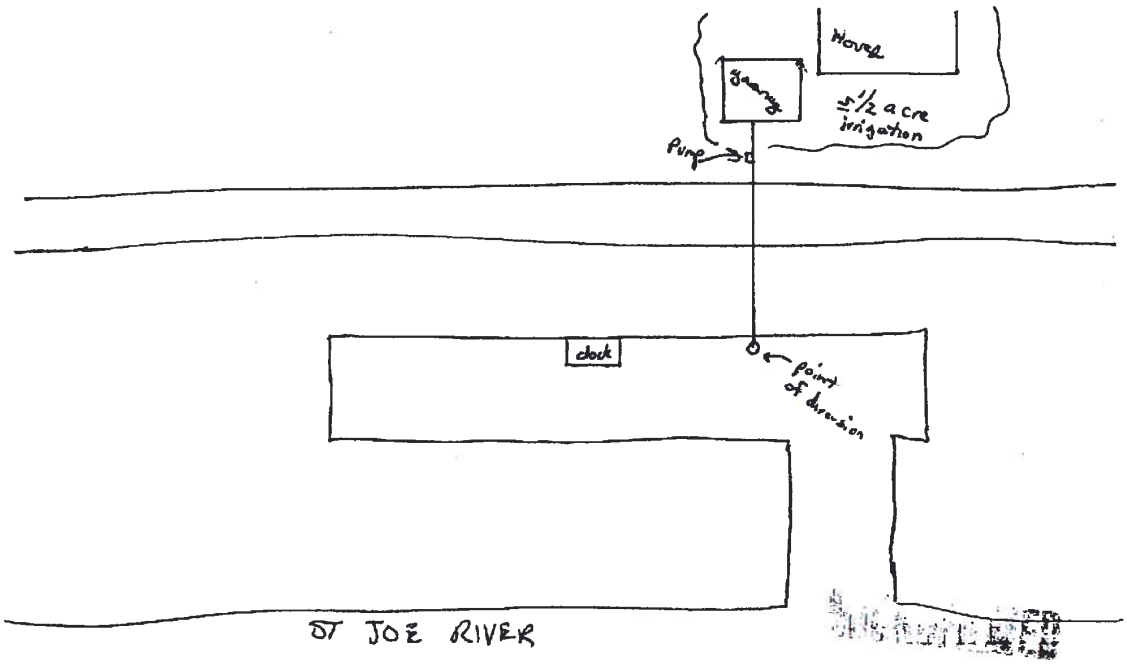
1. Owner: Steve Hawks — Phone No. 245-2403
   Current Address: Rt 2 Box 86 St. Maries, Id 83861
2. Accompanied by: Mrs. Hawks — EXAM. DATE: 7/26/89
   Address: Same — Phone No. Same
   Relationship to Permit Holder: wife
3. Source: St. Joe River tributary to Coeurd'Alene Lk.

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE
   ☐ Copies Attached
2. Other water rights with same point of diversion: NONE
   ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = NTS.

2. ☐ Copy of U.S.G.S. Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☐ Aerial Photo Attached (required for irrigation of 10 acres or more).
   ☐ Photo of Diversion and System Attached (required for all but single household domestic groundwater, and stockwater.

CDAT OBJ-7102 0023

Hawks 0700

Hawks 0701

CDAT OBJ-7102 0024

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)
Pick up in private bay with 1½" black pvc pipe across under road to ½ hp pump. Water is the distributed through hoses and sprinklers.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	TESEL	½	?	?	1"

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

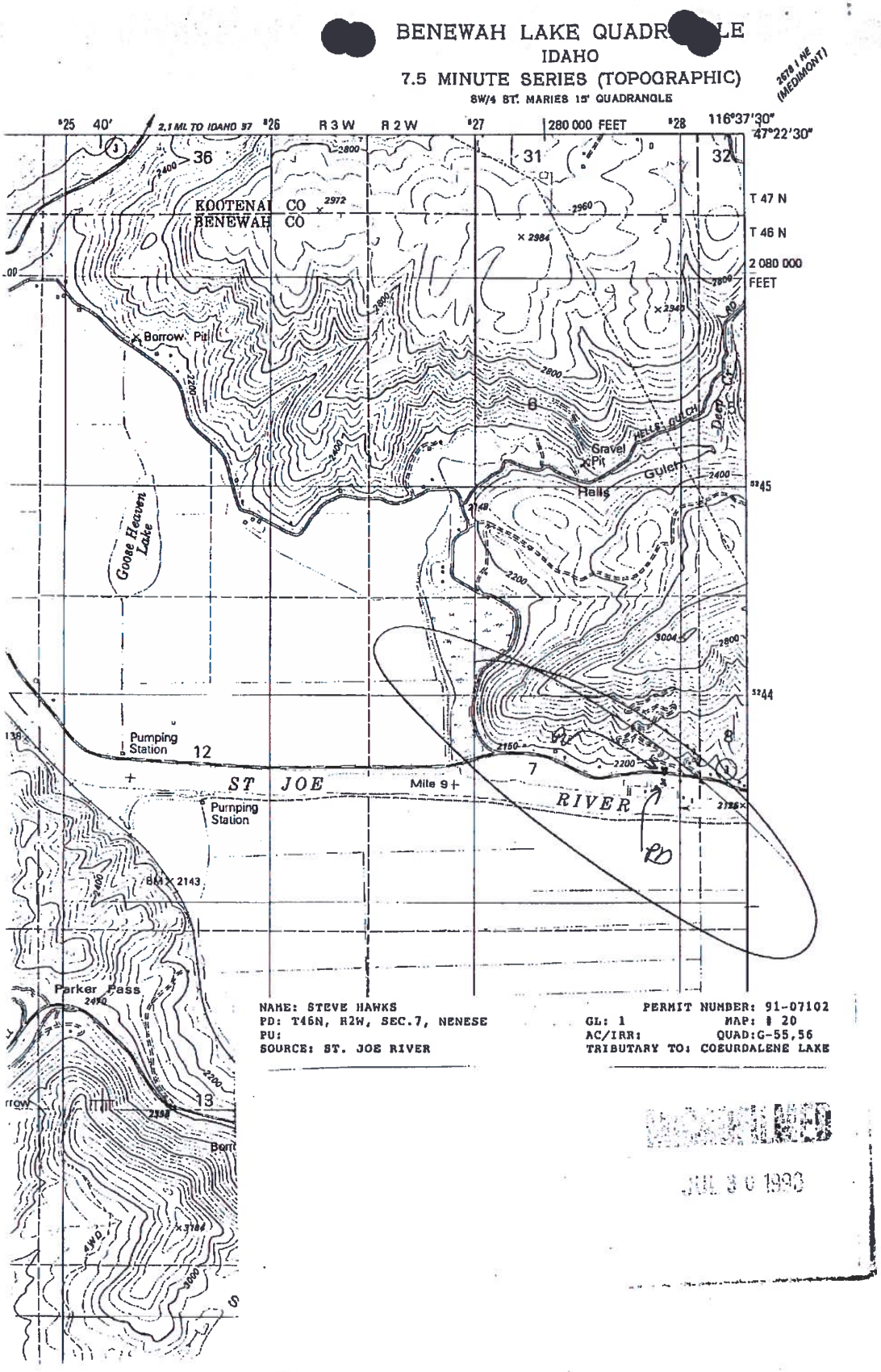
5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
	7	NE	NE	SE	7	46N	2W	Benewah	Map

6. **Place(s) of Use:** Indicate Method of Determination Map

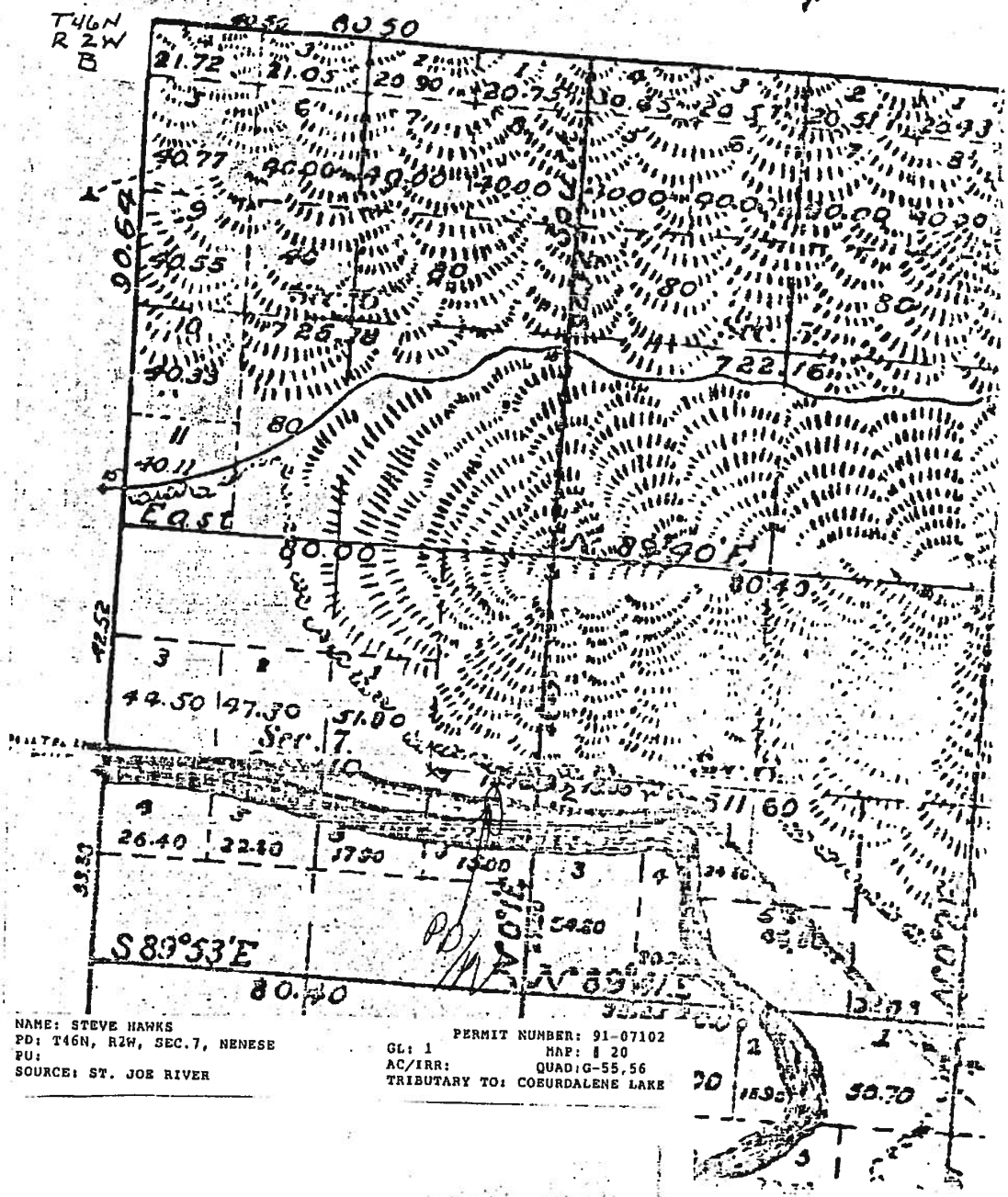
Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
46N	2W	7													10				

Do not use this space



CDAT OBJ-7102 0025

Hawks 0702



NAME: STEVE HAWKS
PD: T46N, R2W, SEC.7, NENESE
PU:
SOURCE: ST. JOE RIVER

PERMIT NUMBER: 91-07102
GL: 1 MAP: # 20
AC/IRR: QUAD:G-55,56
TRIBUTARY TO: COEURDALENE LAKE

CDAT OBJ-7102 0026

Do not use this space

D. FLOW MEASUREMENTS

NONE ☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. **Measurements:**

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method: $Q = \frac{8.8(.7)(1/2)}{2.3(28)+30} = .033$ cfs 28 psi 80

2. Alternate Method for Checking Purposes: limited to .02 by application

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)
Total Head: (1) + (2) = _____ (3) : Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)
Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)
Meter Input HP: (6) x 1.34 = _____ (7)
Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)
Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = _____

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = _____

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

2. Volume Calculations for Other Uses:

Domestic (.2 af a yr) 1 home

H. **REMARKS AND OVERLAP REVIEW ANALYSIS**

Domestic Irrigation uses all that was found.

I. **RECOMMENDATIONS**

1. **Recommended Amounts**

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Domestic	3/1	11/15	0.02 cfs	6.6 afa
		Totals:	0.02 cfs	6.6 afa

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

J. **AUTHENTICATION**

Field Examiner's Name Louis Sukovatu

Signature

Certification Date 2/17/89

Field Report Preparation Date 7/26/84

K. **Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.**

REGISTERED PROFESSIONAL ENGINEER STATE OF IDAHO ROBERT E. HAWKS 2376

CONSULTANT

CDAT OBJ-7102 0028

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

November 4, 1988

Mr. Steve Hawks
Rt. 2 Box 86
St. Maries, Id. 83861

Re: 91-7102

Dear Permitholder:

We acknowledge receipt of your statement of completion of water development use for the above-referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We do not know at this time when he will be able to conduct the examination; however, the examiner will try to contact you at the time he makes the examination so that you may show him the system. If you will not be available to show the system, please provide this office with the name and address of someone who will be able to do so. Your permit will remain valid until the examination is made.

If you have any questions concerning the field examination, please contact this office. Please be sure to use the above-referenced permit number in all future correspondence concerning this examination.

Sincerely,

/s/
TOM D. KING
Senior Water Resource Agent

TDK/pms

Celebrate IDAHO 1890 · CENTENNIAL · 1990

CDAT OBJ-7102 0029

1/88

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 91-7102 Date: 10/21/88

General Considerations:
- Y Name same as permit
- Y Signature the same as permit holder
- N Address change _____ If yes, prepare a data entry
- Y Proof received timely
- _____ Reinstated

Source of Water:
- Y Surface water
- _____ Groundwater
  - _____ 1. well log in file
  - _____ 2. drilling permit
    - _____ A. amount of drilling fee paid for proposed uses

Extent of Use and Rate of Diversion:
- Y Rate of diversion appropriate for uses
  - Y Is rate or volume and fee appropriate?
- Y Has permit holder indicated when water was first put to a beneficial use?

Measuring Device:
- _____ Is a measuring device or access port required?
- N/A Has one been installed?
- _____ Waiver or modification of measuring device requested

Remarks:

Proof acceptable

N/A Priority Calculation:

Date proof received	_____	_____
Date proof due	_____	-_____
No. of days late		=_____
Priority date	_____	+_____
NEW PRIORITY DATE	_____	=_____

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

CDAT OBJ-7102 0030

Form 217
03/86

RECEIVED
OCT 19 1988
No Fee.
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received _____
Date _____
Receipt # _____
Receipt by _____
Reviewed by SS
Sent to region ____

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 91-07102

Name(s) of Permit Holder: Steve Hawks

Post Office Address: Rt. 2 Box 86 St. maries, Idaho 83861

Telephone No. 245-2403

Source of Water: ST. Joe River

Extent of Use:

Domestic 1 (number of households) Stockwater _____ (number and type of stock)

Irrigation _____ (acres) Other/Remark _____

Total rate and/or volume for which proof is submitted 0.02 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: 7-26-88

Measuring Device: Required? ___ Yes X No
Installed? ___ Yes ___ No

Fee enclosed $ _____
(See License Examination Fee Schedule)

Flow Measurement Port: Required? ___ Yes X No
Installed? ___ Yes ___ No

Person to contact to accompany the Department representative during the field examination:

(Name) (Telephone Number)

(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

10-15-88
Date

Steve Hawks M'M
Signature of Permit Holder (and title, if appropriate)

CDAT OBJ-7102 0031

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

- -

Statehouse
Boise, Idaho 83720
(208) 334-7900
October 11, 1988

STEVE HAWKS
RT 2 BOX 86
ST. MARIES, ID 83861

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 91-07102

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

We have enclosed a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed for your convenience is a form entitled "Proof of Beneficial Use" that must be submitted to the Department when your project is completed.

Sincerely,

Gary Spackman
Supervisor, Water Allocation Section

GS: SC
Enclosures

CDAT OBJ-7102 0032

Form No. 202a.
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: JK DATE: 7/26/88 APPLICATION: 91-7102

REQUIRED INFORMATION

✓ Name: (If applicant is a corporation or partnership, names must be provided for the director, officers, and other partners.)
✓ Address:
✓ Source: (See USGS Quad for names of water sources)
✓ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
✓ County:
✓ Quantity: (flow and/or volume)
✓ Period of use:
✓ Nature of proposed use: (Include description of use)
✓ Description of diverting works:
✓ Time required for beneficial use of water:
✓ Place of use or acres irrigated:
✓ Map:
✓ Signature: (If applicant is corp., partnership, or municipality title of signator is required)
✓ Fee:
✓ yes ___ No* In form to receipt:

ADDITIONAL INFORMATION

YES	NO	
___	___	Overlapping place of use: (Describe source & relationship to present application on the back.)
✓	___	Overlapping point of diversion:
___	✓	Field check required:
		Field check by: _____
___	✓	Field report attached:
___	___	Critical groundwater area:
___	___	Groundwater management area:
___	___	Send dam safety information:
___	___	Send power requirement letter:
___	___	Send fish farm requirement letter:
___	___	Power residency affidavit:
___	___	Power efficiency form:
___	___	Within trust water boundry: (If yes, attach Trust Water Supplementary Analysis Sheet.)
___	___	Diversion greater than 5 cfs or 500 af: (If yes, attach Large Diversion supplementary analysis sheet.)
___	___	Additional information on reverse side:

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED:

SEP 28 1988

Department of Water Resources

Verified KW 10/20/88

CDAT OBJ-7102 0033

Hawks 0710

Hawks 0711

CDAT OBJ-7102 0034

PROCESSING

YES NO
___ ___ In form for advertising:
___ ___ Statewide advertising:
___ ___ Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES	NO		YES	NO	
___	___	I.D. Health and Welfare	___	___	U.S. BLM
___	___	I.D. Fish and Game	___	___	U.S. Forest Svc.
___	___	I.D. Lands	___	___	Water District #_____
___	___	Adjudication Bureau	___	___	Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO
___ ___ Affidavit of publication received:
___ ___ Application published correctly: If not, record action taken.

___ ___ Publication dates and paper recorded on application:
___ ___ Protests received, Final date for protest 9/6/83
___ ___ Protests, dates, resolution of protest recorded on application:
___ ___ Recommendations attached:
___ ___ Measuring device required:
___ ___ Measuring port required:
___ ___ Water delivered by water master? District #_____
___ ___ Special conditions of approval or cover letter: (see additional info. below)
___ ___ See Below For Additional Information

Recomended Date of Priority 7/22/85
Recomended by: [illegible] Date 9/7/85

STATE OFFICE REVIEW P16 DH

___ See below for additional information. By KW Date 9/29/88

ADDITIONAL INFORMATION
91-07032 & 91-07184 - ALL SHARE SAME P.D.

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

September 8, 1988

Dept. of Lands
Statehouse
Boise, Id. 83720

Re: 91-7102

Gentlemen:

Enclosed is a recent filing with this Department that may be of interest to your Agency.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

Enclosure

Celebrate IDAHO 1890 • CENTENNIAL • 1990

CDAT OBJ-7102 0035

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Dear Claimant:

The Department of Water Resources acknowledges receipt of your water right application for permit.

This office is currently in the process of advertising the application in the local county newspaper. The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to the final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Enclosed please find your receipt for the fee involved in filing this application.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms
Enc. - Receipt

Celebrate IDAHO 1890 - CENTENNIAL - 1990

CDAT OBJ-7102 0036

91-07102

HAWKS, STEVE
RT 2 BOX 86
ST. MARIES, ID 83861

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

Diversion Pt: LOT 1 (NENESE) Sec 7 T 46N R 02W

Use: DOMESTIC (.020 CFS)

Date Filed: 7/22/1988

In: T46N R02W S07 Lot 1 (NESE)

COPY

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
Attorneys at Law
424 Sherman Avenue, Suite 308
P. O. Box 969
Coeur d'Alene, Idaho 83816-0969
P (208) 667-5486
F (208) 667-4695

Counsel for the Coeur d'Alene Tribe

RECEIVED
APR 19 2016
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 CSRBA Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	AFFIDAVIT OF COUNSEL IN SUPPORT OF OBJECTOR'S MOTIONS TO COMPEL AND TO DETERMINE SUFFICIENCY OF ANSWERS OR OBJECTIONS

AFFIDAVIT OF COUNSEL IN
SUPPORT OF MOTIONS TO COMPEL
AND TO DETERMINE ADEQUACY
OF ANSWERS OR OBJECTIONS - 1

State of Idaho)
) ss.
County of Kootenai)

COMES NOW, Kinzo H. Mihara, after being duly sworn before an officer authorized to administer oaths, swears and declares as follows:

(1) My name is Kinzo H. Mihara. I am an attorney duly authorized to practice law in the State of Idaho. I am one of the attorneys who represent the Objector in the above-noted subcases. I am over the age of 18 and am competent to testify to matters herein.

(2) On February 5, 2016, Howard Funke & Associates, P.C. served *Objector's First Requests for Discovery* ("*Objector's First Requests*") upon Claimants.

(3) On March 7, 2015, Claimants served *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* ("*Claimants' Responses*") upon the Tribe.

(4) On March 14, 2016, attorneys for Claimants herein were notified that this firm believed the objections, answers, and responses contained in *Claimants' Responses* to *Objector's First Requests* were inadequate, evasive, or otherwise deficient.

(5) On March 15, 2016, I along with other attorneys in this law firm met telephonically with attorneys for Claimants. During that meeting I along with other attorneys for this firm set forth, request by request, why we believed Claimants' objections, answers, and responses contained in *Claimants Responses* to *Objector's First Requests* to be inadequate, evasive, or otherwise deficient.

(6) A follow up call was scheduled for March 21, 2016 for the purpose of allowing Claimants' attorneys to formulate responses, if any, to the concerns discussed in the March 15, 2016 meeting.

(7) On March 21, 2016, counsel for Claimants and Objectors met again telephonically to discuss Claimants' responses to the concerns discussed during the meeting on March 15, 2016. During that call, counsel for Claimants agreed to serve amended answers and responses to *Objector's First Requests*. Counsel for both parties agreed to an extension until March 25, 2016 for Claimants to serve their amended answers and responses to *Objector's First Requests*. During the same call, counsel agreed that no further discovery would be served until after the amended answers and responses were served.

(8) On March 28, 2016, Claimants served *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery* ("*Claimants' Amended Responses*") on the Tribe.

(9) Upon review of the contents of *Claimants' Amended Responses*, it is believed and alleged that such amended responses are deficient and otherwise not substantially justified. It is also believed and alleged that Claimants' objections to some of the Requests for Admission, Interrogatories, and Requests for Production of documents to be unfounded and not substantially justified.

(10) Attached hereto as Exhibit "1" are true, accurate, and correct copies of *Claimants' Amended Responses* in subcase 91-7102.

(11) Attached hereto as Exhibit "2" are true, accurate, and correct copies of *Claimants' Amended Responses* in subcase 91-7173.

(12) Attached hereto as Exhibit "3" are true, accurate, and correct copies of *Claimants' Responses* in subcase 91-7102.

(13) Attached hereto as Exhibit "4" are true, accurate, and correct copies of *Claimants' Responses* in subcase 91-7173.

(14) Attached hereto as Exhibit "5" is a true, accurate, and correct copy of the general instructions and definitions section of the *Objector's First Requests.*

Further you affiant sayeth naught.

Respectfully submitted this 15th day of April, 2016.

Kinzo H. Mihara

NOTARIAL ATTESTATION

That on the 15th day of April, 2016, and after being duly sworn, Kinzo H. Mihara, personally known to me and upon showing sufficient identification, appeared before me and executed this document.

(SEAL) MARCELLA J HARRISON NOTARY PUBLIC STATE OF IDAHO

Marcella J. Harrison, Notary Public
Residing at: Coeur d'Alene

My commission expires: 4-14-20

Certificate of Service

I hereby certify that on the 16th day of April, 2016, a copy of the foregoing Affidavit of Counsel 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

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 385-5384
[ ] Hand-delivery

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

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 334-4143
[ ] Hand-delivery

Counsel for Respondent State of Idaho

U.S. Department of Justice
Environment & Nat'l Resources
550 W. Fort St., MSC 033
Boise, Idaho 83724

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (303) 844-1350
[ ] Hand-delivery

Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 287-6700
[ ] Hand-delivery

Marcella J. Harrison
By: Marcella J. Harrison

EXHIBIT "1"

RECEIVED
APR 19 2016
DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7102 **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, and provide amended responses to Objector's First Requests for Discovery, which replace in total Claimants' previous Responses to Objector's First Requests for Discovery, dated March 7, 2016, as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is vague. Responding Claimants also object to this Request for Admission No. 1 because it seeks a legal conclusion or opinion regarding who owns "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]itle is quieted in favor of the United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the

trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it seeks a legal conclusion or opinion regarding who owns "the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe are entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to this Request for Admission No. 3 because it seeks a legal conclusion or opinion regarding the State of Idaho's right, title or interest "in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without

waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he State of Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the State of Idaho is permanently enjoined from asserting a right, title or interest in or to the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that the terms "inherent right," "non-members," and "tribally owned lands within the Coeur d'Alene Reservation" are vague and that this Request is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, [is] entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the Coeur d'Alene Tribe has any right to exclude Claimants from the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that the term "exterior boundary of the Coeur d'Alene Indian Reservation" is vague. Without waiving this objection, Claimants admit that the point of diversion for this claim is located within the current boundary of the Coeur d'Alene Indian Reservation. However, Claimants deny that the United States and the Coeur d'Alene Tribe own the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur d'Alene v. Mackin (In re Ownership of Sanders Beach)*, the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur*

d'Alene v. Mackin (In re Ownership of Sanders Beach), the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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 further deny 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.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that the term "navigable" is vague. Responding Claimants also object to this Request for Admission No. 8 because it seeks a legal conclusion or opinion regarding whether "the waters overlying the bed and banks at the location of Claimants' water diversion point are navigable." Without waiving these objections, Claimants admit that said waters are "navigable" according to Claimants' understanding of the definition in Idaho Code Section 36-1601 and the definition in 33 U.S.C. § 1362.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion or opinion on what constitutes "the point of diversion for a water right" under Idaho law and is not reasonably

calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague. Responding Claimants also object to this Request for Admission No. 10 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they did not have a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague and the Request is vague as to time. Responding

Claimants also object to this Request for Admission No. 11 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they have never received a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for Claimants' diversion works. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversionary works may have been constructed and further deny that any such permission was needed.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion or opinion on initiating a water right and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that the terms "right" and "purposes of maintaining" are vague. Responding Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion regarding who owns the lands at Claimants' point of diversion and the rights of Claimants to their diversion works. Without waiving these

objections, Claimants deny the Request for Admission No. 13, including any assertion that the Coeur d'Alene Tribe owns the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that the terms "IDWR water permit or license" and "for any purpose" are vague. Responding Claimants also object to this Request for Admission No. 14 because it seeks a legal conclusion or opinion on the rights of a water right holder and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving these objections, Claimants therefore deny the same, including any assertion that Claimants have trespassed or are trespassing on the land of another.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that the term "right to maintain adjacency to navigable waters" is vague. Responding Claimants also object to this Request for Admission No. 15 because it seeks a legal conclusion or opinion on riparian rights under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same, including

any assertion that Claimants have no right to make any consumptive use of water or right of access for the appropriation of water.

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admission Nos. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that the Claimants did not file the above-mentioned response to the Tribe's objection. Notwithstanding the objection, the response to the Tribe's objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Claimants' encroachment permits from the Coeur d'Alene Tribe, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)['] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that the term "permission...to encroach upon the submerged lands of the St. Joe River" is vague and the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 4 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants did not request permission of either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for the installation of their diversionary works. However, Claimants did not need such permission because the United States and the Coeur d'Alene Tribe do not own the land upon which the diversionary works may have been installed.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;

(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;

(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,

(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)['] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional description of their

diversion works and water system, but reserve the right to supplement this answer in a timely manner.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 8 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands underlying the claimant's point of diversion." Notwithstanding the objection, Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion. The name and contact information are as follows: Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829; State of Idaho, c/o Attorney General's Office, P.O. Box 83720, Boise, ID 83720-0010.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your

property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimants do not have documents responsive to this request, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/ apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimants' water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at

issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 5, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 6, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional deeds, surveys, plats, or other documents that relate to the property at the location of the Claimants'

point of diversion, but reserve the right to supplement this answer in a timely manner. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/ apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and by public records request to the Idaho Department of Lands.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional documents related to available water use data for the diversion works and/or the property, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly broad and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional documents which may be relevant to, or support, Claimants' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter, but reserve the right to supplement this answer in a timely manner.

DATED this 25th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 28th day of March, 2016.

KATHLEEN MENASCO NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/09/2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
~~( ) Facsimile~~

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Norman M. Semanko

EXHIBIT A

EXHIBIT "2"

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
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26002.0001

Attorneys for Claimants Steve Hawks and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7173 **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve Hawks and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COME NOW Claimants Steve Hawks and Deanne Hawks, by and through undersigned counsel of record, and provide amended responses to Objector's First Requests for Discovery, which replace in total Claimants' previous Responses to Objector's First Requests for Discovery, dated March 7, 2016, as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is vague. Responding Claimants also object to this Request for Admission No. 1 because it seeks a legal conclusion or opinion regarding who owns "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]itle is quieted in favor of the United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the

trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it seeks a legal conclusion or opinion regarding who owns "the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe are entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to this Request for Admission No. 3 because it seeks a legal conclusion or opinion regarding the State of Idaho's right, title or interest "in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without

waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he State of Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the State of Idaho is permanently enjoined from asserting a right, title or interest in or to the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that the terms "inherent right," "non-members," and "tribally owned lands within the Coeur d'Alene Reservation" are vague and that this Request is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, [is] entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the Coeur d'Alene Tribe has any right to exclude Claimants from the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that the term "exterior boundary of the Coeur d'Alene Indian Reservation" is vague. Without waiving this objection, Claimants admit that the point of diversion for this claim is located within the current boundary of the Coeur d'Alene Indian Reservation. However, Claimants deny that the United States and the Coeur d'Alene Tribe own the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur d'Alene v. Mackin (In re Ownership of Sanders Beach)*, the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur*

d'Alene v. Mackin (In re Ownership of Sanders Beach), the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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 further deny 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.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that the term "navigable" is vague. Responding Claimants also object to this Request for Admission No. 8 because it seeks a legal conclusion or opinion regarding whether "the waters overlying the bed and banks at the location of Claimants' water diversion point are navigable." Without waiving these objections, Claimants admit that said waters are "navigable" according to Claimants' understanding of the definition in Idaho Code Section 36-1601 and the definition in 33 U.S.C. § 1362.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion or opinion on what constitutes "the point of diversion for a water right" under Idaho law and is not reasonably

calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague. Responding Claimants also object to this Request for Admission No. 10 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they did not have a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague and the Request is vague as to time. Responding

Claimants also object to this Request for Admission No. 11 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they have never received a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for Claimants' diversion works. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversionary works may have been constructed and further deny that any such permission was needed.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion or opinion on initiating a water right and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that the terms "right" and "purposes of maintaining" are vague. Responding Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion regarding who owns the lands at Claimants' point of diversion and the rights of Claimants to their diversion works. Without waiving these

objections, Claimants deny the Request for Admission No. 13, including any assertion that the Coeur d'Alene Tribe owns the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that the terms "IDWR water permit or license" and "for any purpose" are vague. Responding Claimants also object to this Request for Admission No. 14 because it seeks a legal conclusion or opinion on the rights of a water right holder and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving these objections, Claimants therefore deny the same, including any assertion that Claimants have trespassed or are trespassing on the land of another.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that the term "right to maintain adjacency to navigable waters" is vague. Responding Claimants also object to this Request for Admission No. 15 because it seeks a legal conclusion or opinion on riparian rights under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same, including

any assertion that Claimants have no right to make any consumptive use of water or right of access for the appropriation of water.

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admission Nos. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that the Claimants did not file the above-mentioned response to the Tribe's objection. Notwithstanding the objection, the response to the Tribe's objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Claimants' encroachment permits from the Coeur d'Alene Tribe, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)['] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that the term "permission...to encroach upon the submerged lands of the St. Joe River" is vague and the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 4 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants did not request permission of either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for the installation of their diversionary works. However, Claimants did not need such permission because the United States and the Coeur d'Alene Tribe do not own the land upon which the diversionary works may have been installed.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants, Steve Hawks and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;

(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;

(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,

(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)['] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional description of their

diversion works and water system, but reserve the right to supplement this answer in a timely manner.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 8 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands underlying the claimant's point of diversion." Notwithstanding the objection, Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion. The name and contact information are as follows: Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829; State of Idaho, c/o Attorney General's Office, P.O. Box 83720, Boise, ID 83720-0010.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your

property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimants do not have documents responsive to this request, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/ apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimants' water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at

issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 5, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 6, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional deeds, surveys, plats, or other documents that relate to the property at the location of the Claimants'

point of diversion, but reserve the right to supplement this answer in a timely manner. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and by public records request to the Idaho Department of Lands.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional documents related to available water use data for the diversion works and/or the property, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly broad and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional documents which may be relevant to, or support, Claimants' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter, but reserve the right to supplement this answer in a timely manner.

DATED this 28th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve Hawks and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve Hawks and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 28th day of March, 2016.

KATHLEEN MENASCO NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/09/2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ~~25th~~ 28 day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Norman M. Semanko

EXHIBIT A

474252-SWN

RECEIVED
2013 Aug 16 AM 09:45
BENEWAH COUNTY
DEANNA BRAMBLETT, CLERK
265519
FIRST AMERICAN TITLE - SAN
FEES: $19.00

Return To:

Numerica Credit Union
PO Box 4000
Spokane Valley, WA 99037
ATTN: Peggy

[Space Above This Line For Recording Data]

DEED OF TRUST

(OPEN-END CREDIT - FUTURE ADVANCES SECURED)

THIS DEED OF TRUST ("Security Instrument") is made on August 12, 2013.
The grantor is David Bledsoe and Ruth Bledsoe

("Borrower").
The trustee is Brad L. Williams, an Idaho attorney
("Trustee").
The beneficiary is Numerica Credit Union,
which is organized and existing under the laws of the State of Idaho,
and whose address is PO Box 4000, Spokane Valley, WA 99037 ("Lender"). Borrower has entered into a

("Agreement") with Lender as of the 12th day of August, 2013, under the terms of which Borrower may, from time to time, obtain advances not to exceed, at any time, an amount equal to the Maximum Credit Limit (as defined herein) of **One hundred thousand dollars and zero cents** ($[redacted]) ("Maximum Credit Limit").
This Agreement provides for monthly payments, with the full debt, if not paid earlier, due and payable on August 25, 2035.
This Security Instrument secures to Lender: (a) the repayment of the debt under the Agreement, with interest, and all renewals, extensions and modifications of the Agreement; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of the modification of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Agreement. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in Benewah County, Idaho:

LT 27A, COTTONWOOD POINT 1ST ADDITION, ACCORDING TO PLAT RECORDED IN BENEWAH COUNTY, IDAHO.

PARCEL#: S17T46NR2W

Which has the address of 1640 COTTONWOOD DR ST. MARIES
[Street] [City]
Idaho 83861 ("Property Address");
[Zip Code]

Hawks 0766

EXHIBIT B

Form No. 1056.06
ALTA Loan Policy (6-17-06)
1100301P050600

Policy No. 229947-SM
Policy Page 1

LOAN POLICY OF TITLE INSURANCE

ISSUED BY

First American Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at the address shown in Section 17 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 11, 13, and 14, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
   (a) A defect in the Title caused by
      (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
      (ii) failure of any person or Entity to have authorized a transfer or conveyance;
      (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
      (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
      (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
      (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
      (vii) a defective judicial or administrative proceeding.
   (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
   (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (a) the occupancy, use, or enjoyment of the Land;
   (b) the character, dimensions, or location of any improvement erected on the Land;
   (c) the subdivision of land; or
   (d) environmental protection

   if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. This Covered Risk includes but is not limited to insurance against loss from any of the following impairing the lien of the Insured Mortgage
   (a) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
   (b) a defective judicial or administrative proceeding.
10. The lack of priority of the lien of the Insured Mortgage upon the Title over any other lien or encumbrance.
11. The lack of priority of the lien of the Insured Mortgage upon the Title
   (a) as security for each and every advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for services, labor, or material arising from construction of an improvement or work related to the Land when the improvement or work is either
      (i) contracted for or commenced on or before Date of Policy; or
      (ii) contracted for, commenced, or continued after Date of Policy if the construction is financed, in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured has advanced or is obligated on Date of Policy to advance; and
   (b) over the lien of any assessments for street improvements under construction or completed at Date of Policy.
12. The invalidity or unenforceability of any assignment of the Insured Mortgage, provided the assignment is shown in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the Insured Mortgage in the named Insured assignee free and clear of all liens.
13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title
   (a) resulting from the avoidance in whole or in part, or from a court order providing an alternative remedy, of any transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors rights laws; or
   (b) because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors rights laws by reason of the failure of its recording in the Public Records
      (i) to be timely, or
      (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the Insured Mortgage in the Public Records.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this policy, but only to the extent provided in the Conditions.

First American Title Insurance Company

By: _____ President

Attest: _____ Secretary

Countersigned: _____

Hawks 0768

(a) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
(b) failure of any person or entity to have authorized a transfer or conveyance;
(c) the instrument or page not being properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
(d) failure to perform those acts necessary to create a document by electronic means authorized by law;
(e) a document executed under a falsified, expired, or otherwise invalid power of attorney;

SCHEDULE A

First American Title Insurance Company

First American Title Company
831 Main Avenue
St. Maries, ID 83861

File No.: 229947-SM
Loan No.: 6011115781
Address Reference: 1640 Cottonwood Drive St. Maries, ID 83861

Policy No.: 229947-SM

Amount of Insurance: [redacted]
Date of Policy: October 17, 2007 at 3:56 p.m.

Premium: [redacted]

1. Name of Insured:

Sterling Savings Bank, its successors and assigns, as their interests may appear, as defined in the paragraph entitled "Definitions of Terms" contained in this Policy.

2. The estate or interest in the Land that is encumbered by the Insured Mortgage is:

Fee Simple

3. Title is vested in:

David Bledsoe and Ruth Bledsoe, husband and wife

4. The Insured Mortgage, and its assignments, if any, are described as follows:

Deed of Trust dated October 15, 2007 to secure an indebtedness of [redacted]
Recorded: October 17, 2007 as Instrument No.: 248591
Grantor: David Bledsoe and Ruth Bledsoe, husband and wife
Trustee: BRAD WILLIAMS C/O UPF INCORPORATED, A WASHINGTON CORPORATION
Beneficiary: Sterling Savings Bank

5. The Land referred to in this policy is described as follows:

Lot 27A, Cottonwood Point First Addition, according to plat recorded in Benewah County, Idaho.

SCHEDULE B

File NO. 229947-SM

EXCEPTIONS FROM COVERAGE

PART I

[Except as provided in Schedule B- Part II,] This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

2. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.

3. Easements, claims of easement or encumbrances which are not shown by the public records.

4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title including discrepancies, conflicts in boundary lines, shortage in area, or any other facts that would be disclosed by an accurate and complete land survey of the land, and that are not shown in the public records.

5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

6. Any liens, or rights to a lien, for services, labor or materials theretofore or hereafter furnished, imposed by law and not shown by the public records.

7. Agreements, if any, related to future assessment obligations not yet due and payable, which appear in the public records.

8. Agreements, covenants, conditions, restrictions and/or declarations affecting title, or violations thereof, if any, which appear in the public records or are shown on any recorded subdivision map or survey.

9. Easements or encroachments, if any, which appear in the public records or are shown on any recorded subdivision map or survey.

10. Any reservation or conveyance of minerals, gas, oil, sand, gravel or timber, or rights related thereto, including leases of said interests, which appear in the public records.

11. 2007 taxes are an accruing lien, not yet due and payable until the fourth Monday in November of the current year. The first one-half is not delinquent until after December 20 of the current year, the second one-half is not delinquent until after June 20 of the following year.
Taxes which may be assessed and entered on the property roll for 2007 with respect to new improvements and first occupancy, which may be included on the regular property, which are an accruing lien, not yet due and payable.

General taxes as set forth below. Any amounts not paid when due will accrue penalties and interest in addition to the amount stated herein:

Year	Original Amount	Amount Paid	Parcel Number
2006	[redacted]	[redacted]	RP001000020027AA

Homeowners Exemption IS in effect for 2006.
Circuit breaker IS NOT in effect for 2006.
Agricultural Exemption IS NOT in effect for 2006.

12. Deed of Trust dated September 23, 2005, to secure an original indebtedness of [redacted] and any other amounts and/or obligations secured thereby
Recorded: September 26, 2005, as Instrument No. 239285
Grantor: David Bledsoe and Ruth Bledsoe, husband and wife
Trustee: First Idaho Title Company
Beneficiary: Sterling Savings Bank

Modification Agreement recorded April 25, 2006, as Instrument No. 242389.

13. Deed of Trust dated April 13, 2006, to secure an original indebtedness of [redacted] and any other amounts and/or obligations secured thereby
Recorded: April 25, 2006, as Instrument No. 242388
Grantor: David Bledsoe and Ruth Bledsoe, husband and wife
Trustee: FIRST AMERICAN TITLE CO.
Beneficiary: Sterling Savings Bank

Modification Agreement recorded June 30, 2006, as Instrument No. 243227.

14. Paragraphs 1 and 2 of the Exclusions from Coverage are expressly extended to include those laws, ordinances or regulations of an Indian tribe or nation.

15. Public Records as defined in this Policy do not include records of an Indian tribe or nation, or any other repository of Indian Land Records, including, but not limited to the Bureau of Indian Affairs Land Titles and Records Office.

SCHEDULE B

PART II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:

NONE.

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com
26002.0001

Attorneys for Claimants Steve Hawks and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7173 **NOTICE OF SERVICE OF CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve Hawks and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

NOTICE IS HEREBY GIVEN that on the 28th day of March, 2016, the original of **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** and a copy of the **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following at the address shown below:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

and true copies of the **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** and **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following:

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve Hawks
and Deanne Hawks

EXHIBIT "3"

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7102 **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, and respond to Objector's First Requests for Discovery as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 1 because it seeks a legal conclusion regarding the ownership of "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants deny Request for Admission No. 1.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms

defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 2 because it seeks a legal conclusion regarding the ownership of "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants deny Request for Admission No. 2.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to Request for Admission No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 3 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that it is vague and overly broad. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 4 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 5.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that it seeks a legal conclusion regarding the "OHWM for Coeur d'Alene and the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving these objections, Claimants deny Request for Admission No. 6.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that it seeks a legal conclusion regarding the "OHWM of the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 7 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that it is vague, overly broad, unduly burdensome

and not reasonably calculated to lead to the discovery of any admissible evidence. With waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 8 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion regarding "the point of diversion for a water right" and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 9.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 10 because it seeks a legal conclusion. Without waiving these objections, Claimants lack sufficient information to either admit or deny Request for Admission No. 10 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 11 because it seeks a legal conclusion. Without waiving these objections, Claimants lack sufficient information to either admit or deny Request for Admission No. 11 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 12.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that it is vague. Responding Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion and is not

reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimants deny Request for Admission No. 13.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 14.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 15 because it seeks a legal conclusion. Without waiving these objections, Claimants deny Request for Admission No. 15.

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admissions No. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that it seeks a legal conclusion. Notwithstanding the objection, the statement in Claimants' response to the Tribe's objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Objection is made to Interrogatory No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, the encroachment permits of Claimants, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)['] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, Claimants did not request the

permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants, Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;

(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;

(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,

(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for

the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)['] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, either Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimants do not have documents responsive to this request.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 5 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the

location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 6 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. The responding Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property

at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. The responding Claimants do not have possession, custody or control of any additional deeds, surveys, plats, or other documents which relate to the property at the location of the Claimants' point of diversion. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and by public records request to the Idaho Department of Lands.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection,

documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

DATED this 7th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 7th day of March, 2016.

KATHLEEN MENASCO NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/9/19

EXHIBIT "4"

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com
26002.0001

Attorneys for Claimants Steve Hawks and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7173 **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve Hawks and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COME NOW Claimants Steve Hawks and Deanne Hawks, by and through undersigned counsel of record, and respond to Objector's First Requests for Discovery as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 1 because it seeks a legal conclusion regarding the ownership of "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants deny Request for Admission No. 1.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it is vague, overly broad, unduly burdensome

and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 2 because it seeks a legal conclusion regarding the ownership of "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants deny Request for Admission No. 2.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to Request for Admission No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 3 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that it is vague and overly broad. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 4 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 5.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that it seeks a legal conclusion regarding the "OHWM for Coeur d'Alene and the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving these objections, Claimants deny Request for Admission No. 6.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that it seeks a legal conclusion regarding the "OHWM of the St. Joe River." Terms defined in this Request refer to court decisions, which speak for themselves. Without waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 7 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. With waiving the objection, Claimants lack sufficient information to either admit or deny Request for Admission No. 8 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion regarding "the point of diversion for a water right" and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 9.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 10 because it seeks a legal conclusion.

Without waiving these objections, Claimants lack sufficient information to either admit or deny Request for Admission No. 10 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 11 because it seeks a legal conclusion. Without waiving these objections, Claimants lack sufficient information to either admit or deny Request for Admission No. 11 at this time, and therefore, denies the same.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 12.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that it is vague. Responding Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimants deny Request for Admission No. 13.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that it seeks a legal conclusion and is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving the objection, Claimants deny Request for Admission No. 14.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Terms defined in this Request refer to court decisions, which speak for themselves. Responding Claimants also object to this Request for Admission No. 15 because it seeks a legal conclusion. Without waiving these objections, Claimants deny Request for Admission No. 15.

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admissions No. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that it seeks a legal conclusion. Notwithstanding the objection, the statement in Claimants' response to the Tribe's objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Objection is made to Interrogatory No. 3 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, the encroachment permits of Claimants, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)['] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of any admissible evidence. Notwithstanding the objection, Claimants did not request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants, Steve Hawks and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;

(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;

(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,

(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)['] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery

of any admissible evidence. Notwithstanding the objection, either Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimants do not have documents responsive to this request.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 5 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion

works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 6 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. The responding Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. The responding Claimants do not have possession, custody or control of any additional deeds, surveys, plats, or other documents which relate to the property at the location of the Claimants' point of diversion. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and by public records request to the Idaho Department of Lands. Notwithstanding the objection, see Exhibit B attached hereto.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection,

documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

DATED this 7th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve Hawks and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve Hawks and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 7th day of March, 2016.

KATHLEEN MENASCO NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/9/19

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Norman M. Semanko

EXHIBIT A

91-713

Diana Aiken, dep.

KAY BATMEN [illegible] KB 00

Deana Hawks
PO Box 86

CORRECTION DEED

THIS INDENTURE, made and entered into this 2nd day of July, 1993, by and between LUPHIA PENNEY and RAY A. SWANSON, wife and husband, hereinafter referred to as the First Parties, and L. SWANSON and DEANNA HAWKS, husband and wife, hereinafter referred to as the Second Parties, whose address is PO Box 86, Kamiah, ID 83536.

W I T N E S S E T H:

That the Parties of the First Part, for and in consideration of the sum of One and no/100 Dollars ($1.00) and other valuable consideration by the said Parties of the Second Part, the receipt whereof is hereby acknowledged, does hereby grant, sell and convey unto 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 space [illegible] on said plat adjacent and appurtenant to the southerly forty (40) feet of the above-described Lot Twelve (12), Block Two (2), Sylvia's Haven Subdivision, County of Benewah.

THIS INSTRUMENT is made as a correction deed to correct an error in the description in a certain deed between the parties hereto, recorded in the office of the Benewah County, State of Idaho, Recorded on 12 Sep day of November, 1990 as Instrument No. [illegible].

TOGETHER with and including the tenements, hereditaments and appurtenances thereunto belonging or 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 well 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

Hawks 0815

and peaceable possession of the Parties of the Second
heirs, devisees and assigns against all and every
persons whomsoever 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

RAY A. SWANSON

MINA L. SWANSON

STATE OF IDAHO)
:ss
County of Shoshone)

On this 22nd 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 the day and year in this certificate first above written.

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

STATE OF IDAHO)
:ss
County of Shoshone)

On this 22nd day of July, 1993, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared, RAY 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 the day and year in this certificate first above written.

Notary Public in and for Idaho
Residing at: Kingston, therein
Commission expires: 4/14/1999

2. CORRECTION DEED

EXHIBIT B

91-7193

IDAHO DEPARTMENT OF LANDS

1910 NW Blvd., Suite 201
Coeur d'Alene, Idaho 83814-2615
Phone: (208) 769-1535 FAX (208) 769-1557

STANLEY F. HAMILTON - DIRECTOR

BOARD OF LAND COMMISSIONERS
PHILIP E. BATT
Governor
PETE T. CENARRUSA
Secretary of State
ALAN G. LANCE
Attorney General
J.D. WILLIAMS
State Controller
ANNE 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.

RECYCLED PAPER

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 accidentially 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.

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.

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

EXHIBIT "5"

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

GENERAL INSTRUCTIONS

1. Scope of Discovery. These discovery requests are directed to the above-named CSRBA Claimant(s) and cover all information in its possession, custody and control, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on their behalf or otherwise subject to their control, and any merged, consolidated, or acquired predecessor or successor, parent, subsidiary, division, or affiliate.

2. Time Period. Unless otherwise indicated, these discovery requests apply to the time period from the priority date of the claim at issue in this litigation to the present.

3. Supplemental Responses. These document requests are continuing; supplemental documents must be provided pursuant to applicable civil discovery rules.

4. Deletions from Documents. Where anything has been deleted from a document produced in response to a document request:

a. specify the nature of the material deleted;
b. specify the reason for the deletion; and
c. identify the person responsible for the deletion.

5. Organization of Documents in Response. Documents submitted pursuant to a document request should be produced in the manner in which they are kept in the ordinary course of business and/or grouped and labeled according to the individual paragraph(s) of the document request. Within each group, the documents should be arranged, to the extent possible, in chronological order. If any document is responsive to more than one document request, you may provide a single copy indicating the requests to which it is responsive.

6. Document No Longer in Possession. If any document requested is no longer in the possession, custody, or control of the Claimant(s), state:

a. what was done with the document;
b. when such document was made;
c. the identify and address of the current custodian of the document;
d. the person who made the decision to transfer or dispose of the document; and
e. the reasons for the transfer or disposition.

7. Privilege as Applied to Document Production. If objection is made to producing any document, or any portion thereof, or to disclosing any information contained therein, on the basis of any claim of privilege, the Claimant(s) is requested to specify in writing the nature of such

information and documents, and the nature of the claim of privilege, so that the Court may rule on the propriety of the objection. In the case of documents, the Claimant(s) should state:

a. the title of the document;
b. the nature of the document (e.g., interoffice memorandum, correspondence, report, etc.);
c. the author or sender;
d. the addressee;
e. the date of the document;
f. the name of each person to whom the original or a copy was shown or circulated;
g. the names appearing on any circulation list relating to the document;
h. the basis on which privilege is claimed; and
i. a summary statement of the subject matter of the document in sufficient detail to permit the Court to rule on the propriety of the objection.

Upon the agreement of counsel, certain documents may be excluded from these requirements.

8. Singular/Plural. Words used in the plural shall also be taken to mean and include the singular. Words used in the singular shall also be taken to mean and include the plural.

9. "And" and "Or." The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

10. Reservation of Rights. The Coeur d'Alene Tribe ("Tribe") reserves all rights, including its sovereign immunity from suit. No part of this discovery request should be interpreted or construed as a waiver of tribal sovereign immunity or as an acknowledgement by the Tribe that any particular issue will be litigated in this subcase.

DEFINITIONS

Unless otherwise indicated, the following definitions shall apply to these discovery requests:

1. "Court" or "CSRBA Court" shall mean the Coeur d'Alene-Spokane River Basin Adjudication Court, District Court in and for Twin Falls County, Idaho, Hon. Eric Wildman, or his successor, presiding.

2. "Coeur d'Alene Lake" or "Lake Coeur d'Alene" means the lake identified by the U.S. Supreme Court in the case *Idaho v. United States*, 533 U.S. 262 (2001) to which title was quieted in favor of the United States and Coeur d'Alene Tribe.

3. "Document" means all writings of any kind, including, without limitation, the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, bills of lading, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books,

governmental records, interoffice and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications), bulletins, printed matter, computer printouts, teletypes, telefax, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic, mechanical, or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), and all drafts, alterations, modifications, changes and amendments of any of the foregoing.

3. "Elevation" means the elevation in feet above mean sea level.

4. "Legal basis" means any source of law you assert supports your legal position including, but not limited to, case law, common law, the Constitution, statutes, executive orders, executive actions, and regulations.

5. "Objection" means the objection filed by the Tribe against Claimant(s) water rights in the above-encaptioned matter. If this term is used in any other context, it will be specifically noted where set forth herein.

6. "Ordinary High Water Mark" or "OHWM" means the presumed Ordinary High Water Mark of Coeur d'Alene Lake and the St. Joe River of 2128 feet elevation consistent with the holding of *In re Sanders Beach*, 143 Idaho 443 (2008).

7. "Response to Objection" means the Standard Form 2 – Response to Objection filed by you, or your attorney on your behalf, and the language contained therein. If this term is used in any other context, it will be specifically noted where set forth herein.

8. "Relate to," "relating to," or "relates to" means constituting, defining, concerning, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

9. "Saint Joseph River" or "St. Joe River" means the river identified by the U.S. Supreme Court in the case *Idaho v. United States*, 533 U.S. 262 (2001) to which title was quieted in favor of the United States and Coeur d'Alene Tribe.

10. "Subject matter of this action" shall mean the facts and legal doctrines at issue and/or disputed in the Objection and Response(s) to Objection filed in the above-encaptioned matter.

11. "Submerged lands" and/or "bed and banks" shall mean the lands underlying the navigable waters of either Coeur d'Alene Lake or the St. Joe River.

12. "Tribe" and/or "Objector" shall mean the Coeur d'Alene Tribe.

13. "You" and "your," unless otherwise indicated, means the Claimant(s) and every past or present employee, agent, and authorized representative.

You are requested to file within thirty (30) days a written response to the following and to produce those documents for inspection and/or copying.

(a) Your written response shall state with respect to each item or category, that inspection-related activities will be permitted as requested, unless request is refused, in which event the reasons for refusal shall be stated. If the refusal relates to part of an item or category, that part shall be specified.

(b) In accordance, the documents shall be produced as they are covered in the usual course of business or you shall organize and label them to correspond with the categories in the request.

(c) These requests shall encompass all items within your possession, custody or control.

(d) These requests are continuing in character so as to require you to promptly amend or supplement your response if you obtain further material information.

(e) If in responding to these requests you encounter any ambiguity in construing any request, instruction or definition, set forth the matter deemed ambiguous in the construction used, in responding.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

Howard A. Funke, ISB No. 2720
Kinzo H. Mihara, ISB No. 7940
Dylan Hedden-Nicely, ISB No. 8856
HOWARD FUNKE & ASSOCIATES, P.C.
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424 Sherman Avenue, Suite 308
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P (208) 667-5486
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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 Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	NOTICE OF HEARING FOR OBJECTOR'S MOTION TO COMPEL

TO: Claimants, Steve and Deanne Hawks, Respondents, North Idaho Water Rights Alliance, and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701

Respondent, State of Idaho, and its attorneys of record, Clive Strong and Steven Strack, Office of the Attorney General, State of Idaho, 700 W. State St., Second Floor, P.O. Box 83720, Boise, Idaho 83720-0010

The Clerk of the District Court of the Fifth Judicial District in and for Twin Falls County

Please take notice that a hearing has been set and will be held on Objector's *Motion to Compel*. Such hearing will be held before the Fifth Judicial District of the State of Idaho in and for the County of Twin Falls, Hon. Brigette Bilyeu, Special Master, presiding, 253 3rd Avenue North, Twin Falls, Idaho 83301, on the 4th day of May, 2016 at 9:00 a.m. (Pacific); 10:00 a.m. (Mountain) in the morning or as soon thereafter as such motion may be heard.

Parties may participate by telephone for the above-noted motion hearing by dialing 1-720-279-0026 and when prompted enter guest code 476045#. Parties may also coordinate with the Idaho Department of Water Resources ("IDWR") for video teleconferencing ("VTC") at IDWR's locations in either Boise or Coeur d'Alene, Idaho. Such coordination is subject to IDWR's VTC availability.

Please participate as you deem appropriate.

Respectfully submitted this 19th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 19th day of April, 2016, a copy of the foregoing Notice of Hearing was served on the following counsel of record and other entities via the method indicated below:

Norman Semanko
Sarah McCormack
Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829

[ ] First Class Mail, Postage Prepaid
[✓] Facsimile @ (208) 385-5384
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Counsel for Claimant(s) and Respondent NIWRA members

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Steven Strack
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State of Idaho
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Counsel for Respondent State of Idaho

U.S. Department of Justice
Environment & Nat'l Resources
550 W. Fort St., MSC 033
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Boise, Idaho 83720-0098

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[ ] Hand-delivery

Julie Ellerbee

By: Julie Ellerbee

Howard A. Funke, ISB No. 2720
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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 Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	NOTICE OF HEARING FOR OBJECTOR'S MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND DEEM CERTAIN MATTERS ADMITTED

TO: Claimants, Steve and Deanne Hawks, Respondents, North Idaho Water Rights Alliance, and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701

Respondent, State of Idaho, and its attorneys of record, Clive Strong and Steven Strack, Office of the Attorney General, State of Idaho, 700 W. State St., Second Floor, P.O. Box 83720, Boise, Idaho 83720-0010

The Clerk of the District Court of the Fifth Judicial District in and for Twin Falls County

Please take notice that a hearing has been set and will be held on Objector's *Motion to Determine Sufficiency of Objections and Deem Certain Matters Admitted*. Such hearing will be held before the Fifth Judicial District of the State of Idaho in and for the County of Twin Falls, Hon. Brigette Bilyeu, Special Master, presiding, 253 3rd Avenue North, Twin Falls, Idaho 83301, on the 4th day of May, 2016 at 9:00 a.m. (Pacific); 10:00 a.m. (Mountain) in the morning or as soon thereafter as such motion may be heard.

Parties may participate by telephone for the above-noted motion hearing by dialing 1-720-279-0026 and when prompted enter guest code 476045#. Parties may also coordinate with the Idaho Department of Water Resources ("IDWR") for video teleconferencing ("VTC") at IDWR's locations in either Boise or Coeur d'Alene, Idaho. Such coordination is subject to IDWR's VTC availability.

Please participate as you deem appropriate.

Respectfully submitted this 19th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 19th day of April, 2016, a copy of the foregoing Notice of Hearing was served on the following counsel of record and other entities via the method indicated below:

Norman Semanko
Sarah McCormack
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Counsel for Claimant(s) and Respondent NIWRA members

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Office of the Attorney General
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Counsel for Respondent State of Idaho

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P.O. Box 83720
Boise, Idaho 83720-0098

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[✓] Facsimile @ (208) 287-6700
[ ] Hand-delivery

Julie Ellerbee
By: Julie Ellerbee

COPY

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APR 19 2016
DEPARTMENT OF
WATER RESOURCES

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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 Nos.: 91-7102; 91-7173
Case No. 49576	
	NOTICE OF SERVICE OF OBJECTOR'S REQUESTS FOR DISCOVERY TO STATE OF IDAHO

NOTICE IS HEREBY GIVEN that on the 15th day of April, 2016, individual copies of OBJECTOR'S REQUESTS FOR DISCOVERY TO STATE OF IDAHO in the above-noted subcases and a copy of this NOTICE OF SERVICE were served the method noted below to the following counsel of record:

Norman Semanko

Moffatt, Thomas, Barrett, Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829

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Counsel for Claimant(s) and Respondent NIWRA members

Clive Strong
Steven Strack
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Boise, Idaho 83720-0010

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Counsel for Respondent State of Idaho

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Boise, Idaho 83724

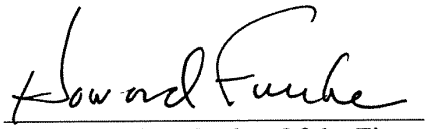
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Boise, Idaho 83720-0098

[X] First Class Mail, Postage Prepaid
[ ] Facsimile @ (208) 287-6700
[ ] Hand-delivery

Respectfully submitted this 15th day of April, 2016.

HOWARD FUNKE & ASSOC., P.C.



By: Howard A. Funke, Of the Firm
Counsel for the Coeur d'Alene Tribe

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RECEIVED
APR 19 2016
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 CSRBA Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S MEMORANDUM IN SUPPORT OF ITS MOTION TO COMPEL

COMES NOW, Objector, the Coeur d'Alene Tribe (hereinafter "Tribe" and/or "Objector"), and hereby offers the Court this memorandum of law in support of its motion to compel. This memorandum is filed concurrently with and is incorporated into said motion.

For the reasons set forth below the Tribe asserts that its interrogatories contained in *Objector's First Requests for Discovery to Claimants* served on February 5, 2016 are not vague as to meaning or as to time. Further, the interrogatories pose no legal conclusions or seek any opinions. In addition, the Tribe asserts Claimants' objections to request for production No. 1, alleging it is vague and over broad, along with Claimants' objections to the interrogatories on such bases noted herein are thus deficient, unfounded, and otherwise not substantially justified and should therefore be overruled.

Further, where Claimants did answer directing the Tribe to a range of documents contained in the Idaho Department of Water Resources' on-line file, Claimants failed to specify which document(s) they were referencing, requiring the Tribe to search for which documents may contain the information sought in the interrogatory.

The Tribe requests the Court overrule Claimants' objections contained in their amended answers to interrogatories; numbers 1, 4, 7, and 8, and order such interrogatories to be fully and fairly answered. The Tribe also requests the Court overrule Claimants' objection contained in their amended response to request for production No. 1.

At the outset it should be noted that *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery* ("*Claimants' Amended Responses*") served on March 28, 2016 are significantly different than *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* ("*Claimants' Reponses*") served on March 7, 2016 in subcases 91-7102 and 91-7173. *See* Aff. of Counsel, Ex. 1 (91-7102), Ex. 2 (91-7173); *c.f.* Aff. of Counsel, Ex. 3 (91-7102) and Ex. 4 (91-7173).

FACTUAL BACKGROUND

On February 5, 2016, Objector served Steve and Deanne Hawks (hereinafter "Claimants") and their attorney of record, Norman S. Semanko, with *Objector's First Requests for Discovery to Claimant(s)* ("*Objector's First Requests*") appertaining to the claims, objections, and responses filed in the subcases noted above. *See* Aff. Counsel, ¶ 2.

On March 7, 2016 Claimants served *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* ("*Claimants' Responses*") upon the Tribe. *Id.*, ¶ 3.

On March 14, 2016, counsel for the Claimants were notified that the Tribe believed the objections, answers, and responses to *Objector's First Requests* were deficient, unfounded, and otherwise not substantially justified. *Id.*, ¶ 4.

On March 15, 2016 counsel for the Tribe met telephonically with attorneys for Claimants. *Id.*, ¶ 5. During that meeting the Tribe iterated, request by request, why it believed Claimants' objections, answers, and responses to be deficient, unfounded, and otherwise not substantially justified or evasive. *Id.* A follow up call was scheduled between counsel for March 21, 2016 for the purpose of allowing Claimants' attorneys time to formulate responses, if any, to the concerns set forth during the meeting of March 15, 2016. *Id.*, ¶ 6.

On March 21, 2016, attorneys for both Claimants and Objector met again telephonically to discuss Claimants' responses to the concerns set forth during the meeting on or about March 15, 2016. *Id.*, ¶ 7. During this second phone call, counsel for Claimants agreed to serve amended answers and responses to Objector's discovery requests. *Id.* Counsel for both parties agreed to an extension until March 25, 2016 for Claimants to serve their amended answers and responses to Objector's discovery requests. *Id.* Counsel agreed that no further discovery would be served upon Claimants until after the amended answers and responses were served. *Id.*

On March 28, 2016, Claimants served and delivered *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery* ("*Claimants' Amended Responses*") upon the Tribe. *Id.* ¶ 8.

Upon review of the objections asserted in *Claimants Amended Responses*, the Tribe believes and alleges that such objections are deficient, unfounded, and otherwise not substantially justified. *Id.* ¶ 9.

The Tribe's requests for admissions, interrogatories, and requests for production contained in *Objector's First Request*, along with the Claimants' original objections, answers, and responses contained in *Claimants' Responses* are attached to the affidavit of counsel filed contemporarily herewith. *Id.* ¶¶ 12, 13, Ex. 3 (91-7102) and Ex. 4 (91-7173). *Claimants' Amended Responses* are likewise attached to the affidavit of counsel filed contemporarily herewith. *Id.* ¶¶ 10, 11, Ex. 1 (91-7102) and Ex. 2 (91-7173).

STANDARD OF REVIEW

Motions to compel are reviewed under an abuse of discretion standard. *Taylor v. AIA Services Corp.*, 151 Idaho 552, 570 (2011) (citing *Jen-Rath Co. v. Kit Mfg. Co.*, 137 Idaho 330, 336 (2002) ("Control of discovery is within the discretion of the trial court.")).

The test for whether a trial court has abused its discretion is three-fold: (1) whether the trial court correctly perceived the issue as one of discretion; (2) whether the trial court acted within the outer boundaries of its discretion and consistently with the legal standards applicable to the specific choices available to it; and (3) whether the trial court reached its decision by an exercise of reason. *DAFCO LLC v. Stewart Title Guar. Co.*, 156 Idaho 749, 755 (2014) (citing *Burgess v. Salmon River Canal Co., Ltd.* 127 Idaho 565 (1995)).

LAW RELEVANT TO DISCOVERY

It is well established that discovery allows, "the parties to obtain the fullest possible knowledge of the issues and facts before trial." *Hickman v. Taylor*, 329 U.S. 495, 501 (1947).

The scope of discovery is very broad. I.R.C.P. 26(b)(1). Essentially, a party is entitled to discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, including the existence, description, nature, custody, condition and location of any books, documents, or tangible things and the identity and location of persons having knowledge of discoverable material. *Id.*

A party to litigation is entitled to propound interrogatories to other parties in the litigation. I.R.C.P. 33(a). The rule sets forth in pertinent part:

> (1) Use of Interrogatories. Any party may serve upon any other party written interrogatories to be answered by the party served ... who shall furnish such information as is available to the party.
>
> (2) Answers to Interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the party to whom they are directed, and the objections may be signed by the attorney making them. The party upon whom the interrogatories have been served shall serve the original of the answers, and objections if any, within 30 days after service of the interrogatories. ... The answers shall first set forth each interrogatory asked, followed by the answer or response of the party. The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer any interrogatory.

Id. (emphasis added).

In lieu of answering an interrogatory, a party has an option of producing documents. I.R.C.P. 33(c). The rule sets forth:

> Where the answer to an interrogatory may be derived or ascertained from the business or other records, including electronically stored information, of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business or other records, or from a compilation, abstract or

> summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

Id. (emphasis added).

The principal purpose of interrogatories is to afford parties information regarding facts involved in the issues in the suit and to enable the proposing party to prepare for trial and to reduce the possibility of surprise in the trial. *See Smith v. Big Lost River Irr. Dist.*, 83 Idaho 374 (1961).

In addition to requests for admission and interrogatories, a party to litigation may serve upon another party to the litigation requests for production of documents. I.R.C.P. 34(a). The rule sets forth in pertinent part:

> Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on the party's behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono- records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things including electronic and data storage devices in any medium which constitute or contain matters within the scope of Rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served...

Id. (emphasis added). The procedure for doing so is also set forth in the rules. I.R.C.P. 34(b). The rule sets forth in pertinent part:

> (1)The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party. ...
>
> (2) The party upon whom the request is served shall serve a written response within 30 days after the service of the request. The response shall state, with respect to each item or category, that inspection and related activities will be

> permitted as requested, unless the request is objected to, in which event any reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. ... If the responding party cannot through reasonable efforts retrieve the data or information requested or produce it in the form requested, the responding party must state an objection complying with these rules. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested. If the court orders the responding party to comply with the request, the court may also order that the requesting party pay the reasonable expenses of any extraordinary steps required to retrieve and produce the information.

Id. (emphasis added).

At its core, it has long been held that requests for production of documents in discovery allows "the parties to obtain the fullest possible knowledge of the issues and facts before trial." *Hickman v. Taylor*, 329 U.S. 495, 501 (1947).

The Tribe's interrogatories and request for production of documents No. 1 and Claimants' respective amended responses are identical for both subcases 91-7102 and 91-7173. Each is set forth below, together with argument as to why each objection should be overruled and why each answer is deficient or otherwise does not fully and fairly respond to the interrogatory.

INTERROGATORY NO. 1

> INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.
>
> ANSWER NO. 1: See Responses to Request for Admission Nos. 1-15.

Aff. of Counsel. Ex. 1, p. 10 (for Claim 91-7102) and Ex. 2, p. 10 (for Claim 91-7173). Claimants' amended responses to request for admissions numbered 1-15 are likewise attached to the affidavit of counsel. *Id.*, pp. 1- 9.

No objection was made to this interrogatory. As such, any further objection to this interrogatory is waived.

Claimants' answer to interrogatory No. 1 is deficient. It merely refers back to the Claimants' responses to admissions fail to cite any legal authority for the assertions made therein. Claimants fail to provide a single fact in support of their conclusory assertions made in their responses to the requests for admission.

Without going into detail on each request for admission, illustrative of Claimants' failure to fully and fairly respond is their answer to request for admission No. 1.[1]

In request for admission No. 1, the question was: "Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." *See* Aff. of Counsel, Ex.1, p. 2 and Ex. 2, p. 2. The term "bed and banks" was specifically defined in the general definitions which accompanied the request for admissions. *Id.*, Ex. 5, p. 4.

Claimants objected to request for admission No. 1 on the basis that the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is a vague term. See, e.g., Aff. of Counsel, Ex. 1, p. 2.

Claimants also objected to request for admission No. 1 on the basis the interrogatory sought a legal conclusion or opinion regarding who owns "the submerged

[1] The adequacy of Claimants' responses to Objector's requests for admissions is the subject of the Objector's *Motion to Determine Sufficiency of Objections and Deem Certain Matters Admitted* filed by the Tribe contemporarily herewith and will not be reiterated in this motion. The reasons for such alleged deficiencies made in the memorandum supporting that motion are incorporated herein.

bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." *Id.*

However, after making the foregoing objections, Claimants proceeded to quote the holding by the United States District Court for the District of Idaho in its opinion reported at *United States v. Idaho*, 95 F.Supp.2d 1094, 1117 (D. Idaho 1998).[2] *Id.*

Claimants thereafter denied the United States and the Tribe owned any of the submerged bed and banks at Claimants' point of diversion. Aff. of Counsel, Ex. 1, p. 2. ("However, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion.").

The first objection should be overruled because Claimants fail to set forth a factual or legal basis as to why the term "exterior boundaries of the Coeur d'Alene Indian Reservation" was a vague term. No possible alternative readings of the alleged vague term were given. No facts were alleged or other explanation provided that would give rise to an inference that such term is vague in any respect. No legal authority was provided in regard to any court, executive, or administrative body has ever held such term to be vague.

The second objection should also be overruled because no legal conclusion or opinion was sought. Noted as part of Claimants' response to the Tribe's requests for admission, in the case of *United States v. Idaho*, 95 F.Supp.2d 1094 (D. Idaho 1998), *aff'd Idaho v. United States*, 210 F.3d 1067 (9th Cir. 2000), *aff'd Idaho v. United States*,

---

[2] "[t]itle is quieted in favor of the United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." *Claimants Amended Responses*, p. 2.

533 U.S. 262 (2001), title to ownership of the "bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation" was quieted in favor of the United States as trustee, and the Coeur d'Alene Tribe as the beneficially interested party of the trusteeship and such ruling was affirmed by the Supreme Court of the United States. *Id.* at 533 U.S. 262 (2001). Thus, ownership has been determined as both a matter of fact and of law. The simple fact is that no legal conclusion or opinion was sought by the question.

As to the denial: "[h]owever, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and bank at Claimants' point of diversion ..." Such denial is simply unresponsive to the request for admission. Claimants were not asked to admit whether the Tribe owned any submerged bed and banks at the Claimants' point of diversion – Claimants were asked to admit, *inter alia*, whether the United States and the Tribe owned the bed and banks of the St. Joe River.

The answer to interrogatory fails on technical grounds as well. Rule 33(a)(2) provides in pertinent part, "[t]he answers shall be signed by the party to whom they are directed, and the objections may be signed by the attorney making them." I.R.C.P. 33(a)(2) (emphasis added). The rule clearly delineates between "the party to whom [interrogatories] are directed," and an "attorney" who makes objections in such interrogatories. While counsel for Claimants, Mr. Norman Semanko, signed the responses and amended responses, the signatures and verification of Steve and Deanne Hawks are absent from any of the discovery answers and responses. *See* Aff. of Counsel, Exs. 1 – 4.

For the foregoing reasons, the Tribe asserts that Claimants' objection is unfounded and unsustainable because their answer to the foregoing interrogatory is

deficient, unresponsive, and otherwise does not fully and fairly answer the interrogatory posed.

INTERROGATORY NO. 4

> INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s) predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?
>
> ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that the term "permission…to encroach upon the submerged lands of the St. Joe River" is vague and the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 4 because it seeks a legal conclusion or opinion as to who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants did not request permission of either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for the installation of their diversionary works. However, Claimants did not need such permission because the United States and the Coeur d'Alene Tribe do not own the land upon which the diversionary works may have been installed.

Aff. of Counsel, Ex. 1, pp. 10-11 (91-7102), Ex. 2, pp. 10-11 (91-7173).

The Tribe requests the Court overrule Claimants' objections to this interrogatory and strike as unresponsive portions of the answer noted below.

Regarding the first objection alleging the term "permission…to encroach upon the submerged lands of the St. Joe River" is vague; like the interrogatories above, Claimants fail to state facts as to why such term is vague or to give any competing interpretations which would give rise to an inference of vagueness. Again, no legal authority was provided in regard to any court, executive, or administrative body ever having held such term to be vague.

As to the second objection on the grounds that the interrogatory is vague as to time, as part of the general instructions, instruction No. 2 reads as follows:

> 2. Time period. Unless otherwise indicated, these discovery requests apply to the time period from the priority date of the claim at issue in this litigation to the present time.

Aff. of Counsel, Ex. 5, p. 2. Further, the interrogatory itself specifies the time, "[b]efore installing the diversionary works." *Id.*, Ex. 1, p. 10, Ex. 2, p. 10.

As to the third objection that the interrogatory seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River," such objection is without basis and unresponsive for the same reasons discussed under interrogatory No. 1, above.

In fact, the terms "[s]ubmerged lands" and/or "bed and banks" were very specifically defined to mean, "the lands underlying the navigable waters of... the St. Joe River." Aff. of Counsel, Ex. 5, p. 4 (definition no. 10).

Going to the substance of the answer, after Claimants state they did not request permission of either the United States or the Tribe to encroach upon the submerged lands of the St. Joe River before installing their diversion works, Claimants state, "[h]owever, Claimants did not need such permission because the United States and the Coeur d'Alene Tribe do not own the land upon which the diversionary works may have been installed." *See, e.g.*, Aff. of Counsel, Ex. 1, p. 11.

That second sentence is unresponsive to the question and should be stricken. The interrogatory did not ask Claimants about who owned the land, it asked whether Claimants received permission from the United States or the Tribe to encroach upon such lands.

The answer to interrogatory No. 4 fails on technical grounds as well. Rule 33(a)(2) provides in pertinent part, "[t]he answers shall be signed by the party to whom they are directed, and the objections may be signed by the attorney making them."

I.R.C.P. 33(a)(2) (emphasis added). The rule very clearly delineates between "the party to whom [interrogatories] are directed," and an "attorney" who makes objections in such interrogatories. While counsel for Claimants, Mr. Norman Semanko, signed the responses and amended responses, the signatures and verification of Claimants are absent from any of the discovery answers and responses. *See* Aff. of Counsel, Exs. 1 – 4.

For the foregoing reasons, the Tribe asserts that Claimants' objections are deficient, unfounded, and otherwise not substantially justified and is thus unsustainable. Their answer to interrogatory No. 4 is deficient and does not fully and fairly respond to the interrogatory.

INTERROGATORY NO. 7

> INTERROGATORY NO. 7: Please describe the Claimant(s) diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.
>
> ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional description of their diversionary works and water system, but reserve the right to supplement this answer in a timely manner.

Aff. of Counsel, Ex. 1, pp. 12-13 (91-7102), Ex. 2. pp. 12-13 (91-7173).

The Tribe requests the Court overrule Claimants' objection to this interrogatory and order Claimants to specifically direct the Tribe to which documents they refer.

In regard to the objection, counsel for the Tribe is unaware of any Idaho case law or other Idaho authority which would serve as a basis to sustain this objection.

Further, the Tribe concedes the Idaho Department of Water Resources' ("IDWR") electronic backfile contains some documents which in a very broad sense may describe the water conveyances on the property, however, such documents simply do not fully and fairly provide an answer to the question.

Review of the materials on the website referenced by Claimants reveals that no information is provided regarding the "description of all materials located in the water," "the pump capacity (in gallons per minute)," "the conduit diameter(s) (in inches)," or "any storage facilities on the property (and storage volume in gallons)."[3]

The Tribe concedes that, pursuant to I.R.C.P. 33(c), a party is given the option to produce records in lieu of an answer. However, Rule 33(c) requires a party to "specify the records from which the answer may be derived or ascertained.." I.R.C.P. 33(c) (emphasis added). The answer fails to direct the Tribe to any specific individual documents, leaving the Tribe to speculate as to which documents, if any, contained in IDWR's electronic backfile are responsive to the interrogatory. The answer is simply not in accord with either the language or spirit of Rules 33(a) or 33(c).

The answer to interrogatory fails on technical grounds as well. Rule 33(a)(2) provides in pertinent part, "[t]he answers shall be signed by the party to whom they are directed, and the objections may be signed by the attorney making them." I.R.C.P.

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[3] The Tribe concedes there are some photos in IDWR's backfile relating to claim 91-7173 which show some material in the water, the pump, conduits, and storage facilities. However, such photos do not give pump capacity in gallons per minute, give any frame of reference for the size of all conduits, nor provide storage volume in gallons. No such photos or documents were referenced or provided for claim 91-7102.

33(a)(2) (emphasis added). The rule clearly delineates between "the party to whom [interrogatories] are directed," and an "attorney" who makes objections in such interrogatories. While counsel for Claimants, Mr. Norman Semanko, signed the responses and amended responses, the signatures and verification of Claimants are absent from any of the discovery answers and responses. *See* Aff. of Counsel, Exs. 1 – 4.

For the foregoing reasons the Tribe asserts that Claimants' objection is deficient, unfounded, and otherwise not substantially justified and is thus unsustainable. Their answer to interrogatory No. 7 is deficient, and otherwise does not fully and fairly answer the interrogatory.

INTERROGATORY NO. 8

> INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.
>
> ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 8 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands underlying the claimant's point of diversion." Notwithstanding this objection, Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion. The name and contact information are as follows: Steve and Deanne Hawks c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829; State of Idaho, c/o Attorney General's Office, P.O. Box 83720, Boise, ID 83720-0010.

Aff. of Counsel, Ex. 1, p. 13 (91-7102), Ex. 2, p. 13 (91-7173).

The Claimants have answered this interrogatory, however, the Tribe requests the Court overrule Claimants' objections.

In regard to the first objection as to time, nothing is vague as to the timeframe sought in the interrogatory. *See* Aff of Counsel, Ex. 5, p. 2. Clearly, the instruction defined the timeframe from the Claimants priority date to the current date. *Id.*

Again, in regard to the second objection that the interrogatory, "seeks a legal conclusion or opinion regarding who owns the 'submerged lands underlying the claimant's point of diversion[,]'" the Tribe responds with the same argument offered for interrogatory No. 1, above. Under Rule 26, discovery is very broad and the question is appropriate.

The answer to interrogatory fails on technical grounds as well. Rule 33(a)(2) provides in pertinent part, "[t]he answers shall be signed by the party to whom they are directed, and the objections may be signed by the attorney making them." I.R.C.P. 33(a)(2) (emphasis added). The rule clearly delineates between "the party to whom [interrogatories] are directed," and an "attorney" who makes objections in such interrogatories. While counsel for Claimants, Mr. Norman Semanko, signed the responses and amended responses, the signatures and verification of Claimants are absent from any of the discovery answers and responses. *See* Aff. of Counsel, Exs. 1 – 4.

For the foregoing reasons, the Tribe asserts that Claimants' objections are deficient, unfounded, and are otherwise not substantially justified and therefore unsustainable.

REQUEST FOR PRODUCTION NO. 1

> REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.
>
> RESPONSE NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding this objection,

> Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

Aff. of Counsel, Ex. 1, p.13 (91-7102), Ex. 2, p.13 (91-7173).

The Tribe requests the Court overrule Claimants' objections to this request for production.

Regarding the first objection that the request for production is vague, nothing in the objection suggests which portion of the request was allegedly vague. The request is a common, generic discovery request – if you deny a question posed in a request for admission, please produce the documents in your possession, custody, and/or control which support the factual and/or legal bases of denial.

Regarding to the second objection that the request is overly broad, the Tribe limited its request to such documents Claimants are relying upon for their denial. Further, the general instructions provide:

> Scope of Discovery. These discovery requests are directed to the above-named CSRBA Claimant(s) and cover all information in its [sic] possession, custody and control, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on their behalf or otherwise subject to their control, and any merged, consolidated, or acquired predecessor or successor, parent, subsidiary, division, or affiliate.

Aff. of Counsel, Ex. 5, p. 2. The term "document" was specifically defined as:

> "Document" means all writings of any kind, including, without limitation, the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, bills of lading, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, governmental records, interoffice and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications), bulletins, printed matter, computer printouts, teletypes, telefax, invoices,

> worksheets, graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic, mechanical, or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), and all drafts, alterations, modifications, changes and amendments of any of the foregoing.

Id., pp. 3-4.

Simply put, the Tribe is seeking documents which support the factual and legal bases of the Claimants' denials in response to the Tribe's requests for admission. The Tribe is entitled to know the documentary bases for such denials. If such bases are simply the "documents previously produced or referenced and documents produced herewith[,]" so be it, but the Tribe is entitled to definitively know, without objection, those bases.

The Tribe therefore requests the Court over-rule Claimants' objection in their response to the Tribe's first request for production.

CONCLUSION

For the foregoing reasons, the Tribe requests this Court overrule Claimants' objections to Objector's First Discovery Requests to Claimants and to compel Claimants to fully and fairly respond to the Tribe's discovery requests. The Tribe also requests the Court strike as non-responsive portions of Claimants' answers to the discovery requests above. Pursuant to Rule 37(a)(4) the Tribe requests its reasonable costs, including attorney's fees, associated with the necessity of having to bring this motion.

Respectfully submitted this 15th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 16th day of April, 2016, a copy of the foregoing Memorandum in Support of Motion to Compel was served on the following counsel of record and other entities via the method indicated below:

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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 CSRBA Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND TO DEEM CERTAIN MATTERS ADMITTED

COMES NOW, Objector, the Coeur d'Alene Tribe (hereinafter "Tribe" or "Objector"), and hereby offers the Court this Memorandum of Law in support of its motion to determine

adequacy of answers or objections. This memorandum is filed concurrently with, and is incorporated into said motion.

FACTUAL BACKGROUND

On February 5, 2016, Objector served Steve and Deanne Hawks (hereinafter "Claimants") and their attorney of record, Norman S. Semanko, with *Objector's First Requests for Discovery to Claimant(s)* ("*Objector's First Requests*") appertaining to the claims, objections, and responses filed in the subcases noted above. *See* Aff. Counsel, ¶ 2.

On March 7, 2016 Claimants served *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* ("*Claimants' Responses*") upon the Tribe. *Id.*, ¶ 3.

On March 14, 2016, counsel for the Claimants were notified that the Tribe believed the objections, answers, and responses to *Objector's First Requests* were deficient, unfounded, and otherwise not substantially justified. *Id.*, ¶ 4.

On March 15, 2016 counsel for the Tribe met telephonically with attorneys for Claimants. *Id.*, ¶ 5. During that meeting the Tribe iterated, request by request, why it believed Claimants' objections, answers, and responses to be deficient, unfounded, and otherwise not substantially justified or evasive. *Id.* A follow up call was scheduled between counsel for March 21, 2016 for the purpose of allowing Claimants' attorneys time to formulate responses, if any, to the concerns set forth during the meeting of March 15, 2016. *Id.*, ¶ 6.

On March 21, 2016, attorneys for both Claimants and Objector met again telephonically to discuss Claimants' responses to the concerns set forth during the meeting on or about March 15, 2016. *Id.*, ¶ 7. During this second phone call, counsel for Claimants agreed to serve amended answers and responses to Objector's discovery requests. *Id.* Counsel for both parties agreed to an extension until March 25, 2016 for Claimants to serve their amended answers and responses to

Objector's discovery requests. *Id.* Counsel agreed that no further discovery would be served upon Claimants until after the amended answers and responses were served. *Id.*

On March 28, 2016, Claimants served and delivered *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery* ("*Claimants' Amended Responses*") upon the Tribe. *Id.* ¶ 8.

Upon review of the objections asserted in *Claimants Amended Responses*, the Tribe believes and alleges that such objections are deficient, unfounded, and otherwise not substantially justified. *Id.* ¶ 9.

The Tribe's requests for admissions, interrogatories, and requests for production contained in *Objector's First Request*, along with the Claimants' original objections, answers, and responses contained in *Claimants' Responses* are attached to the affidavit of counsel filed contemporarily herewith. *Id.* ¶¶ 12, 13, Ex. 3 (91-7102) and Ex. 4 (91-7173). *Claimants' Amended Responses* are likewise attached to the affidavit of counsel filed contemporarily herewith. *Id.* ¶¶ 10, 11, Ex. 1 (91-7102) and Ex. 2 (91-7173).

STANDARD OF REVIEW

Motions to determine adequacy of answers and objections, and motions to compel are reviewed under an abuse of discretion standard. *Taylor v. AIA Services Corp.*, 151 Idaho 552, 570 (2011) (citing *Jen-Rath Co. v. Kit Mfg. Co.*, 137 Idaho 330, 336 (2002) ("Control of discovery is within the discretion of the trial court.")).

The test for whether a trial court has abused its discretion is three-fold: (1) whether the trial court correctly perceived the issue as one of discretion; (2) whether the trial court acted within the outer boundaries of its discretion and consistently with the legal standards applicable to the specific choices available to it; and (3) whether the trial court reached its decision by an

exercise of reason. *DAFCO LLC v. Stewart Title Guar. Co.*, 156 Idaho 749, 755 (2014) (citing *Burgess v. Salmon River Canal Co., Ltd.* 127 Idaho 565 (1995)).

LAW RELEVANT TO DISCOVERY

It has long been held that discovery allows, "the parties to obtain the fullest possible knowledge of the issues and facts before trial. *Hickman v. Taylor*, 329 U.S. 495, 501 (1947).

The scope of discovery is very broad. I.R.C.P. 26(b)(1). A party is entitled to discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, including the existence, description, nature, custody, condition and location of any books, documents, or tangible things and the identity and location of persons having knowledge of discoverable material. *Id.*

The purpose of requests for admission is to remove issues of fact from the trial. *James v. Boyd Truck Lines*, 11 F.R.D. 67, 70 (W.D. Mo. 1951). The rule "is not only referring to direct basic facts, but also to ultimate facts, that is, facts which are conclusions acquired by reflection and natural reasoning deduced from primary evidentiary facts. *Id.* As such, it is appropriate to ask for admissions that "go[] to the question of proof of those facts at trial and [allow for] the elimination of the necessity of a party making the request for admission to call witnesses to introduce testimony and documents to prove those facts. *Straley v. Idaho Nuclear Corp.*, 94 Idaho 917, 922 (1972).

A party is allowed to serve requests for admission upon another party in litigation regarding any matter that is within the scope of discovery under I.R.C.P 26. I.R.C.P. 36(a). A request for admission is appropriate for inquiries that relate to statements or opinions of fact or of the application of law to fact. *Id.* The Idaho Court of Appeals has interpreted this rule to permit "requests involving opinions, conclusions and mixed questions of law and fact." *Ruge v. Posey*,

114 Idaho 890, n. 1 (Idaho Ct. App. 1988) (citing 8 C. WRIGHT AND A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2255 (1970)).

Rule 36 sets forth that a request for admission is "admitted unless, within 30 days after service of the request... the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed under oath by the party or the party's attorney..." I.R.C.P 26. I.R.C.P. 36(a). If the answering party lodges objection to the request for admission, the party must detail the specific reasons for the objection. *Id.* If the request for admission is denied, "[t]he answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter." *Id.* The denial must "fairly meet the substance of the requested information." *Id.* Where a qualified answer or partial denial is appropriate, "the party shall specify so must of it as is true and qualify or deny the remainder."

Rule 36 specifies that "if the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served." ..."

If a party is forced to make a motion to compel discovery or to determine the sufficiency of answers or objections thereof, a party is entitled to an award of the necessary costs, including attorney's fees, of having to do so. I.R.C.P. 37(a)(4).

ARGUMENT

REQUEST FOR ADMISSION NO. 1

Request for Admission No. 1 asks Claimants to admit that "the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior

boundaries of the Coeur d'Alene Indian Reservation" Aff. Counsel, Ex. 1, p. 2. Claimants objected to the Tribe's first request for admission on the grounds that the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is vague. *Id.* Claimants also objected on the grounds that the request sought a legal conclusion or opinion "regarding who owns 'the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.'" *Id.*

Despite the alleged ambiguity of request for admission No. 1, Claimants went on to admit that "in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998) [("*Idaho II*")] , the court stated the following: '[t]itle is quieted in favor of the United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation.'" *Id.* Nonetheless, Claimants denied that the United States or the Tribe own the submerged lands at Claimants' point of diversion. *Id.*

Claimants have failed to answer the Tribes first request for admission. The request for admission did not concern the holding of *Idaho II* or ask whether the Tribe owns the lands located underneath Claimants' point of diversion. Claimants have failed to timely admit or expressly deny the Tribe's first request for admission and it should therefore be deemed admitted.

Claimants' vagueness objection should be overruled. Claimants have not explained why the term is vague, provided alternative readings of the allegedly vague term, or cited to any precedent that would suggest the term or similar terms are vague. Claimants are long-time residents of the area and should be well aware of the extent of the "exterior boundaries of the

Coeur d'Alene Indian Reservation." Even if Claimants were not keenly aware of the local geography, they need only look at a standard highway map to determine reservation boundaries. Importantly, Claimants went on to expressly admit a portion of the holding of *Idaho II* that included a statement regarding "current" reservation boundaries. However, Claimants' splitting of hairs is a distinction without a difference. The exterior boundary of the Reservation has not changed since 1894 and it is obvious that reference to "boundary" means the boundary as it exists today. Further, Claimants' property is firmly and clearly within the exterior boundaries of every permutation of the Coeur d'Alene Reservation since its inception to now. The Tribe should not have to prefix the term "exterior boundary" with "current" every time it refers to its boundary just to avoid an objection from Claimants.

Importantly, other courts have confronted this type of linguistic gymnastics with distain. For example, the court in *Hunter v. International Systems Controls Corporation* found that a party asserting an interrogatory was ambiguous but who went on to imply they knew the answer to that interrogatory was deliberately misconstruing the question asked. 56 F.R.D. 617, 625 (W.D. Mo 1972). The court found that "this misconstruction and failure to make discovery was a callous disregard of discovery obligations, and a designing, self-serving unilateral construction of [the interrogatories]." *Id.* Citing *Hunter*, a California court found that simultaneously calling a question ambiguous and then answering the question amounted to "deliberately misconstrue[ing] a question for the purpose of supplying an evasive answer." *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 782 (1978).

Even if the term were not absolutely clear, "where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 782 (1978). In other words,

consistent with I.R.C.P. 36(a), if Claimants in good-faith believed there is an important distinction between "exterior boundary" and "current boundary" they should have simply qualified their answer to make that clear rather than file an unnecessary objection. Accordingly, Claimants' objection should be overruled.

Further, Request for Admission No. 1 does not seek a pure legal conclusion or opinion. The Tribe is entitled to ask questions of fact or mixed questions of law and fact. I.R.C.P. 36(a). Whether or not the Tribe is the owner of submerged lands within the exterior boundaries of the Coeur d'Alene Reservation is a mixed question of law and fact. This question was conclusively determined by the Federal District Court for the District of Idaho in a section entitled "*Findings of Fact* and Conclusions of Law." *Idaho II*, 95 F. Supp. 2d. at 1099-1116, *aff'd*, *Idaho v. United States*, 533 U.S. 262 (2001) (emphasis added). The question does not call for an admission or bare interpretation of the common law, a regulation, or a statute. *See*, *Pittsburg Hotels Ass'n v. Urban Redevelopment Authority of Pittsburg*, 29 F.R.D. 512 (W.D. Penn. 1962). Instead, the purpose of the question is to narrow the issues to be litigated in this subcase. *Boyd Truck Lines*, 11 F.R.D. at 70. If the Claimants plan on attempting to relitigate the district court's findings of fact from *Idaho II* in the CSRBA the Tribe is entitled to know before summary judgment or trial. Therefore Claimants' objection should be overruled.

REQUEST FOR ADMISSION NO. 2

Request for Admission No. 2 asked Claimants to "admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation. Aff. Counsel, Ex. 1, p. 3.

Claimants objected to the Tribe's second request for admission on the grounds that the request sought a legal conclusion or opinion "regarding who owns 'the bed and banks of Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.'" *Id.*

Claimants went on to admit that "in [*Idaho II*], the court stated the following: '[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation.'" *Id.* Nonetheless, Claimants denied that the United States or the Tribe are entitled to the exclusive use, occupancy, and right to quiet enjoyment of the bed and banks at Claimants' point of diversion. *Id.*

Claimants did not answer the Tribe's request for admission. The request for admission did not concern the holding of *Idaho II* or ask whether the Tribe is entitled to the exclusive use, occupancy, or right to the quiet enjoyment of the bed and banks at Claimants' point of diversion. Claimants have failed to timely admit or expressly deny the Tribe's second request for admission and it should therefore be deemed admitted.

Request for Admission No. 2 does not seek a pure legal conclusion or opinion. The Tribe is entitled to ask questions of fact or mixed questions of law and fact. I.R.C.P. 36(a). Whether or not the Tribe is the owner of submerged lands within the exterior boundaries of the Coeur d'Alene Reservation is a mixed question of law and fact. This question was conclusively determined by the Federal District Court for the District of Idaho in a section entitled "*Findings of Fact* and Conclusions of Law." *Idaho II*, 95 F. Supp. 2d. at 1099-1116, *aff'd*, *Idaho v. United States*, 533 U.S. 262 (2001) (emphasis added). The question does not call for an admission or

bare interpretation of the common law, a regulation, or a statute. *See Pittsburg Hotels Ass'n v. Urban Redevelopment Authority of Pittsburg*, 29 F.R.D. 512 (W.D. Penn. 1962). Instead, the purpose of the question is to narrow the issues to be litigated in this subcase. *Boyd Truck Lines*, 11 F.R.D. at 70. If the Claimants plan on attempting to relitigate the district court's findings of fact from *Idaho II* in the CSRBA the Tribe is entitled to know before summary judgment or trial. Therefore Claimants' objection should be overruled.

REQUEST FOR ADMISSION NO. 3

The Tribe asked Claimants to admit "that the State of Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation. Aff. Counsel, Ex. 1, p. 3. Claimants objected to the Tribe's third request for admission on the grounds that the request sought a legal conclusion or opinion "regarding the State of Idaho's right, title or interest 'in or to the bed and banks of Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.'" *Id.*

Claimants went on to admit that "in [*Idaho II*], the court stated the following: '[t]he State of Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation.'" *Id.* Nonetheless, Claimants denied that the State of Idaho is permanently enjoined from asserting any right, title or interest in or to the bed and banks at Claimants' point of diversion. *Id.*

Claimants failed to answer the Tribe's request for admission. The request for admission did not concern the holding of *Idaho II* or ask whether the Idaho has any right, title, or interest at

Claimants' point of diversion. Claimants have failed to timely admit or expressly deny the Tribe's third request for admission and it should therefore be deemed admitted.

Request for Admission No. 3 does not seek a pure legal conclusion or opinion. The Tribe is entitled to ask questions of fact or mixed questions of law and fact. I.R.C.P. 36(a). Whether the Tribe or the State is the owner of submerged lands within the exterior boundaries of the Coeur d'Alene Reservation is a mixed question of law and fact. This question was conclusively determined by the Federal District Court for the District of Idaho in a section entitled "*Findings of Fact* and Conclusions of Law." *Idaho II*, 95 F. Supp. 2d. at 1099-1116, *aff'd*, *Idaho v. United States*, 533 U.S. 262 (2001) (emphasis added). The question does not call for an admission or bare interpretation of the common law, a regulation, or a statute. *See*, *Pittsburg Hotels Ass'n v. Urban Redevelopment Authority of Pittsburg*, 29 F.R.D. 512 (W.D. Penn. 1962). Instead, the purpose of the question is to narrow the issues to be litigated in this subcase. *Boyd Truck Lines*, 11 F.R.D. at 70. If the Claimants plan on attempting to relitigate the district court's findings of fact from *Idaho II* in the CSRBA the Tribe is entitled to know before summary judgment or trial. Therefore Claimants' objection should be overruled.

REQUEST FOR ADMISSION NO. 4

Request for Admission No. 4 asks Claimants to admit "the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation." Aff. Counsel, Ex. 1, p. 4. Claimants objected to the Tribe's request for admission on the grounds that the terms "inherent right," "non-members," and "tribally owned lands within the Coeur d'Alene Reservation" are vague. *Id.*

Claimants went on to admit that "in [*Idaho II*], the court stated the following: '[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation.'" *Id.* Nonetheless, Claimants denied that the Tribe has the right to exclude Claimants from their point of diversion. *Id.*

Once again, Claimants have failed to answer the Tribe's request for admission. The request for admission did not concern the holding of *Idaho II* or ask whether the Idaho has any right, title, or interest at Claimants' point of diversion. Claimants have failed to timely admit or expressly deny the Tribe's fourth request for admission and it should therefore be deemed admitted.

Further, Claimants' vagueness objection should be overruled. As before, Claimants provide no possible alternative readings of any of the terms, or otherwise explain why the terms are vague, and cite no precedent that would suggest the terms or similar terms are have been found to be vague. The term "right" should not have to be specifically defined because it is a term of common usage. The term "right" is defined in Black's Law Dictionary to mean "[s]omething that is due to a person by just claim, legal guarantee, or moral principle." BRYAN A. GARNER, BLACKS LAW DICTIONARY 623 (Pocket ed. 1996). In asking this question, the Tribe is simply asking Claimants to admit or deny the basic proposition that the Tribe has the legal ability, like any landowner, to exclude people from their land. The Tribe believes this definition to be straightforward and common and did not intend to use the term in any other way.

Similarly, the term "non-members of the Coeur d'Alene Tribe" is not an ambiguous term. The term simply refers to those people that are not members of the Coeur d'Alene Tribe. This is

no more ambiguous than referring to "non-citizens of the United States," or "non-members of the Republican Party." If you were to ask any person in the United States whether or not they were a member of the Coeur d'Alene Tribe they would be immediately able to tell you either yes or no. No one would ask what was meant by the term "member."

The term "tribally owned lands" is also unambiguous. Simply put, the term refers to the lands owned by the Coeur d'Alene Tribe. This term is no more ambiguous than the term "state owned lands" or "federal lands." In no way can the term be defined in any other manner and, in any case, the Tribe did not intend for it to mean anything other than its obvious definition. Accordingly, Claimants' objection should be overruled.

REQUEST FOR ADMISSION NO. 5

This request for admission asks Claimants to admit "the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation." Aff. Counsel, Ex. 1, p. 5. Claimants object to the Tribe's request for admission on the grounds that the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is vague. *Id.* Despite the alleged ambiguity of request for admission No. 5, Claimants went on to admit that "the point of diversion for this claim is located within the current boundary of the Coeur d'Alene Indian Reservation." *Id.* Nonetheless, Claimants denied that the United States or the Tribe own the submerged lands at Claimants' point of diversion. *Id.*

Claimants' vagueness objection should be overruled. Claimants expressly admit they are within the "current boundary of the Coeur d'Alene Indian Reservation." By not specifying as to time (i.e. the 1873 boundary or the 1887 boundary) the Tribe believes it perfectly clear that it meant the "current" exterior boundary of the Reservation. Once again, even if the term were not

absolutely clear, "where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." *Kilbourne*, 84 Cal. App. 3d at 782. In other words, rather than lodge an objection and force the parties to seek relief from the court, the proper solution is to qualify the admission by clarifying that the Claimants admits he is within the *current* exterior boundary of the Reservation. Accordingly, Claimants' objection should be overruled and the matter should be deemed admitted.

REQUEST FOR ADMISSION NO. 6

Request for Admission No. 6 asked Claimants "[p]lease admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level". Aff. Counsel, Ex. 1, p. 5. Claimants object to the Tribe's request for admission on the grounds that the term "presumed OHWM" is vague and without temporal context. *Id.* Claimants admitted that "in *City of Coeur d'Alene* v. *Mackin (In re Ownership of Sanders Beach),* the court stated the following: '[t]he current OHWM of the Lake is 2128 feet' and 'the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907.' 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson* v. *State,* 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83." *Id.* However, Claimants went onto deny 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." *Id.*

Claimants' vagueness objection should be overruled because the term "ordinary high water mark or OHWM" was specifically defined in the definitions section provided to Claimants as "the presumed Ordinary High Water Mark of Coeur d'Alene Lake and the St. Joe River of 2128 feet consistent with the holding of *In re Sanders Beach*, 143 Idaho 443 (2008). Aff. Counsel, Ex. 5, p. 4. The term "elevation was defined to mean "the elevation in feet above mean

sea level." *Id.* As such, the term "OHWM" unambiguously is defined to mean 2128 feet above mean sea level. The Tribe did not include temporal context because none is necessary; the Tribe simply asks the Claimants to either admit or deny that the ordinary high water mark is 2128 feet. Although Claimants may deny that fact, they certainly cannot argue that the term "OHWM" as defined in this case is ambiguous. Accordingly, the Court should overrule Claimants' objection and allow the admission and denial provided to stand on its own.

REQUEST FOR ADMISSION NO. 7

Request for Admission No. 7 asks Claimants to admit that "the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River". Aff. Counsel, Ex. 1, p. 5. Claimants objected to the Tribe's request for admission on the grounds that the term "presumed OHWM" is vague and without temporal context. *Id.* Claimants admitted that "in *City of Coeur d'Alene* v. *Mackin (In re Ownership of Sanders Beach),* the court stated the following: '[t]he current OHWM of the Lake is 2128 feet' and 'the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907.' 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson* v. *State,* 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83." *Id.* However, Claimants went onto deny 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." *Id.*

Claimants' vagueness objection should be overruled because the term "ordinary high water mark or OHWM" was specifically defined in the definitions section provided to Claimants as "the presumed Ordinary High Water Mark of Coeur d'Alene Lake and the St. Joe River of 2128 feet consistent with the holding of *In re Sanders Beach*, 143 Idaho 443 (2008). Aff.

Counsel, Ex. 5, p. 4. The term "elevation was defined to mean "the elevation in feet above mean sea level." *Id.* As such, the term "OHWM" unambiguously is defined to mean 2128 feet above mean sea level. The Tribe did not include temporal context because none is necessary. Regardless of whether we are talking about 1873, 1891, 1907, or 2016, the defined OHWM is 2128 feet above mean sea level. The Request for Admission simply asks whether the point of diversion and/or some or all of the diversion works at issue in this subcase are below an elevation of 2128 feet. This is not ambiguous and therefore, Claimants' objections should be overruled and, to the extent Claimants failed to admit or deny, the matter should be deemed admitted.

REQUEST FOR ADMISSION NO. 8

Request for Admission No. 8 asks Claimants to admit "that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable." *Id.* Claimants objected to the Tribe's request for admission on the grounds that the term "navigable" is vague. *Id.* Claimants also objected on the grounds that the request sought a legal conclusion or opinion on "whether 'the waters overlying the bed and banks at the location of Claimants' water diversion point are navigable.'" *Id.* Nonetheless, Claimants admitted that "said waters are 'navigable' according to Claimants' understanding of the definition in Idaho Code Section 36-1601 and the definition in 33 U.S.C. § 1362." *Id.*

Claimants' vagueness objection should be overruled because the term "navigable" is not vague. If the Tribe were using the term "navigable" in a manner outside of the common usage—a stream that can be navigated by boat—it would have specified as such. The Tribe does not ascribe any special or more particular meaning to the term and does not believe that

additional definition is necessary in order for Claimants to understand what the Tribe means by "navigable." Pictures in Claimants' backfile[1] show boats docked next to Claimants' point of diversion. The maps generated by IDWR for the Claimants' claim unambiguously show boats and docks immediately adjacent to Claimants' point of diversion. Rather than lodge an objection Claimants should qualify their answer to make clear their understanding of the term and then either admit or deny on that basis. Accordingly, the objection on vagueness grounds should be overruled.

Similarly, Claimants' objection that this request for admission seeks a legal conclusion or opinion should be overruled. Once again, the Tribe seeks to know, as a matter of fact, whether the water overlying Claimants' point of diversion is navigable—whether a boat can navigate over that section of water. The Tribe did not ask Claimants for their interpretation of any statutes including, but not limited to, I.C. § 36-1601 and 33 U.S.C. § 1362. Even if the Tribe sought an admission regarding whether the water overlying Claimants' point of diversion is navigable pursuant to a statute or common law, that request for admission would be a mixed question of law and fact, which is permissible under I.R.C.P. 36. Under that circumstance the Tribe would not seek an opinion regarding the common law, a regulation, or a statute but would instead seek to understand Claimants' understanding of how the law relates to Claimants' specific point of diversion. *See Pittsburg Hotels Ass'n v. Urban Redevelopment Authority of Pittsburg*, 29 F.R.D. 512 (W.D. Penn. 1962). Once again, a primary purpose of requests for admission is to narrow the issues to be litigated. The Tribe needs to know whether the navigability of the water at Claimants' point of diversion is an issue that needs to be litigated so that it can adequately

[1] The Tribe requests pursuant to IRE 201 that the court take judicial notice of the contents of IDWR's backfiles for the above noted subcases, 91-7102 and 91-7173.

prepare. Accordingly, the objection should be overruled and the Claimants' should be directed to answer the question.

REQUEST FOR ADMISSION NO. 10

Request for Admission No. 10 asks Claimants to admit that they "did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim." Aff. Counsel, Ex. 1, p. 7. Claimants objected to the Tribe's request for admission on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague. *Id.* Claimants also objected on the grounds that the request sought a legal conclusion or opinion on "who owns the 'submerged lands of the St. Joe River.'" *Id.* Nonetheless, Claimants admitted that "they did not have a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim." *Id.* Claimants denied, however, "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."

Claimants' vagueness objection should be overruled because the term "permission to encroach upon the submerged lands of the St. Joe River" is not vague. None of the words in this phrase were used by the Tribe in a manner inconsistent with their plain meaning. The phrase clearly asks the simple question of whether the Claimants have ever sought and received authorization from either the Tribe or the United States to have their diversion works on the St. Joe River. Claimants do not explain why the term is vague, provide no possible alternative readings of the allegedly vague term, and cite no precedent that would suggest the term or

similar terms have been found to be vague. Claimants may believe that they do not need any permission but if that is the case the proper path forward would be to qualify the answer rather than lodge an unnecessary objection.

In fact, Claimants did qualify their answer to clarify that while they have not received permission to encroach, they do not believe permission is necessary. In other words, Claimants once again have objected that a question is too vague to answer and then go on to answer the question. This conclusively shows that the question is in no way vague or ambiguous and instead Claimants are "deliberately misconstruing" the question. *Hunter*, 56 F.R.D. at 625. Even if it were somewhat unclear, "but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." *Id.* Accordingly, the objection should be overruled.

Similarly, Claimants' objection that this request for admission seeks a legal conclusion or opinion should be overruled. The plain language of the question in no way asks the Claimants to opine as to who owns the submerged lands at Claimants' point of diversion. Instead it asks a simple question of fact, whether they have received permission to have their works located at their point of diversion. To the degree Claimants believe this question may imply an issue of ownership, they should qualify their answer to clarify that while they have not received permission they deny such permission is necessary. Accordingly, the objection should be overruled and the answer should be allowed to stand on its own.

REQUEST FOR ADMISSION NO. 11

Request for Admission No. 10 asks Claimants to admit that "since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or

the Coeur d'Alene Tribe for Claimant(s)[']s diversionary works." Aff. Counsel, Ex. 1, p. 7. Claimants objected to the Tribe's request for admission on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague. *Id.* Claimants also objected on the grounds that the request was vague as to time. *Id.* Claimants also objected on the grounds that the request sought a legal conclusion or opinion on "who owns the 'submerged lands of the St. Joe River.'" *Id.* Nonetheless, Claimants admitted that "they have never received a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River." *Id.* at 8. Claimants denied, however, "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."

Claimants' vagueness objection should be overruled because the term "permission to encroach upon the submerged lands of the St. Joe River" is not vague. None of the words in this phrase were used by the Tribe in a manner inconsistent with their plain meaning. The phrase clearly asks the simple question of whether the Claimants have ever sought and received authorization from either the Tribe or the United States to have their diversion works on the St. Joe River. As before, Claimants provide no possible alternative readings of the allegedly vague term, or otherwise suggest why it is vague, and cite no precedent that would suggest the term or similar terms are have been found to be vague. Claimants may believe that they do not need any permission but if that is the case the proper path forward would be to qualify the answer rather than lodge an unnecessary objection.

In fact, Claimants did qualify their answer to clarify that while they have never received permission to encroach, they deny permission is necessary. In other words, Claimants once

again have objected that a question is too vague to answer and then go onto answer the question. This conclusively shows that the question is in no way vague or ambiguous and instead Claimants are "deliberately misconstruing" the question. *Hunter*, 56 F.R.D. at 625. Even if it were somewhat unclear, "but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." *Id.* Accordingly, the objection should be overruled.

Nor is the question vague as to time. The question clearly delineates the timeframe of the question to be from the time Claimants initially began diverting water to the present. Further the Tribe expressly defined the time period of its discovery requests as "[u]nless otherwise indicated, these discovery requests apply to the time period from the priority date of the claim at issue . . . to the present time." Aff. Counsel, Ex. 5. Claimants' priority date for 91-17102 dates to 1988 and for 91-7173 to 2008. The question simply asks whether, since 1988 or 2008, Claimants have applied for and received permission from the United States or Tribe to have their point of diversion upon the submerged lands of the St. Joe River. Claimants should know whether this is the case or not. As such, Claimants' objection to vagueness of time should be overruled.

Similarly, Claimants' objection that this request for admission seeks a legal conclusion or opinion should be overruled. The plain language of the question in no way asks Claimants to opine as to who owns the submerged lands at Claimants' point of diversion. Instead it asks a simple question of fact, whether they have ever received permission to have their works located at their point of diversion. To the degree Claimants believes this question may imply an issue of ownership, they should qualify their answer to clarify that while they have not received permission they deny such permission is necessary. Accordingly, the objection should be overruled and the answer should be allowed to stand on its own.

REQUEST FOR ADMISSION NO. 13

Request for Admission No. 13 asks Claimants to admit that "Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works." Aff. Counsel, Ex. 1, p. 8. Claimants objected to the Tribe's request for admission on the grounds that the terms "right" and "purpose of maintaining" are vague. *Id.* Claimants also objected on the grounds that the request sought a legal conclusion or opinion on "who owns the land at Claimants' point of diversion and the rights of Claimants to their diversion works.'" *Id.* Claimants went on to deny request for admission no. 13 "including any assertion that the Coeur d'Alene Tribe owns the land at Claimants' point of diversion. *Id.* at 9.

Claimants' vagueness objection should be overruled. Claimants do not explain why the term is vague, provide no possible alternative readings of the allegedly vague terms, and cite no precedent that would suggest the terms or similar terms have been found to be vague. The term "right" should not have to be specifically defined because it is a term of common usage. Right is defined in Black's Law Dictionary to mean "[s]omething that is due to a person by just claim, legal guarantee, or moral principle." BRYAN A. GARNER, BLACKS LAW DICTIONARY 623 (Pocket ed. 1996). The Tribe believes this definition to be clear and common and did not intend to use the term in any other way. Similarly, the phrase "purpose of maintaining" is not vague. By "maintain" the Tribe means to conduct maintenance on Claimants' diversion works. This would include things like repairs and routine maintenance of Claimants' pump, conduit, and other equipment that is part of the diversion works. All of these actions clearly, unambiguously,

and accurately fall under the more general term of "maintaining." The terms "right" or "purpose of maintaining" are not vague and therefore Claimants' objections should be overruled.

Likewise, Claimants' objection that this request for admission seeks a legal conclusion or opinion should be overruled. The plain language of the question in no way asks the Claimants to opine as to who owns the submerged lands at Claimants' point of diversion. Instead, the question simply asks whether Claimants believe they have some right to enter lands owned by the Coeur d'Alene Tribe as a general matter. Again, the purpose of these questions is to narrow the scope of issues to be litigated and the Tribe has a right to know if Claimants plan to assert some right to be on tribal lands in litigation so that it can prepare to address that issue. To the degree Claimants believe this question may imply an issue of ownership, they should qualify their answer rather than lodge an unnecessary objection. Accordingly, Claimants' objection should be overruled.

CONCLUSION

For the foregoing reasons, the Tribe requests this Court overrule Claimants' objections to the Tribe's discovery requests and to order certain matters admitted, and, where necessary, to further compel Claimants to fully and fairly respond to the Tribe's discovery requests.

Respectfully submitted this 15th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 18th day of April, 2016, a copy of the foregoing Motion to Compel and to Determine Adequacy of Answers or Objections was served on the following counsel of record and other entities via the method indicated below:

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Counsel for the Coeur d'Alene Tribe

RECEIVED
APR 19 2016
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 CSRBA Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S MOTION TO COMPEL

COMES NOW, Objector, the Coeur d'Alene Tribe ("Tribe"), and hereby moves this Court pursuant to I.R.C.P. 37(a) to overrule Claimants' objections and to compel Claimants to fully and fairly respond to *Objector's First Requests for Discovery to Claimants* served on February 5, 2016.

Claimants served their initial *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* on March 7, 2016. On March 28, 2016 *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery* were received.

The Tribe asserts that Claimants' objections, answers, and response to be unfounded or otherwise inadequate. This motion is supported by a memorandum of law and affidavit of counsel, filed concurrently with this motion, and are by reference, incorporated herein.

The undersigned hereby certifies in compliance with Rule 37(a)(2) that movant has in good faith conferred or attempted to confer with counsel for the Claimants in an effort to secure the disclosure without court action and that resolution of the matter has not occurred.

The Tribe therefore requests the Court set a hearing on this motion, to rule upon Claimants' objections to the Tribe's interrogatories and a request for production of documents, and to compel Claimants to fully and fairly answer said interrogatories and respond to the request for production of documents.

Pursuant to I.R.C.P. 37(a)(4), the Tribe seeks its reasonable expenses incurred in obtaining any such order, including attorney's fees.

THE TRIBE REQUESTS AND RESERVES ORAL ARGUMENT ON THIS MOTION.

Respectfully submitted this 15th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 16th day of April, 2016, a copy of the foregoing Motion to Compel was served on the following counsel of record and other entities via the method indicated below:

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Counsel for Respondent State of Idaho

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By: Marcella J. Harrison

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Counsel for the Coeur d'Alene Tribe

RECEIVED
APR 19 2016
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 CSRBA Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND DEEM CERTAIN MATTERS ADMITTED

COMES NOW, Objector, the Coeur d'Alene Tribe ("Tribe"), and hereby moves this Court pursuant to I.R.C.P. 36(a) to overrule Claimants' objections to the Tribe's requests for admission contained in *Objector's First Requests for Discovery to Claimants* and to order that certain matters be deemed admitted in the above-noted subcases.

Claimants served their initial *Claimants Steve and Deanne Hawks' Responses to Objector's First Requests for Discovery* on March 7, 2016. On March 28, 2016 *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery* were received.

The Tribe asserts that Claimants' objections, answers, and responses to be unfounded or otherwise inadequate. Once the Court rules on Claimants' objections to *Objector's First Requests for Discovery to Claimants*, the requests for admissions and Claimants' answers thereto speak for themselves, and Objector would ask the Court to deem certain matters admitted. This motion is supported by a memorandum of law and affidavit of counsel, filed concurrently with this motion, and are by reference, incorporated herein.

The undersigned hereby certifies in compliance with Rule 37(a)(2), that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action and that resolution of the matter has not occurred.

The Tribe therefore requests the Court set a hearing on this motion, to rule upon Claimants' objections to the Tribe's discovery requests and to order certain matters deemed admitted.

Pursuant to I.R.C.P. 37(a)(4), Objector seeks its reasonable expenses incurred in obtaining any such order, including attorney's fees.

THE TRIBE REQUESTS AND RESERVES ORAL ARGUMENT ON THIS MOTION.

Respectfully submitted this 15th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 19th day of April, 2016, a copy of the foregoing Motion to Determine Adequacy of Objections and Deem Certain Matters Admitted was served on the following counsel of record and other entities via the method indicated below:

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Counsel for the Coeur d'Alene Tribe

RECEIVED
APR 19 2016
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 CSRBA Case No. 49576	Subcase No.: 91-7102
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	OBJECTOR'S FIRST REQUESTS FOR DISCOVERY TO THE STATE OF IDAHO

To: RESPONDENT, State of Idaho, and its attorney of record, Steven Strack, Office of the Attorney General, State of Idaho, P.O. Box 83720, Boise, Idaho 83720-0010.

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

GENERAL INSTRUCTIONS

1. Scope of Discovery. These discovery requests are directed to the above-named CSRBA Claimant(s) and cover all information in its possession, custody and control, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on their behalf or otherwise subject to their control, and any merged, consolidated, or acquired predecessor or successor, parent, subsidiary, division, or affiliate.

2. Time Period. Unless otherwise indicated, these discovery requests apply to the time period from the priority date of the claim at issue in this litigation to the present.

3. Supplemental Responses. These document requests are continuing; supplemental documents must be provided pursuant to applicable civil discovery rules.

4. Deletions from Documents. Where anything has been deleted from a document produced in response to a document request:

a. specify the nature of the material deleted;
b. specify the reason for the deletion; and
c. identify the person responsible for the deletion.

5. Organization of Documents in Response. Documents submitted pursuant to a document request should be produced in the manner in which they are kept in the ordinary course of business and/or grouped and labeled according to the individual paragraph(s) of the document request. Within each group, the documents should be arranged, to the extent possible, in chronological order. If any document is responsive to more than one document request, you may provide a single copy indicating the requests to which it is responsive.

6. Document No Longer in Possession. If any document requested is no longer in the possession, custody, or control of the Claimant(s), state:

a. what was done with the document;
b. when such document was made;
c. the identify and address of the current custodian of the document;
d. the person who made the decision to transfer or dispose of the document; and
e. the reasons for the transfer or disposition.

7. Privilege as Applied to Document Production. If objection is made to producing any document, or any portion thereof, or to disclosing any information contained therein, on the basis of any claim of privilege, the Claimant(s) is requested to specify in writing the nature of such

information and documents, and the nature of the claim of privilege, so that the Court may rule on the propriety of the objection. In the case of documents, the Claimant(s) should state:

a. the title of the document;
b. the nature of the document (e.g., interoffice memorandum, correspondence, report, etc.);
c. the author or sender;
d. the addressee;
e. the date of the document;
f. the name of each person to whom the original or a copy was shown or circulated;
g. the names appearing on any circulation list relating to the document;
h. the basis on which privilege is claimed; and
i. a summary statement of the subject matter of the document in sufficient detail to permit the Court to rule on the propriety of the objection.

Upon the agreement of counsel, certain documents may be excluded from these requirements.

8. Singular/Plural. Words used in the plural shall also be taken to mean and include the singular. Words used in the singular shall also be taken to mean and include the plural.

9. "And" and "Or." The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

10. Reservation of Rights. The Coeur d'Alene Tribe ("Tribe") reserves all rights, including its sovereign immunity from suit. No part of this discovery request should be interpreted or construed as a waiver of tribal sovereign immunity or as an acknowledgement by the Tribe that any particular issue will be litigated in this subcase.

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 objection.

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

Unless otherwise indicated, the following definitions shall apply to these discovery requests:

1. "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.

2. "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.

3. "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.

4. "Coeur d'Alene Lake" or "Lake Coeur d'Alene" means the lake identified by the U.S. Supreme Court in the case Idaho v. United States, 533 U.S. 262 (2001) to which title was quieted in favor of the United States and Coeur d'Alene Tribe.

5. "Communication" means any transmittal or exchange of information (in the form of facts, ideas, inquiries or otherwise), whether oral, written, or electronic.

6. "Court" or "CSRBA Court" shall mean the Coeur d'Alene-Spokane River Basin Adjudication Court, District Court in and for Twin Falls County, Idaho, Hon. Eric Wildman, or his successor, presiding.

7. "Document" means all writings of any kind, including, without limitation, the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, bills of lading, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, governmental records, interoffice and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications), bulletins, printed matter, computer printouts, teletypes, telefax, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic, mechanical, or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), and all drafts, alterations, modifications, changes and amendments of any of the foregoing.

8. "Elevation" means the elevation in feet above mean sea level.

9. "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.

10. "Identify" or "identification of," when used to refer to an entity other than a natural person, requests the following information about the entity:
   d. Full name
   e. The present or last-known address of its principal office or place of doing business and the telephone number; and
   f. The type of entity (e.g., corporation, partnership, unincorporated association, municipality, etc.).

11. "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.

12. "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.

13. "Legal basis" means any source of law you assert supports your legal position including, but not limited to, case law, common law, the Constitution, statutes, executive orders, executive actions, and regulations.

14. "Legal description" means a formal description of real property complete enough that a particular piece of land can be located and identified.

15. "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.

16. "Objection" means the objection filed by the Tribe against Claimant(s) water rights in the above-encaptioned matter. If this term is used in any other context, it will be specifically noted where set forth herein.

17. "Objection" or "Objections" means the Objections filed by the Tribe to the Director's Report for the Claim in the subcase number captioned above.

18. "Ordinary High Water Mark" or "OHWM" means the presumed Ordinary High Water Mark of Coeur d'Alene Lake and the St. Joe River of 2128 feet elevation consistent with the holding of *In re Sanders Beach*, 143 Idaho 443 (2008).

19. "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.

20. "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."

21. "Relate to," "relating to," or "relates to" means constituting, defining, concerning, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

22. "Response to Objection" means the Standard Form 2 – Response to Objection filed by you, or your attorney on your behalf, and the language contained therein. If this term is used in any other context, it will be specifically noted where set forth herein.

23. "Right" means something that is due to a person by just claim, legal guarantee, or moral principle.

24. "Saint Joseph River" or "St. Joe River" means the river identified by the U.S. Supreme Court in the case *Idaho v. United States*, 533 U.S. 262 (2001) to which title was quieted in favor of the United States and Coeur d'Alene Tribe.

25. "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.

26. "Subject matter of this action" shall mean the facts and legal doctrines at issue and/or disputed in the Objection and Response(s) to Objection filed in the above-encaptioned matter.

27. "Submerged lands" and/or "bed and banks" shall mean the lands underlying the navigable waters of either Coeur d'Alene Lake or the St. Joe River.

28. "Tribe" and/or "Objector" shall mean the Coeur d'Alene Tribe.

29. "You" or "your" refers to: the State of Idaho and its agencies including, but not limited to, the Idaho Department of Water Resource and Idaho Department of Lands 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.

You are requested to file within thirty (30) days a written response to the following and to produce those documents for inspection and/or copying.

(a) Your written response shall state with respect to each item or category, that inspection-related activities will be permitted as requested, unless request is refused, in which event the reasons for refusal shall be stated. If the refusal relates to part of an item or category, that part shall be specified.

(b) In accordance, the documents shall be produced as they are covered in the usual course of business or you shall organize and label them to correspond with the categories in the request.

(c) These requests shall encompass all items within your possession, custody or control.

(d) These requests are continuing in character so as to require you to promptly amend or supplement your response if you obtain further material information.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the current exterior boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 3: Please admit that Respondent is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the current exterior boundary of the Coeur d'Alene Indian Reservation.

ANSWER:

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above mean sea level.

ANSWER:

REQUEST FOR ADMISSION NO. 7: Please admit that the St. Joe River at Claimants' point of diversion is navigable.

ANSWER:

REQUEST FOR ADMISSION NO. 8: Please admit that neither IDWR water permit no. 91-7102 nor IDWR water right license no. 91-7102 could have been initiated in trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 9: Please admit that in issuing IDWR water permit no. 91-7102 and/or IDWR water right license no. 91-7102, IDWR could not have authorized trespass.

ANSWER:

REQUEST FOR ADMISSION NO. 10: Please admit that neither IDWR water permit no. 91-7102 nor IDWR water right license no. 91-7102 authorize access to or across land not owned by Claimants.

ANSWER:

REQUEST FOR ADMISSION NO. 11: Please admit that, in Idaho, 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:

REQUEST FOR ADMISSION NO. 12: Please admit that the St. Joe River at Claimants' point of diversion is a natural water source.

ANSWER:

REQUEST FOR ADMISSION NO. 13: Please admit that IDWR can only issue water permits and/or licenses where the point of diversion is from a natural water source.

ANSWER:

INTERROGATORIES

INTERROGATORY NO. 1: 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. 2: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER:

INTERROGATORY NO. 3: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;
(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;
(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;
(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,
(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER:

INTERROGATORY NO. 4: If the Respondent asserts anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER:

INTERROGATORY NO. 5: 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. 6: Describe all facts which support the basis for your response in this subcase.

ANSWER:

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-13 and Interrogatories Nos. 1-6.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: Please produce pertinent documents in the State's possession, custody, and/or control that evidence the OHWM of Lake Coeur d'Alene and/or the St. Joe River.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories above.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: 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. 5: 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. 6: 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. 1-13 and Interrogatories Nos. 1-6.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: 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 your response in the above-captioned subcase.

RESPONSE:

Respectfully submitted this 15th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 15th day of April, 2016, a copy of the foregoing Objector's Second Requests for Discovery to Claimant(s) was served on the following counsel of record and other entities via the method indicated below:

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By: Marcella J. Harrison

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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 Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	AMENDED NOTICE OF HEARING FOR OBJECTOR'S MOTION TO COMPEL

TO: Claimants, Steve and Deanne Hawks, Respondents, North Idaho Water Rights Alliance, and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701

Respondent, State of Idaho, and its attorneys of record, Clive Strong and Steven Strack, Office of the Attorney General, State of Idaho, 700 W. State St., Second Floor, P.O. Box 83720, Boise, Idaho 83720-0010

The Clerk of the District Court of the Fifth Judicial District in and for Twin Falls County

Please take notice that a hearing has been set and will be held on Objector's *Motion to Compel*. Such hearing will be held before the Fifth Judicial District of the State of Idaho in and for the County of Twin Falls, Hon. Brigette Bilyeu, Special Master, presiding, 253 3rd Avenue North, Twin Falls, Idaho 83301, on the 11th day of May, 2016 at 9:00 a.m. (Pacific); 10:00 a.m. (Mountain) in the morning or as soon thereafter as such motion may be heard.

This amendment is being filed pursuant to a request to reschedule by opposing counsel due to a scheduling conflict.

Parties may participate by telephone for the above-noted motion hearing by dialing 1-720-279-0026 and when prompted enter guest code 476045#. Parties may also coordinate with the Idaho Department of Water Resources ("IDWR") for video teleconferencing ("VTC") at IDWR's locations in either Boise or Coeur d'Alene, Idaho. Such coordination is subject to IDWR's VTC availability.

Please participate as you deem appropriate.

Respectfully submitted this 25th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 25th day of April, 2016, a copy of the foregoing Amended Notice of Hearing was served on the following counsel of record and other entities via the method indicated below:

Norman Semanko
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Marcella Harrison
By: Marcella J. Harrison

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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 Case No. 49576	Subcase Nos.: 91-7102; 91-7173
Steve and Deanne Hawks, Claimant(s), v. Coeur d'Alene Tribe, a federally-recognized Indian Tribe, Objector.	AMENDED NOTICE OF HEARING FOR OBJECTOR'S MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND DEEM CERTAIN MATTERS ADMITTED

TO: Claimants, Steve and Deanne Hawks, Respondents, North Idaho Water Rights Alliance, and their attorneys of record, Norman Semanko and Sarah McCormack, of the firm, Moffatt, Thomas, Barrett, Rock & Fields, Chtd., 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701

Respondent, State of Idaho, and its attorneys of record, Clive Strong and Steven Strack, Office of the Attorney General, State of Idaho, 700 W. State St., Second Floor, P.O. Box 83720, Boise, Idaho 83720-0010

The Clerk of the District Court of the Fifth Judicial District in and for Twin Falls County

Please take notice that a hearing has been set and will be held on Objector's *Motion to Determine Sufficiency of Objections and Deem Certain Matters Admitted.* Such hearing will be held before the Fifth Judicial District of the State of Idaho in and for the County of Twin Falls, Hon. Brigette Bilyeu, Special Master, presiding, 253 3rd Avenue North, Twin Falls, Idaho 83301, on the 11th day of May, 2016 at 9:00 a.m. (Pacific); 10:00 a.m. (Mountain) in the morning or as soon thereafter as such motion may be heard.

This amendment is being filed pursuant to a request to reschedule by opposing counsel due to a scheduling conflict.

Parties may participate by telephone for the above-noted motion hearing by dialing 1-720-279-0026 and when prompted enter guest code 476045#. Parties may also coordinate with the Idaho Department of Water Resources ("IDWR") for video teleconferencing ("VTC") at IDWR's locations in either Boise or Coeur d'Alene, Idaho. Such coordination is subject to IDWR's VTC availability.

Please participate as you deem appropriate.

Respectfully submitted this 25th day of April, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By: Howard Funke
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 25th day of April, 2016, a copy of the foregoing Amended Notice of Hearing was served on the following counsel of record and other entities via the method indicated below:

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Counsel for Respondent State of Idaho

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Attorneys for Claimants Steve Hawks and Deanne Hawks

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 Case No. 49576	Subcase Nos. 91-7102 **NOTICE OF SERVICE OF CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY WITH CLAIMANT VERIFICATION**
Steve Hawks and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

NOTICE IS HEREBY GIVEN that on the 3rd day of April, 2016, the original of **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY WITH CLAIMANT VERIFICATION** and a copy of the **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following at the address shown below:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
(X) Facsimile

and true copies of the **CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY WITH CLAIMANT VERIFICATION** and **NOTICE OF SERVICE** were served by the method indicated below and addressed to the following:

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
(X) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
(f) Facsimile

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____ for Norman Semanko
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve Hawks
and Deanne Hawks

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Attorneys for Claimants Steve and Deanne Hawks

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 Case No. 49576	Subcase No. 91-7102 **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**
Steve and Deanne Hawks, Claimants, vs. Coeur d'Alene Tribe, a federally-recognized Indian tribe, Objector.	

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, and provide amended responses to Objector's First Requests for Discovery, which replace in total Claimants' previous Responses to Objector's First Requests for Discovery, dated March 7, 2016, as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the United States of America is the legal owner, and the Coeur d'Alene Tribe is the beneficial owner of the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Objection is made to Request for Admission No. 1 on the grounds that the term "exterior boundaries of the Coeur d'Alene Indian Reservation" is vague. Responding Claimants also object to this Request for Admission No. 1 because it seeks a legal conclusion or opinion regarding who owns "the submerged bed and banks of Coeur d'Alene Lake and the St. Joe River within the exterior boundaries of the Coeur d'Alene Indian Reservation." Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]itle is quieted in favor of the United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe own any submerged bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 2: Please admit that the United States of America, as the trustee, and the Coeur d'Alene Tribe, as the beneficially interested party of the

trusteeship, is entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Objection is made to Request for Admission No. 2 on the grounds that it seeks a legal conclusion or opinion regarding who owns "the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he United States, as trustee, and the Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, are entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the United States and the Coeur d'Alene Tribe are entitled to the exclusive use, occupancy, and right to the quiet enjoyment of the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 3: Please admit that the State if [sic] Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Objection is made to this Request for Admission No. 3 because it seeks a legal conclusion or opinion regarding the State of Idaho's right, title or interest "in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River within the current boundaries of the Coeur d'Alene Indian Reservation." Without

waiving this objection, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he State of Idaho is permanently enjoined from asserting any right, title or otherwise interest in or to the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the State of Idaho is permanently enjoined from asserting a right, title or interest in or to the bed and banks at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 4: Please admit that the Coeur d'Alene Tribe has the inherent right to exclude non-members of the Coeur d'Alene Tribe from tribally owned lands within the Coeur d'Alene Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Objection is made to Request for Admission No. 4 on the grounds that the terms "inherent right," "non-members," and "tribally owned lands within the Coeur d'Alene Reservation" are vague and that this Request is not reasonably calculated to lead to the discovery of any admissible evidence. Without waiving these objections, Claimants admit that in *United States v. Idaho*, 95 F. Supp. 2d 1094, 1117 (1998), the court stated the following: "[t]he Coeur d'Alene Tribe of Idaho, as the beneficially interested party of the trusteeship, [is] entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation." However, Claimants deny that the Coeur d'Alene Tribe has any right to exclude Claimants from the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 5: Please admit that the point of diversion for this claim is located within the exterior boundary of the Coeur d'Alene Indian Reservation.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Objection is made to Request for Admission No. 5 on the grounds that the term "exterior boundary of the Coeur d'Alene Indian Reservation" is vague. Without waiving this objection, Claimants admit that the point of diversion for this claim is located within the current boundary of the Coeur d'Alene Indian Reservation. However, Claimants deny that the United States and the Coeur d'Alene Tribe own the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 6: Please admit that the presumed OHWM for Coeur d'Alene Lake and the St. Joe River is 2128 feet above sea level.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Objection is made to Request for Admission No. 6 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur d'Alene v. Mackin (In re Ownership of Sanders Beach)*, the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 7: Please admit that the point of diversion and/or some or all of the diversion works at issue in the above-encaptioned matter is below the presumed OHWM of the St. Joe River.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Objection is made to Request for Admission No. 7 on the grounds that the term "presumed OHWM" is vague and without temporal context. Without waiving this objection, Claimants admit that in *City of Coeur*

d'Alene v. Mackin (In re Ownership of Sanders Beach), the court stated the following: "[t]he current OHWM of the Lake is 2128 feet" and "the OHWM of Lake Coeur d'Alene has been 2128 feet since 1907." 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny 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 further deny 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.

REQUEST FOR ADMISSION NO. 8: Please admit that the waters overlying the bed and banks at the location of Claimant(s)['] water diversion point are navigable.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Objection is made to Request for Admission No. 8 on the grounds that the term "navigable" is vague. Responding Claimants also object to this Request for Admission No. 8 because it seeks a legal conclusion or opinion regarding whether "the waters overlying the bed and banks at the location of Claimants' water diversion point are navigable." Without waiving these objections, Claimants admit that said waters are "navigable" according to Claimants' understanding of the definition in Idaho Code Section 36-1601 and the definition in 33 U.S.C. § 1362.

REQUEST FOR ADMISSION NO. 9: Please admit that under Idaho law the point of diversion for a water right is the point at which water is diverted from a natural water channel and put to beneficial use.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Objection is made to Request for Admission No. 9 on the grounds that it seeks a legal conclusion or opinion on what constitutes "the point of diversion for a water right" under Idaho law and is not reasonably

calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 10: Please admit that Claimant(s) did not have permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe at the time the diversion works were constructed for this claim.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Objection is made to Request for Admission No. 10 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague. Responding Claimants also object to this Request for Admission No. 10 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they did not have a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim. However, Claimants deny 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.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Objection is made to Request for Admission No. 11 on the grounds that the term "permission to encroach upon the submerged lands of the St. Joe River" is vague and the Request is vague as to time. Responding

Claimants also object to this Request for Admission No. 11 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants admit that they have never received a permit from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for Claimants' diversion works. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversionary works may have been constructed and further deny that any such permission was needed.

REQUEST FOR ADMISSION NO. 12: Please admit that under Idaho law a water right may not be initiated or maintained in trespass.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Objection is made to Request for Admission No. 12 on the grounds that it seeks a legal conclusion or opinion on initiating a water right and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same.

REQUEST FOR ADMISSION NO. 13: Please admit that the Claimant(s) does not have the right to enter the lands of the Coeur d'Alene Tribe for the purposes of maintaining his/her diversion works.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Objection is made to Request for Admission No. 13 on the grounds that the terms "right" and "purposes of maintaining" are vague. Responding Claimants also object to this Request for Admission No. 13 on the grounds that it seeks a legal conclusion regarding who owns the lands at Claimants' point of diversion and the rights of Claimants to their diversion works. Without waiving these

objections, Claimants deny the Request for Admission No. 13, including any assertion that the Coeur d'Alene Tribe owns the lands at Claimants' point of diversion.

REQUEST FOR ADMISSION NO. 14: Please admit that a decreed water right and/or an IDWR water permit or license does not authorize the holder of said right, permit, or license to trespass on the land of another for any purpose.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Objection is made to Request for Admission No. 14 on the grounds that the terms "IDWR water permit or license" and "for any purpose" are vague. Responding Claimants also object to this Request for Admission No. 14 because it seeks a legal conclusion or opinion on the rights of a water right holder and trespass under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving these objections, Claimants therefore deny the same, including any assertion that Claimants have trespassed or are trespassing on the land of another.

REQUEST FOR ADMISSION NO. 15: Please admit that under Idaho law riparian rights are limited to the right to maintain adjacency to navigable waters and to build or use aids to navigation but does not provide for any right to make any consumptive use of water or right of access for the appropriation of water.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Objection is made to Request for Admission No. 15 on the grounds that the term "right to maintain adjacency to navigable waters" is vague. Responding Claimants also object to this Request for Admission No. 15 because it seeks a legal conclusion or opinion on riparian rights under Idaho law and is not reasonably calculated to lead to the discovery of any admissible evidence because it seeks a legal conclusion. Without waiving the objection, Claimants therefore deny the same, including

any assertion that Claimants have no right to make any consumptive use of water or right of access for the appropriation of water.

INTERROGATORIES

INTERROGATORY NO. 1: If you deny any of the Requests for Admissions 1-15 above, please state the legal and/or factual basis of each denial, if any.

ANSWER NO. 1: See Responses to Request for Admission Nos. 1-15.

INTERROGATORY NO. 2: Please identify the legal basis which you intend to rely upon for support of your statements in your response to the Tribe's objection:

> "The U.S. did not reserve any other littoral or riparian rights in regard to the subject lands which are ordinarily attendant to waterfront property, including the right to access water, to wharfage, or to use the adjacent water. These rights are therefore appurtenant to and including [sic] with those waterfront lands sold by the U.S. and are subject only to State law regulation as provided by the Acts of Congress enabling the alienation of those lands."

ANSWER NO. 2: Objection is made to Interrogatory No. 2 on the grounds that the Claimants did not file the above-mentioned response to the Tribe's objection. Notwithstanding the objection, the response to the Tribe's objection speaks for itself.

INTERROGATORY NO. 3: Does the Claimant(s) hold an encroachment permit from the Coeur d'Alene Tribe for any purpose? If so, what is the encroachment type and Tribal permit number?

ANSWER NO. 3: Claimants' encroachment permits from the Coeur d'Alene Tribe, if any, are available to and held by the Tribe.

INTERROGATORY NO. 4: Before installing the diversionary works in the St. Joe River, did Claimant(s), or Claimant(s)['] predecessors in title request the permission of either the United States or Tribe to encroach upon the submerged lands of the St. Joe River?

ANSWER NO. 4: Objection is made to Interrogatory No. 4 on the grounds that the term "permission...to encroach upon the submerged lands of the St. Joe River" is vague and the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 4 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands of the St. Joe River." Without waiving these objections, Claimants did not request permission of either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River for the installation of their diversionary works. However, Claimants did not need such permission because the United States and the Coeur d'Alene Tribe do not own the land upon which the diversionary works may have been installed.

INTERROGATORY NO. 5: Please state the name, address, telephone number, and type of testimony, lay or expert, for any witnesses you may call at trial of this matter.

ANSWER NO. 5: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court. Claimants may call any and all of the individuals identified during discovery, to include, but not be limited to the following individuals:

a) Claimants Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829.

INTERROGATORY NO. 6: For each person listed as an expert witness above, please:

(a) State the subject matter on which the expert is expected to testify;

(b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

(c) Provide the facts, data or other information considered by the witness in forming his or her opinions;

(d) Note any exhibits to be used by the expert witness as a summary of or support for the opinions; and,

(e) Provide the qualifications of the witness, including a list of all publications (co)authored by the witness within the preceding ten (10) years, the compensation to be paid for the testimony, and a list of other cases in which the witness has testified as an expert at trial or by deposition within the four preceding years.

ANSWER NO. 6: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

INTERROGATORY NO. 7: Please describe the Claimant(s)['] diversion works and water system from the point of diversion to the place of use, including but not limited to, a description of all materials located in the water, the pump capacity (in gallons per minute), the conduit diameter(s) (in inches), any storage facilities on the property (and storage volume in gallons), and a description of the water conveyance on the property.

ANSWER NO. 7: Objection is made to Interrogatory No. 7 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents containing the information requested in Interrogatory No. 7 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional description of their

diversion works and water system, but reserve the right to supplement this answer in a timely manner.

INTERROGATORY NO. 8: If the Claimant(s) assert anyone other than the Coeur d'Alene Tribe owns the submerged lands underlying the claimant's point of diversion please list the name and contact information of such person or entity.

ANSWER NO. 8: Objection is made to Interrogatory No. 8 on the grounds that the Interrogatory is vague as to time. Responding Claimants also object to this Interrogatory No. 8 because it seeks a legal conclusion or opinion regarding who owns the "submerged lands underlying the claimant's point of diversion." Notwithstanding the objection, Claimants or the State of Idaho own the submerged lands underlying the Claimants' point of diversion. The name and contact information are as follows: Steve and Deanne Hawks, c/o Norman Semanko, Attorney at Law, 101 S. Capitol Blvd., 10th Floor, P.O. Box 829, Boise, Idaho 83701-0829; State of Idaho, c/o Attorney General's Office, P.O. Box 83720, Boise, ID 83720-0010.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce any documents you assert support your factual and/or legal basis in answering Requests for Admission Nos. 1-15 and Interrogatories Nos. 1-8.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection is made to Request for Production No. 1 on the grounds that it is vague and overly broad. Notwithstanding the objection, Claimants respond as follows: See documents previously produced or referenced and documents produced herewith.

REQUEST FOR PRODUCTION NO. 2: Please produce a true, accurate, correct, and admissible copy of the deed, or other document, by which you acquired title to your

property. If you acquired your property by operation of law, please produce any documents which evidence the factual basis of your acquisition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Exhibit A attached hereto.

REQUEST FOR PRODUCTION NO. 3: Please produce a true, accurate, correct, and admissible copy of any title insurance policy (with declarations page) covering the real property to which the water right claim at issue in this matter is appurtenant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Claimants do not have documents responsive to this request, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 4: Please produce a true, accurate, correct, and admissible copy of any available engineering/draftsman drawings, reports, or other documents related to your property's water-system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Objection is made to Request for Production No. 4 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 4 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional engineering/draftsman drawings, reports, or other documents related to Claimants' water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 5: Please produce a true, accurate, correct, and admissible copy of a scaled elevation-view (side-cut view) diagram of the diversion works at

issue in this case. On the diagram, please draw the OHWM and the ordinary low water mark. Please provide the elevation of the pump, the elevation of the high/low point of the water line, the length of the water line (in feet), and depth of pump (in feet below OHWM). Please provide the lowest elevation of the entire diversion works.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Objection is made to Request for Production No. 5 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 5, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 6: Please produce a true, accurate, correct, and admissible copy of a scaled plan-view (top view) diagram of the property and diversion works at issue in this case. On the diagram, please include all property boundaries, structures, pasture, yard, gardens, and other locations where water use is occurring. Please include the location of the St. Joe River, the location of all components of the diversion works, pump, and water line, and the location of all water conveyance systems on the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Objection is made to Request for Production No. 6 on the grounds that it is overly burdensome and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, the documented information requested in Request for Production No. 6, if any, is available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

REQUEST FOR PRODUCTION NO. 7: Please produce a true, accurate, correct, and admissible copy of photos showing the diversion works and water-system, including but not limited to the pump, water lines and/or piping, pump house, and irrigation system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Documents requested in Request for Production No. 7, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional photos showing the diversion works and water-system, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 8: Please produce a true, accurate, correct, and admissible copy of any deeds, surveys, plats, or other document which relates to the property at the location of your point of diversion. In this request the term "property" means land appurtenant to your point of diversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Documents requested in Request for Production No. 8 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Idaho Department of Water Resources' Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional deeds, surveys, plats, or other documents that relate to the property at the location of the Claimants'

point of diversion, but reserve the right to supplement this answer in a timely manner. See also Response to Request for Production No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce a true, accurate, correct, and admissible copy of any water withdrawal permit(s) and license(s) and/or encroachment permit(s) you may hold from the Idaho Department of Water Resources and/or the Idaho Department of Lands.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection is made to Request for Production No. 9 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 9, if any, are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and by public records request to the Idaho Department of Lands.

REQUEST FOR PRODUCTION NO. 10: Please produce all I.R.C.P. Rule 26 material for any witness listed or noted as an expert witness in your answer to Interrogatories Nos. 5 and 6 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Claimants are unsure, at this time, whom they may call as witnesses at the time of hearing. Claimants reserve the right to supplement this answer in a timely manner prior to hearing and pursuant to any trial schedule produced by the court.

REQUEST FOR PRODUCTION NO. 11: Please produce documents related to available water use data for the diversion works and/or the property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: Objection is made to Request for Production No. 11 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 11 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Claimants do not have possession, custody or control of any additional documents related to available water use data for the diversion works and/or the property, but reserve the right to supplement this answer in a timely manner.

REQUEST FOR PRODUCTION NO. 12: Please produce any documents related to other sources of water used by the Claimant(s) on the property and/or other claims made in the CSRBA by the Claimant(s) for other water rights appurtenant to the property and/or any additional water use permits or licenses acquired by the claimant since the commencement of the CSRBA for water use appurtenant to the property at issue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 12 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM.

REQUEST FOR PRODUCTION NO. 13: Please produce any other documents which may be relevant to, or support, Claimant(s)' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: Objection is made to Request for Production No. 13 on the grounds that it is overly broad and the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 13 are available in the Claimants' licensing file online on the Idaho Department of Water Resources' website at http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx and the Coeur d'Alene Spokane River Basin Adjudication claims database at http://www.srba.state.id.us/SREPT.HTM. Claimants do not have possession, custody or control of any additional documents which may be relevant to, or support, Claimants' water right claim, Objector's objection, and/or any responses to the objection which have been filed in this matter, but reserve the right to supplement this answer in a timely manner.

DATED this 25th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Norman M. Semanko – Of the Firm
Attorneys for Claimants Steve and Deanne Hawks

STATE OF IDAHO)
) ss.
County of Ada)

NORMAN M. SEMANKO, being first duly sworn, deposes and says:

He is the attorney for the Claimants Steve and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents thereof, and that the same are true to the best of his knowledge, information and belief.

Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 28th day of March, 2016.

KATHLEEN MENASCO NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires 10/09/2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
Facsimile (208) 667-4695

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
[redacted]

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 83720
Boise, ID 83720-0010

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Norman M. Semanko

EXHIBIT A

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Monk & Wolff, P.A.
722 Main Avenue
St. Maries, Idaho 83861

91-7102
Lot 4

Instrument # 289173
BENEWAH COUNTY
5/30/2014 08:28:16 No. of Pages: 8
Recorded for: MORRIS AND WOLFF PA
DEANNA BRAMBLETT
Ex-Officio Recorder Deputy
Fee: 22.00

(Space Above For Recorder's Use)

DEED OF DISTRIBUTION SUBJECT TO A LIFE ESTATE

THIS DEED is made and executed by Dennis Hawks, as Personal Representative of the ESTATE OF M.L. LORENE PERKINS, hereinafter referred to as the ("Grantor"), to BRANDON PERKINS, a married man dealing in his sole and separate property, with an address at 155 NW Woodbrook Drive, Grants Pass, Oregon 97526, hereinafter referred to as the ("Grantee").

WHEREAS, Grantor is the qualified Personal Representative of said Estate, filed as Probate Case Number CV 2013-317 in Benewah County, Idaho;

WHEREAS, Grantee is entitled to distribution of the hereafter described real property;

THEREFORE, Grantor quitclaims, transfers, and conveys to Grantee the following described real property in Benewah County, Idaho:

Lot 4, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 136175 records of Benewah County, Idaho.

And.

Lot 5, Block 2, Sylvia's Haven, according to the recorded plat thereof, Benewah County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 136175 records of Benewah County, Idaho.

DEED OF DISTRIBUTION - 1



And

Lot 6, Block 2, Sylvia's Haven, according to the recorded plat thereof, Bonneville County, Idaho.

TOGETHER WITH any water rights that may be conveyed by that certain Water Agreement and Easement dated April 29, 1982 and recorded July 8, 1982 as Instrument No. 156175 records of Bonneville County, Idaho.

And

That part of LOT 9, BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144818, recorded December 8, 1958, records of Bonneville County, Idaho; situated in the SE¼ section 7, Township 4S North, Range 2 West, Boise Meridian, Bonneville County, Idaho; more particularly described as follows:

COMMENCING at the Northwest corner of LOT 9, BLOCK 1 of said Plat, monumented with a drill steel;

thence South 1°14'51" East, 40.26 feet (of record as South 1°12'00" East and South 1°12'00" West) along the Westerly line of said LOT 9 to an iron rod, ½ inch diameter, with a plastic cap marked PLS 703;

thence leaving said Westerly line, South 84°47'09" East, 152.13 feet (of record as South 85°48'00" East, 152.00 feet) to an iron rod, ½ inch diameter, with a plastic cap marked PLS 703;

thence South 0°49'26" East, 49.95 feet (of record as South 1°12'00" East, 47.00 feet) to an iron rod, ½ inch diameter, with a plastic cap marked PLS 703;

thence South 85°45'10" East, 125.93 feet (of record as South 86°11'15" East, 124.00 feet) to an iron rod, ½ inch diameter, with a plastic cap marked PLS 703, the POINT OF BEGINNING;

thence South 4°47'17" East, 98.11 feet (of record as South 5°12'00" East, 96.00 feet) to a point on the northerly right-of-way line of STATE HIGHWAY No. 3, said point monumented with an iron rod, ½ inch diameter, with a plastic cap marked PLS 703;

thence South 82°08'43" East, 161.33 feet (of record as 161.00 feet) along said northerly right-of-way line to a drill steel;

thence South 82°00'29" East, 49.96 feet (of record as South 82°30'00" East) along said northerly right-of-way line to a point on the centerline of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 124157, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, ⅝ inch diameter, with a plastic cap marked PLS 8786;

thence North 48°36'42" West, 160.72 feet (of record as North 48°18' West) along said centerline, and leaving said northerly right-of-way line, to an iron rod, 30 inches long, ⅝ inch diameter, with a plastic cap marked PLS 8786;

thence North 85°45'10" West, 87.60 feet, and leaving said centerline, to the POINT OF BEGINNING.

And

These parts of LOTS 5, 8 and 9, all in BLOCK 1, SYLVIAS HAVEN, according to the plat on file as Instrument No. 144645, recorded December 9, 1963, records of Bonneville County, Idaho and that part of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, all situated in the E1/2, section 7, Township 4S North, Range 3 West, Boise Meridian, Bonneville County, Idaho, more particularly described as follows:

COMMENCING at the Southeast corner of said LOT 8, monumented with a drill steel;

thence North 0°03'18" West, 187.29 feet (of record as North 1°08' West, 187.29 feet and North 1°08:00" West) along the East line of said LOT 8, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766, the POINT OF BEGINNING;

thence North 88°57'18" West, 30.96 feet (of record as West, 30.98 feet), and leaving said East line to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence South 0°03'18" East, 99.96 feet (of record as South 1°08' East, 99.98 feet) to a point on the northeasterly right-of-way line of that certain roadway vacated by an ORDER OF VACATION, recorded as Instrument No. 129197, on April 9, 1974, records of said County, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence South 44°21'18" West, 20.00 feet, and leaving said northeasterly line, to an iron rod, 30 inches long, 5/8 inch diameter, with an aluminum cap, 2 inches diameter, marked WITNESS CORNER, PLS 8766;

thence continuing South 44°21'18" West, 5.00 feet to a point on the centerline of said vacated roadway, which is witnessed by the aforementioned monument;

thence traversing said centerline, as follows:

North 45°39'42" West, 66.78 feet (of record as North 46°18' West) to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 8766;

thence North 65°45'10" West, 87.60 feet, and leaving said centerline, to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence continuing North 65°45'10" West, 123.83 feet (of record as North 65°11'00" West, 124.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 1°40'56" West, 46.98 feet (of record as North 1°12'00" West, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 84°47'52" West, 162.15 feet (of record as North 85°11'00" West, 162.01 feet) to a point on the West line of said LOT 9, said point monumented with an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence North 1°14'51" West, 40.32 feet (of record as North 1°12'00" West and North 1°12:00" East) along said West line to the Northwest corner of said LOT 9, said corner monumented with a drill steel;

LIST OF DISTRIBUTION - 3

thence North 88°08'45" East, 54.77 feet (of record as North 87°55' East, 54.77 feet) along the North line of said LOT 9 and an easterly extension of said North line, and leaving said West line, to a point on the centerline of said vacated roadway, said point monumented with an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence traversing said centerline, as follows:

North 70°29'35" East, 107.75 feet (of record as North 70°04' East, 107.65 feet), and leaving said North line extended, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 40°29'36" East, 130.58 feet (of record as North 40°08' East, 130.46 feet) to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 74°12'42" East, 150.90 feet (of record as North 73°49' East, 150.48 feet) to a point on the westerly extension of the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter with a plastic cap marked PLS 6766;

thence South 88°24'28" East, 72.00 feet (of record as South 87°55' East) along said westerly extension, and leaving said centerline, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 7°00'00" West, 14.50 feet, and leaving said westerly extension, to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence North 83°00'00" East, 28.80 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 7°00'00" East, 19.74 feet to a point on the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

thence South 88°24'28" East, 71.92 feet (of record as South 87°55' East) along said North line to the Northeast corner of said LOT 8, said corner monumented with a drill steel;

thence South 0°55'57" East, 150.49 feet (of record as South 1°06' East and South 1°06'00" East) along the East line of said LOT 8, and leaving said North line, to an iron pipe, 1 inch diameter;

thence South 0°03'18" East, 78.51 feet (of record as South 1°06' East and South 1°06'00" East) continuing along said East line, to the POINT OF BEGINNING.

SUBJECT TO A LIFE ESTATE GRANTED TO JEANNE HAWKS AND STEVE HAWKS, HUSBAND AND WIFE, WHOSE ADDRESS IS 39281 HWY 3 N, ST. MARIES, BENEWAH COUNTY, IDAHO 83861, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP.

This conveyance shall include any and all appurtenances, estate, right, title, interest, tenements, hereditaments, reversions, remainders, easements, rents, issues, profits, rights-of-way and water rights in anywise appertaining to the property herein described, as well in law as in equity.

DATED this 30th day of July, 2014.

ESTATE OF JILL LORENE PERKINS

Deanne Hawks, Personal Representative

STATE OF IDAHO)
: ss.
County of Benewah)

On this 30th day of July, 2014, before me, a notary public, personally appeared Deanne Hawks, known to me to be the person whose name is subscribed to the within instrument as Personal Representative of the ESTATE OF JILL LORENE PERKINS, and acknowledged to me that she executed the same as such personal representative.

TINA J. RHODES
NOTARY PUBLIC
STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at
My Commission Expires 11/2/2014

DEED OF DISTRIBUTION - 5

STATE OF IDAHO)
) ss.
County of Benewah)

STEVE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.

Steve Hawks
Steve Hawks

SUBSCRIBED AND SWORN to before me this 30th day of April, 2016.

JAMES C. MINSER NOTARY PUBLIC STATE OF IDAHO

James C Minser
NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires April 7, 2020

Client:4140425.1

STATE OF IDAHO)
) ss.
County of Benewah)

DEANNE HAWKS, being first duly sworn, deposes and says:

I have read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, know the contents thereof and that the same are true to the best of my knowledge, information, and belief.

Deanne Hawks

SUBSCRIBED AND SWORN to before me this 30th day of April, 2016.

JAMES C. MINSER NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC FOR IDAHO
Residing at St. Maries
My Commission Expires Apr. 17, 2020

Client:4140425.1

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 91-07102

Priority: July 22, 1988

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume:[1] 0.6 AF

This is to certify, that STEVE HAWKS
RT 2 BOX 86
ST. MARIES, ID 83861 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 22, 1988; and has submitted Proof of Beneficial Use on October 19, 1988. An examination indicates that the works have a diversion capacity of .020 cfs of water from:

ST. JOE RIVER tributary to **COEUR D ALENE LAKE**

source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
DOMESTIC	03/15 to 11/15	0.02 CFS	0.6 AF

LOCATION OF POINT(S) OF DIVERSION: LOT 7(NESE), Sec. 7, Township 46N, Range 02W
BENEWAH County

PLACE OF USE: DOMESTIC

TWN	RGE	SEC	
46N	02W	7	LOT 7(NESE)

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Domestic use is for irriagation of lawn & garden.

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JUL 30 1990

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 91-07102

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 20TH day of July, 1990.

Acting for R. Keith Higginson, Director

MICROFILMED
JUL 30 1990

Form 202
6/85

Ident. No. 91-07102

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Steve Hawks Phone 245-2403

   Post office address Rt. 2 Box 86 St. Maries, Id. 83861

2. Source of water supply St Joe River which is a tributary of Coeur d'Alene Lake

3. Location of point of diversion is NE ¼ of NE ¼ of SE ¼, Govt. Lot 1

   Sec. 7 Township 46N Range 2W B.M. Benewah County; additional

   points of diversion if any: _____

4. Water will be used for the following purposes:

   Amount 0.02 (cfs ~~or acre-feet per annum~~) for Domestic garden watering purposes from 1 MAR to 1 Dec (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated is (a) 0.02 cubic feet per second and/or (b) _____ acre feet per annum

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. 1¼" pipe through culvert to canal

   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.

   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

   d. Is ground water with a temperature of greater than 90°F being sought? _____

7. Time required for the completion of the works and application of the proposed beneficial use is 1 years (*minimum 1 year*).

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DEC 27 1988

8. Description of proposed uses (*if irrigation only, go to item 9*):

a. Hydropower; show total feet of head and proposed capacity in KW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. _____

_____

_____

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 the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
46N	2W	7													D				~~.35~~

Total number of acres to be irrigated ~~.35~~

10. Describe any other water rights used for the same purposes as described above. Drinking water from well I am ¼ partner

11. a. Who owns the property at the point of diversion? Cyril Chase

b. Who owns the land to be irrigated or place of use? Steve Hawks

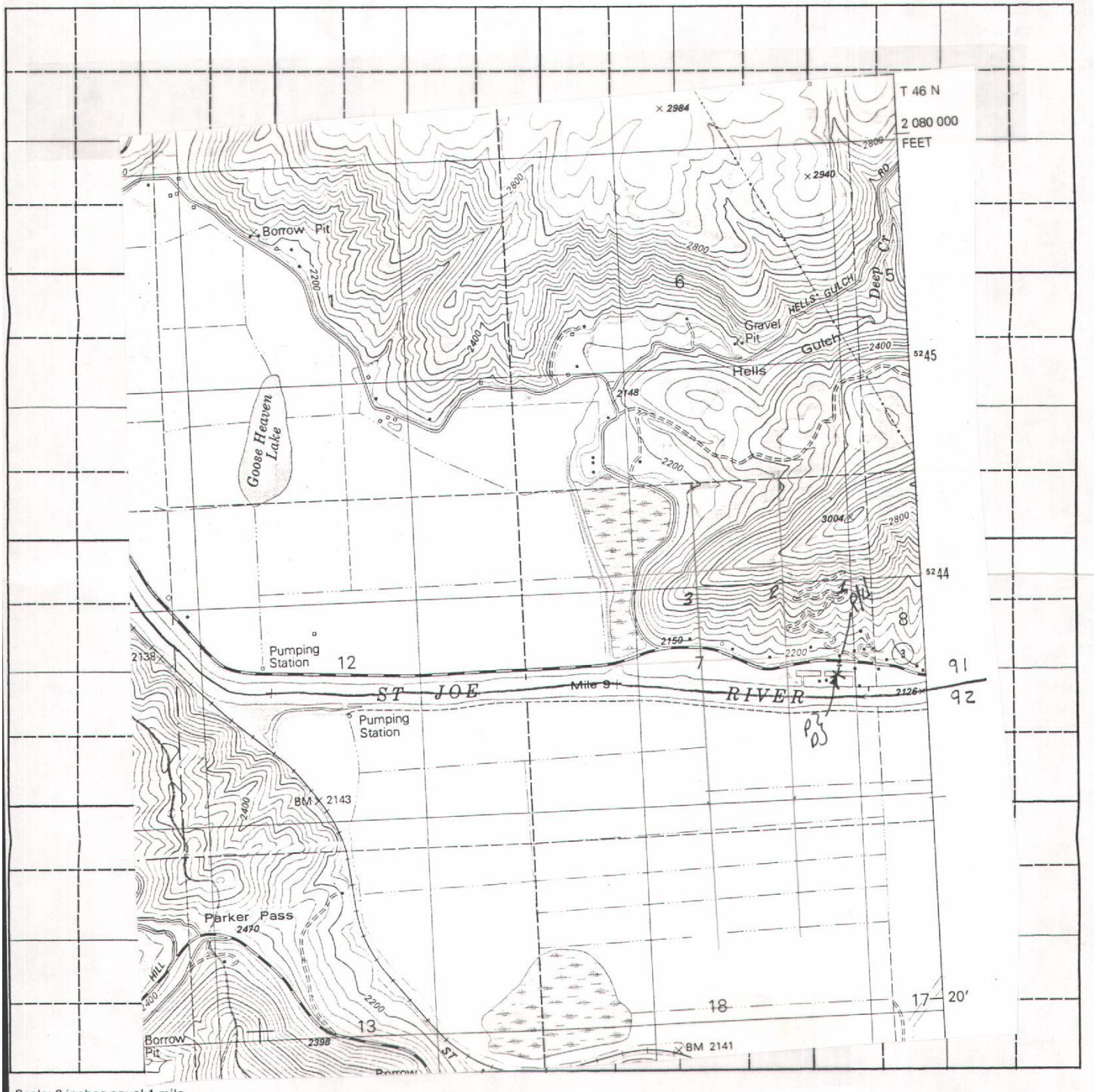
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

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DEC 21 1988

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



Scale: 2 inches equal 1 mile.

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DEC 27 1988

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.

Steve Hawks
(Applicant)

Proposed Priority 7/22/88

Received by KK Date 7/22/88 Time 1:00 PM Preliminary check by JK

Fee $ 30.00 Receipted by JK # N 741 Date 7/20/88

Publication prepared by [signature] Date 8/16/88 Published in 8/17 & 24/88 Mt. Home Bulletin

Publication approved [signature] Date 8/29/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 91-7102, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 19 89.

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

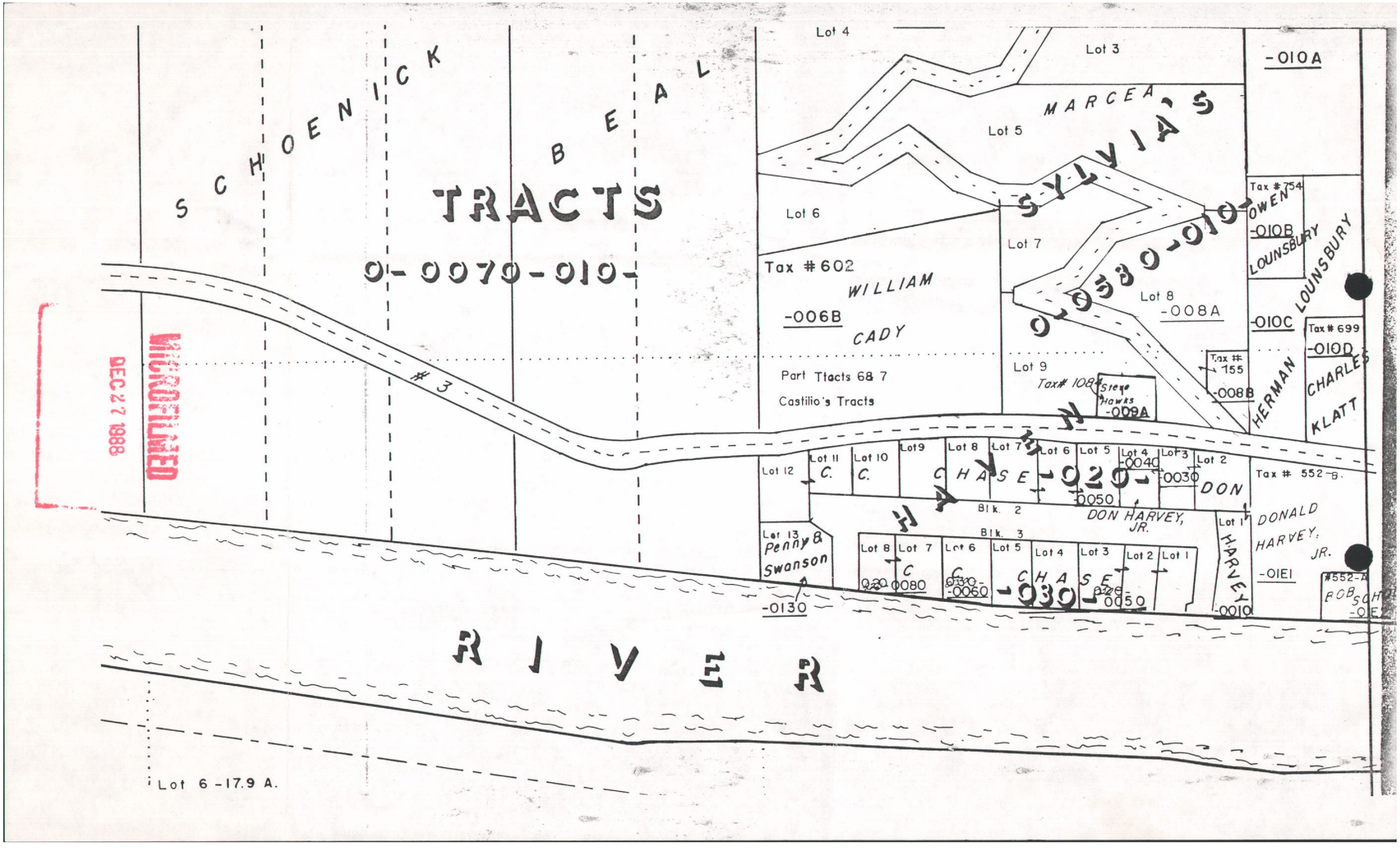
   d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

   e. Other: The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Witness my hand this 6th day of October, 1988.

for [signature]
Director

MICROFILMED
DEC 27 1988


SCHOENICK
BEAL
TRACTS
0-0070-010-
Lot 4
Lot 3
-010A
MARCEA
Lot 5
SYLVIA'S
Lot 6
Tax #602
WILLIAM
-006B
CADY
Part Ttacts 6& 7
Castilio's Tracts
Lot 7
0-0080-010-
Lot 8
-008A
Tax #754
OWEN
-010B
LOUNSBURY
-010C
LOUNSBURY
Tax #699
-010D
CHARLES
KLATT
HERMAN
Tax # 155
-008B
Lot 9
Tax# 108
Steve Hawks
-009A
#3
Lot 12
Lot 11 C.
Lot 10 C.
Lot9
Lot 8
Lot 7
Lot 6
Lot 5
Lot 4
-0040
Lot3
Lot 2
CHASE
0-0050-
-0030
DON
Tax # 552-B
Blk. 2
DON HARVEY, JR.
Lot 1
DONALD HARVEY, JR.
-010E1
Lot 13
Penny & Swanson
-0130
Blk. 3
Lot 8
Lot 7
Lot 6
Lot 5
Lot 4
Lot 3
Lot 2
Lot 1
C
0080
0070-
-0060
CHASE
0-0050-
HARVEY
-0010
#552-A
ROB SCHO
-01E
RIVER
Lot 6 -17.9 A.
MICROFILMED
DEC 27 1988

Hawks 0941

RECEIVED
JUN 27 1990
Department of Water Resources

SENIOR AGENT REVIEW

Check List
for
Beneficial Use Field Report

Permit 91-07102

A. GENERAL INFORMATION
- ✓ 1. Name and address are most current available. (Check BU statement)
- ✓ 2. Exam Date
- ✓ 3. Source (Check Permit)

B. OVERLAP REVIEW
- ✓ 1. & 2. (Rule 5,1,4)

C. SYSTEM DESCRIPTION
- ✓ 1. Diversion System Diagram (Rule 5,1,3 / 5,1,4)
- ✓ 2. USGS (Rule 5,1,7 / 5,1,9) Aerial (Rule 5,1,17)
- ✓ 3. Word Picture (Rule 5,1,3 / 5,1,4)
- ✓ 4. Diversion (Rule 5,1,3)
- ✓ 5. Compare with USGS Map, Land Survey Maps, Aerial Photos and Permit.
- ✓ 6. Irrigation (Rule 5,1,8)

D. FLOW MEASUREMENTS Check math (Rule 5,1,13 / 5,1,14)

E. FLOW CALCULATIONS Check math (Rule 5,1,13 / 5,1,14)

F. OPTIONAL

G. VOLUME CALCULATIONS
- ✓ Three significant figures and no more than 1/10's (Rule 6,1,2)
- Fish (Rule 5,1,11) number stock, homes, etc... (Rule 5,1,12)

H. REMARKS AND OVERLAP ANALYSES
- ✓ All actual uses listed; all permitted uses not used, also listed; (Rule 5,1,2):
- ✓ Overlaps (Rule 5,1,4):
- ✓ Return flows (Rule 5,1,5):
- ✓ Conditions (Rule 5,1,6).

I. RECOMMENDATIONS
- ✓ 1. Municipal (Rule 5,1,10): Compare with items E & G, permit, fee, capacity (Rule 5,1,15): Measured flows for each use listed separately (Rule 5,1,14). Period of year (Rule 5,1,13)
- ✓ 2. Compare permit to exam for amendments (Rule 5,1,16)

J. AUTHENTICATION
- ✓ Name, Signature, Certification Date, Exam Date.

WELL INSPECTION REPORT
- ✓ Check with permit and well log for discrepancies

Signature JHK Date 8/29/89

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT SUPPLEMENT

C O N T E N T S

( ) B/U Acknowledgment Letter Sent

This Examination Report Contains the Following Documents.

(✓)Field Report (✓)Quad Sheet (✓)Gov. Lot Plat (✓)Rules Check list

( )Aerial Photo ( )Photo PD/PU ( )Well Log

Number of Diagrams Attached _____ Number of Calculation Sheets Attached _____

( ) Correspondence (Date) _____

( ) Other (List) _____



Contacts:

Remarks: The PD

Exam Completed By Doris Dahl Date 8/8/89

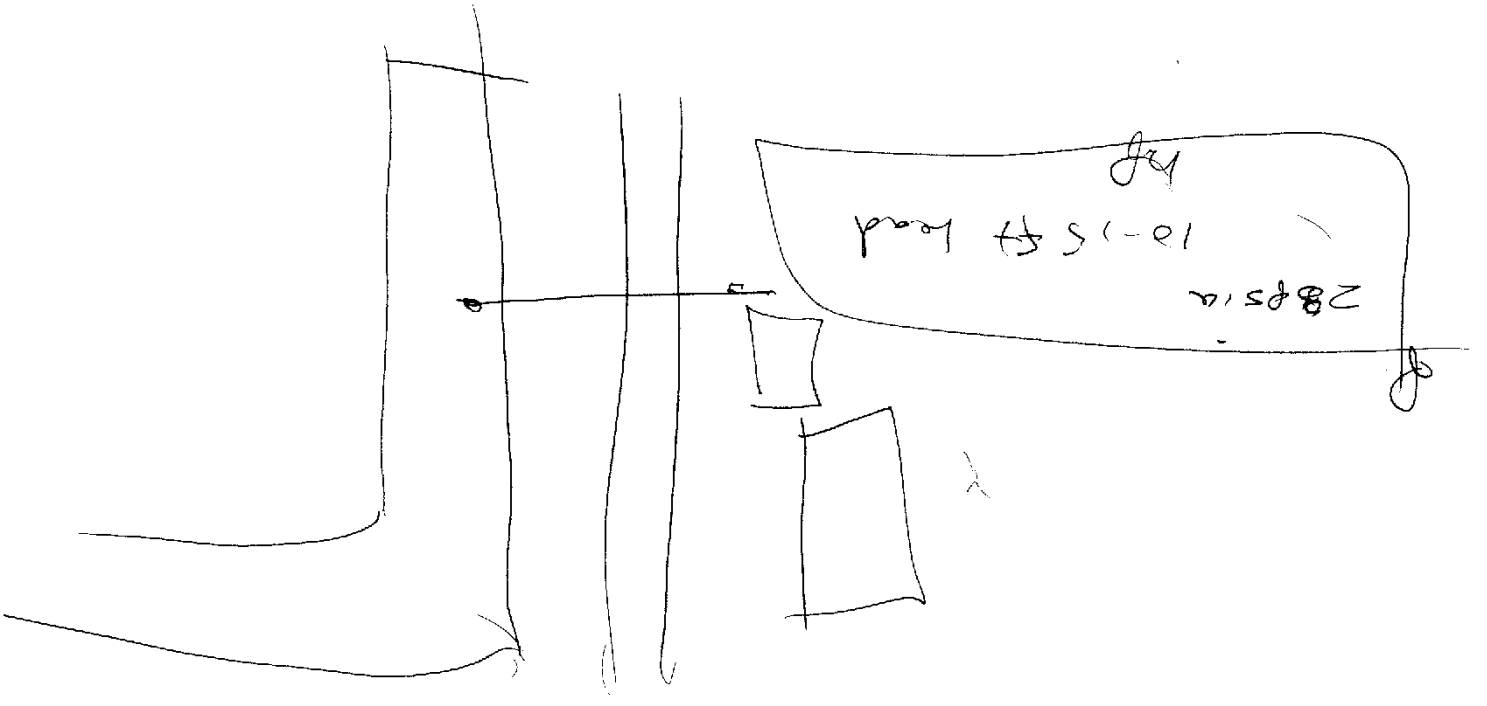
Sr. Agent Review _____ Date _____

Regional Manager Review _____ Date _____

MICROFILMED
JUL 30 1990

PERMIT NUMBER

91-07102



Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

RECEIVED
JUN 27 1990
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 91-7102

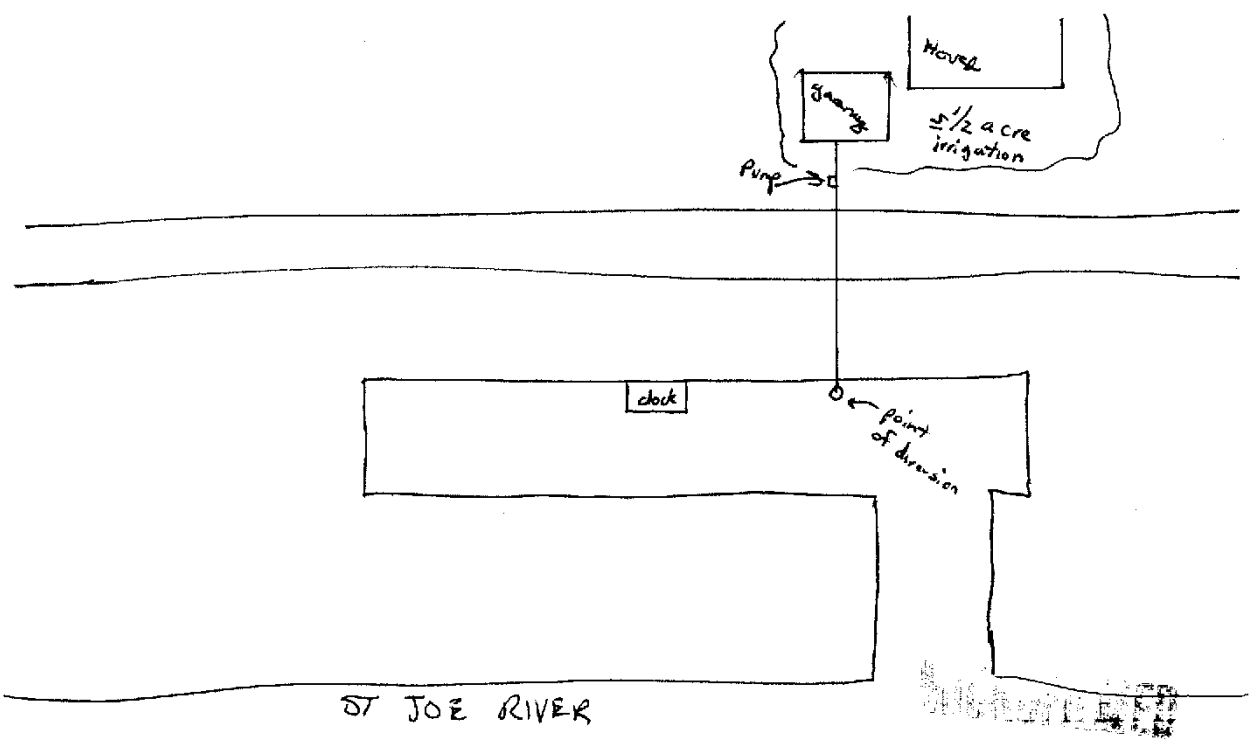
1. Owner: Steve Hawks Phone No. 245-2403
   Current Address: Rt 2 Box 86 St. Maries, Id 83861
2. Accompanied by: Mrs. Hawks EXAM. DATE: 7/26/89
   Address: Same Phone No. Same
   Relationship to Permit Holder: wife
3. Source: St. Joe River tributary to Coeurd'Alene Lk.

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE
   ☐ Copies Attached
2. Other water rights with same point of diversion: NONE
   ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = NTS.

2. ☐ Copy of U.S.G.S. Quadrangle Attached
   Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☐ Aerial Photo Attached
   (required for irrigation of 10 acres or more).
   ☐ Photo of Diversion and System Attached
   (required for all but single household domestic groundwater, and stockwater.

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Pick up in private bay with 1½" black pvc pipe across under road to ½ hp pump. Water is the distributed through hoses and sprinklers.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	TEEL	½	?	?	1"

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

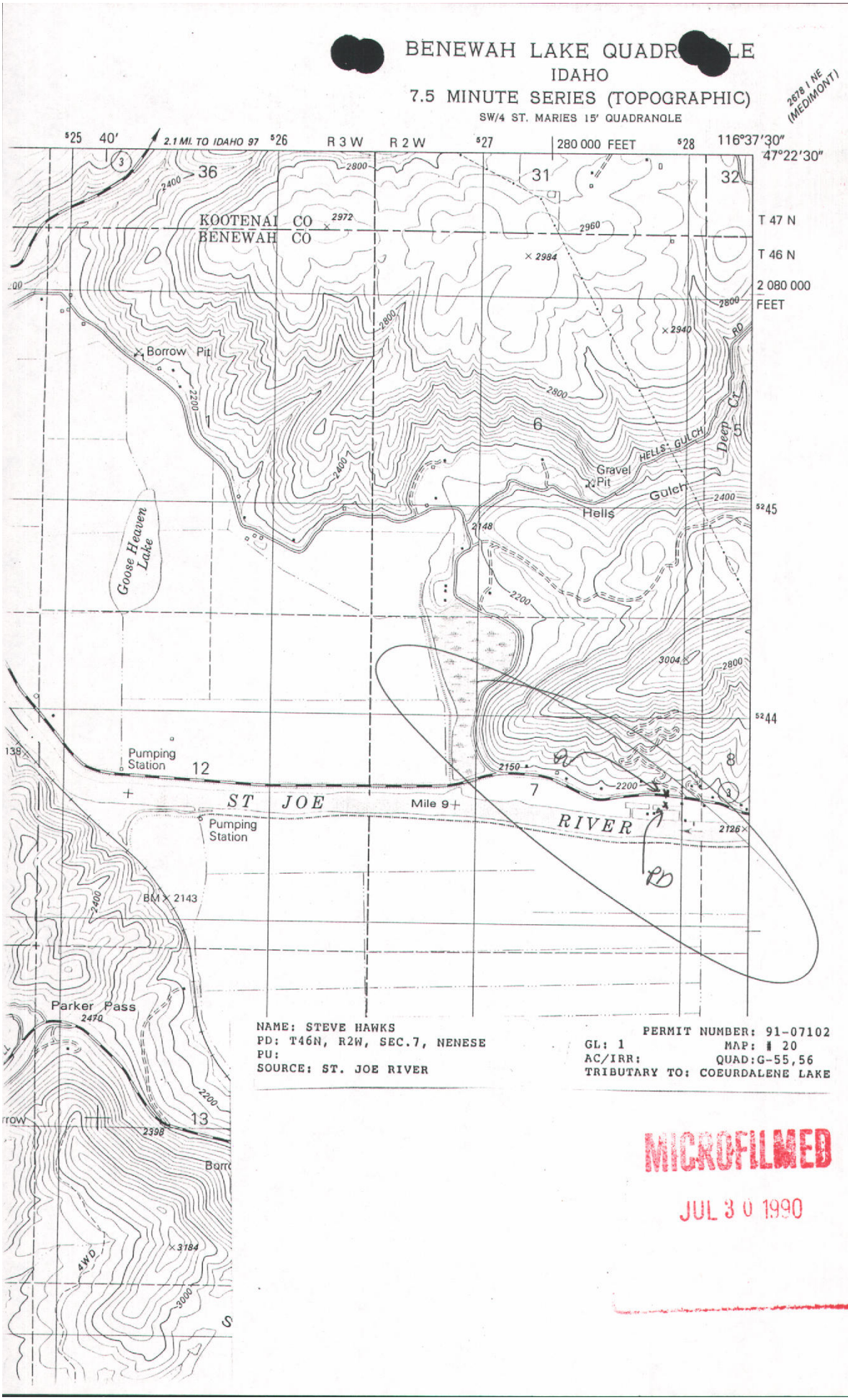
5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
	7	NE	NE	SE	7	46N	2W	Benewah	Map

6. **Place(s) of Use:** Indicate Method of Determination Map

Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
46N	2W	7													40				

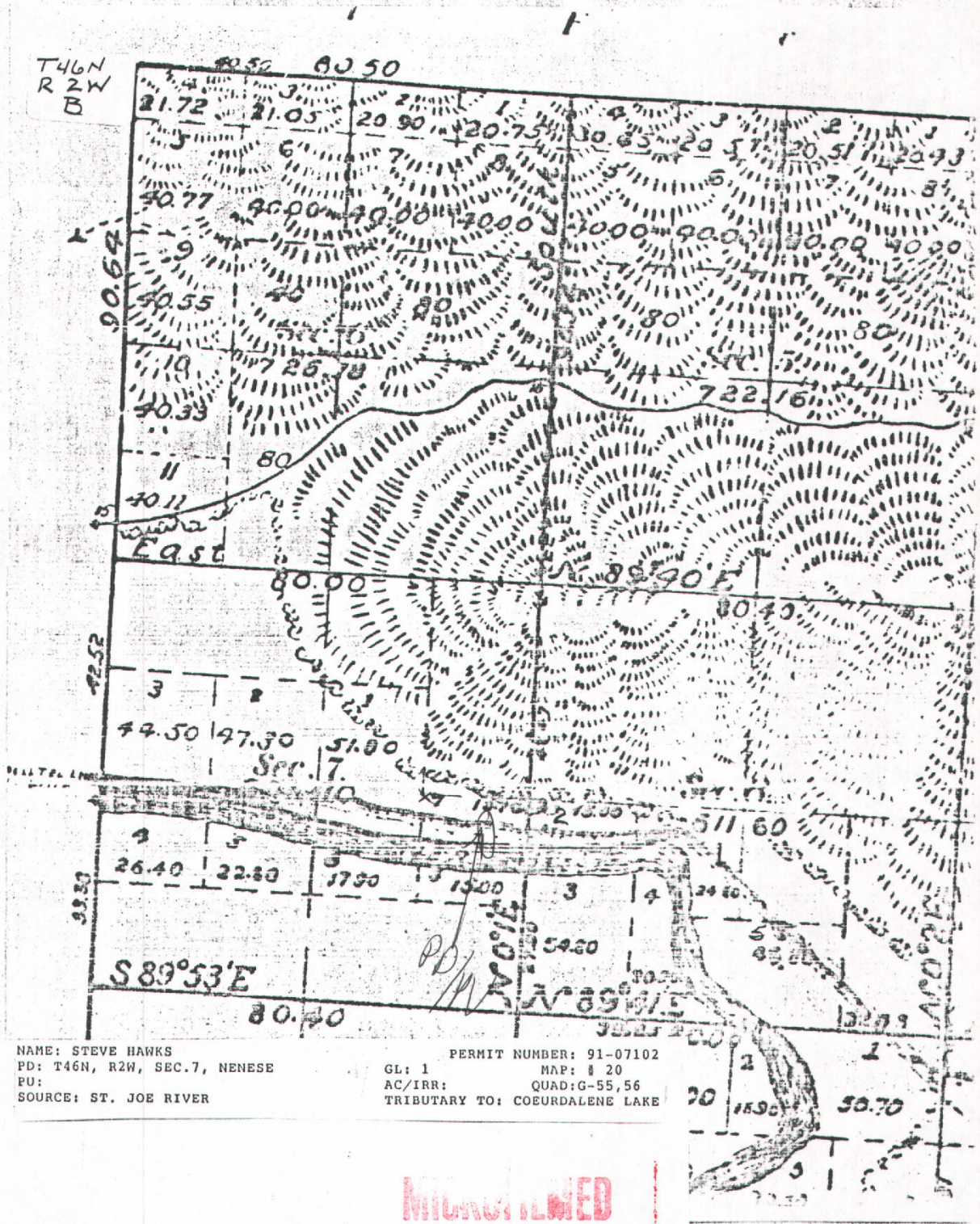
Do not use this space



NAME: STEVE HAWKS
PD: T46N, R2W, SEC.7, NENESE
PU:
SOURCE: ST. JOE RIVER

PERMIT NUMBER: 91-07102
GL: 1 MAP: # 20
AC/IRR: QUAD:G-55,56
TRIBUTARY TO: COEURDALENE LAKE

MICROFILMED
JUL 3 0 1990



RECEIVED

JUL 30 1990

Do not use this space

D. FLOW MEASUREMENTS

NONE ☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. **Measurements:**

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method: $Q = \frac{8.8(.7)(\frac{1}{2})}{2.3(28)+30} = .033$ cfs 28 psi 30

2. Alternate Method for Checking Purposes: limited to .02 by application

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) : Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = _____

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = _____

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

2. Volume Calculations for Other Uses:

Domestic (.2 af a yr) 1 Home

JUL 8 1999

H. **REMARKS AND OVERLAP REVIEW ANALYSIS**

Domestic Irrigation was all that was found.

I. **RECOMMENDATIONS**

1. **Recommended Amounts**

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Domestic	3/15	11/15	0.02 cfs	0.6 afa
Totals:			0.02 cfs	0.6 afa

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

J. **AUTHENTICATION**

Field Examiner's Name: Louis Sukoraty

Signature: [signature]

Certification Date: 2/17/89

Field Report Preparation Date: 2/26/89

REGISTERED PROFESSIONAL ENGINEER 2346 STATE OF IDAHO ROBERT G. HAYNES

CONSULTANT

K. **Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.**

1/88

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 91-7102 Date: 10/21/88

General Considerations:
- Y Name same as permit
- Y Signature the same as permit holder
- N Address change _____ If yes, prepare a data entry
- Y Proof received timely
- _____ Reinstated

Source of Water:
- Y Surface water
- _____ Groundwater
  - _____ 1. well log in file
  - _____ 2. drilling permit
    - _____ A. amount of drilling fee paid for proposed uses

Extent of Use and Rate of Diversion:
- Y Rate of diversion appropriate for uses
  - Y Is rate or volume and fee appropriate?
- Y Has permit holder indicated when water was first put to a beneficial use?

Measuring Device:
- Is a measuring device or access port required?
- N/A Has one been installed?
- Waiver or modification of measuring device requested

Remarks:

Proof acceptable

N/A Priority Calculation:

Date proof received	_____	_____
Date proof due	_____	-_____
No. of days late		=_____
Priority date	_____	+_____
NEW PRIORITY DATE	_____	=_____

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

Form 217
03/86

RECEIVED
OCT 19 1988
No Fee.
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received _____
Date _____
Receipt # _____
Receipt by _____
Reviewed by SS
Sent to region ____

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 91-07102

Name(s) of Permit Holder: Steve Hawks

Post Office Address: Rt. 2 Box 86 St. maries, Idaho 83861

Telephone No. 245-2403

Source of Water: St. Joe River

Extent of Use:

Domestic 1 (number of households) Stockwater _____ (number and type of stock)

Irrigation _____ (acres) Other/Remark _____

Total rate and/or volume for which proof is submitted 0.02 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: 7-26-88

Measuring Device: Required? __ Yes X No
Installed? __ Yes __ No

Fee enclosed $_____
(See License Examination Fee Schedule)

Flow Measurement Port: Required? __ Yes X No
Installed? __ Yes __ No

Person to contact to accompany the Department representative during the field examination:

_____
(Name) (Telephone Number)

_____
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

10-15-88
Date

Steve Hawks M^cM
Signature of Permit Holder (and title, if appropriate)

Form No. 202a.
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: JK DATE: 7/26/89 APPLICATION: 91-7102

REQUIRED INFORMATION

- ✓ Name: (If applicant is a corporation or partnership, names must be provided for the director, officers, and other partners.)
- ✓ Address:
- ✓ Source: (See USGS Quad for names of water sources)
- ✓ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ✓ County:
- ✓ Quantity: (flow and/or volume)
- ✓ Period of use:
- ✓ Nature of proposed use: (Include description of use)
- ✓ Description of diverting works:
- ✓ Time required for beneficial use of water:
- ✓ Place of use or acres irrigated:
- ✓ Map:
- ✓ Signature: (If applicant is corp., partnership, or municipality title of signator is required)
- ✓ Fee:
- ✓ yes ___ No* In form to receipt:

ADDITIONAL INFORMATION

YES	NO	
___	___	Overlapping place of use: (Describe source & relationship to present application on the back.)
✓	___	Overlapping point of diversion:
___	✓	Field check required:
		Field check by: _____
___	✓	Field report attached:
___	___	Critical groundwater area:
___	___	Groundwater management area:
___	___	Send dam safety information:
___	___	Send power requirement letter:
___	___	Send fish farm requirement letter:
___	___	Power residency affidavit:
___	___	Power efficiency form:
___	___	Within trust water boundry: (If yes, attach Trust Water Supplementary Analysis Sheet.)
___	___	Diversion greater than 5 cfs or 500 af: (If yes, attach Large Diversion supplementary analysis sheet.)
___	___	Additional information on reverse side:

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

RECEIVED
SEP 28 1989
Department of Water Resources

Verified KW 10/30/89

PROCESSING

YES NO
✓ ___ In form for advertising:
___ ✓ Statewide advertising:
✓ ___ Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO
___ ___ I.D. Health and Welfare
___ ___ I.D. Fish and Game
✓ ___ I.D. Lands
___ ___ Adjudication Bureau

YES NO
___ ___ U.S. BLM
___ ___ U.S. Forest Svc.
___ ___ Water District #_____
___ ___ Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO
✓ ___ Affidavit of publication received:
✓ ___ Application published correctly: If not, record action taken.

✓ ___ Publication dates and paper recorded on application:
___ ✓ Protests received, Final date for protest 9/6/88
___ ✓ Protests, dates, resolution of protest recorded on application:
___ ✓ Recommendations attached:
___ ✓ Measuring device required:
___ ✓ Measuring port required:
___ ✓ Water delivered by water master? District #_____
___ ✓ Special conditions of approval or cover letter: (see additional info. below)
___ ✓ See Below For Additional Information

Recomended Date of Priority 7/22/88 ✓
Recomended by: KMT Date 9/7/88

STATE OFFICE REVIEW P16 04

___ See below for additional information. By KW Date 9/29/88

ADDITIONAL INFORMATION
91-07032 & 91-07184 ~ ALL SHARE SAME P.D.

91-07102

HAWKS, STEVE
RT 2 BOX 86
ST. MARIES, ID 83861

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

Diversion Pt: LOT 1 (NENESE) Sec 7 T 46N R 02W

Use: DOMESTIC (.020 CFS)

Date Filed: 7/22/1988

In: T46N R02W S07 Lot 1 (NESE)

State of Idaho
Department of Water Resources

Water Right

91-7102

DOMESTIC

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters

0 0.045 0.09 0.18 Miles

N

Map produced on May 04, 2016


SWNE 1
SENE
Place of Use
NESE 7
Diversion
7
NWSE
NESE
NWSE 6
NESE 8
SWSE
SESE

Hawks 0957

Documents Search Results

Water Right # 91-7102

(Click any column to sort table)

Doc Name	File Type	File Size	Process	Doc Date	Date Received	Sort Date
NOTICE OF SERVICE OF CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY WITH CLAIMANT VERIFICATION	Adobe Acrobat	1306 KB	Docket Sheet	5/3/2016	5/3/2016	5/3/2016
AMENDED NOTICE OF HEARING FOR OBJECTOR'S MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND DEEM CERTAIN MATTERS ADMITTED	Adobe Acrobat	92 KB	Docket Sheet	4/25/2016	4/25/2016	4/25/2016
AMENDED NOTICE OF HEARING FOR OBJECTOR'S MOTION TO COMPEL	Adobe Acrobat	88 KB	Docket Sheet	4/25/2016	4/25/2016	4/25/2016
NOTICE OF HEARING FOR OBJECTOR'S MOTION TO COMPEL	Adobe Acrobat	86 KB	Docket Sheet	4/19/2016	4/20/2016	4/20/2016
NOTICE OF HEARING FOR OBJECTOR'S MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND DEEM CERTAIN MATTERS ADMITTED	Adobe Acrobat	92 KB	Docket Sheet	4/19/2016	4/20/2016	4/20/2016
NOTICE OF SERVICE OF OBJECTOR'S REQUESTS FOR DISCOVERY TO STATE OF IDAHO	Adobe Acrobat	56 KB	Docket Sheet	4/15/2016	4/19/2016	4/19/2016
OBJECTOR'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND TO DEEM CERTAIN MATTERS ADMITTED	Adobe Acrobat	1098 KB	Docket Sheet	4/18/2016	4/19/2016	4/19/2016
OBJECTOR'S MOTION TO DETERMINE SUFFICIENCY OF OBJECTIONS AND DEEM CERTAIN MATTERS ADMITTED	Adobe Acrobat	110 KB	Docket Sheet	4/18/2016	4/19/2016	4/19/2016
OBJECTOR'S MEMORANDUM IN SUPPORT OF ITS MOTION TO COMPEL	Adobe Acrobat	843 KB	Docket Sheet	4/18/2016	4/19/2016	4/19/2016
OBJECTOR'S MOTION TO COMPEL	Adobe Acrobat	96 KB	Docket Sheet	4/18/2016	4/19/2016	4/19/2016
OBJECTOR'S FIRST REQUESTS FOR DISCOVERY TO THE STATE OF IDAHO	Adobe Acrobat	578 KB	Adjudication Claims Investigation	4/15/2016	4/19/2016	4/19/2016
AFFIDAVIT OF COUNSEL IN SUPPORT OF OBJECTOR'S MOTIONS TO COMPEL AND TO DETERMINE SUFFICIENCY OF ANSWERS OR OBJECTIONS	Adobe Acrobat	7525 KB	Docket Sheet	4/18/2016	4/19/2016	4/19/2016
AMENDED NOTICE OF SERVICE	Adobe Acrobat	65 KB	Docket Sheet	4/13/2016	4/18/2016	4/18/2016
OBJECTOR'S SECOND REQUEST FOR DISCOVERY TO CLAIMANTS	Adobe Acrobat	2968 KB	Adjudication General	4/13/2016	4/18/2016	4/18/2016
NOTICE OF SERVICE OF OBJECTOR'S SECOND REQUESTS FOR DISCOVERY TO CLAIMANTS	Adobe Acrobat	62 KB	Docket Sheet	4/12/2016	4/15/2016	4/15/2016
NOTICE OF SERVICE OF CLAIMANT'S FIRST SET OF DISCOVERY REQUESTS TO OBJECTOR COEUR D'ALENE TRIBE	Adobe Acrobat	62 KB	Docket Sheet	4/14/2016	4/15/2016	4/15/2016
OBJECTOR'S SECOND REQUESTS FOR DISCOVERY TO CLAIMANTS	Adobe Acrobat	596 KB	Adjudication General	4/12/2016	4/15/2016	4/15/2016
CLAIMANT'S FIRST SET OF DISCOVERY REQUESTS TO OBJECTOR COEUR D'ALENE TRIBE	Adobe Acrobat	310 KB	Adjudication Claims Investigation	4/14/2016	4/15/2016	4/15/2016
NOTICE OF TAKING DEPOSITION DUCES TECUM OF CLAIMANT STEVE HAWKS	Adobe Acrobat	103 KB	Docket Sheet	4/8/2016	4/11/2016	4/11/2016
NOTICE OF TAKING DEPOSITION DUCES TECUM OF CLAIMANT DEANNE HAWKS	Adobe Acrobat	102 KB	Docket Sheet	4/8/2016	4/11/2016	4/11/2016
NOTICE OF SERVICE OF CLAIMANTS STEVE HAWKS AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY	Adobe Acrobat	63 KB	Docket Sheet	3/28/2016	4/1/2016	4/1/2016
CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY	Adobe Acrobat	1307 KB	Docket Sheet	3/28/2016	4/1/2016	4/1/2016
ORDER SETTING SETTLEMENT CONFERENCE AND STATUS CONFERENCES	Adobe Acrobat	69 KB	Docket Sheet	3/16/2016	3/18/2016	3/18/2016
NOTICE OF SERVICE OF CLAIMANT'S STEVE & DEANNE HAWK'S RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY	Adobe Acrobat	60 KB	Docket Sheet	3/7/2016	3/8/2016	3/8/2016
CLAIMANTS STEVE AND DEANNE HAWKS' RESPONSES TO OBJECTOR'S FISRT REQUESTS FOR DISCOVERY	Adobe Acrobat	1089 KB	Docket Sheet	3/8/2016	3/8/2016	3/8/2016

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

5/4/2016

WATER RIGHT NO. 91-7102

Owner Type	Name and Address
Current Owner	STEVE HAWKS 89231 HWY 3 N ST MARIES, ID 83861 (208) 245-2403

Priority Date: 07/22/1988
Basis: License
Status: Active

Source	Tributary
ST JOE RIVER	COEUR D ALENE LAKE

Beneficial Use	From	To	Diversion Rate	Volume
DOMESTIC	3/15	11/15	0.02 CFS	0.6 AFA
Total Diversion			0.02 CFS	

Location of Point(s) of Diversion:

ST JOE RIVER	NESE Lt 7	Sec. 07	Township 46N	Range 02W	BENEWAH County

Licensed Diversion Capacity: 0.02

Place(s) of use:

Place of Use Legal Description: DOMESTIC BENEWAH County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
46N	02W	7	7	NESE										

Conditions of Approval:

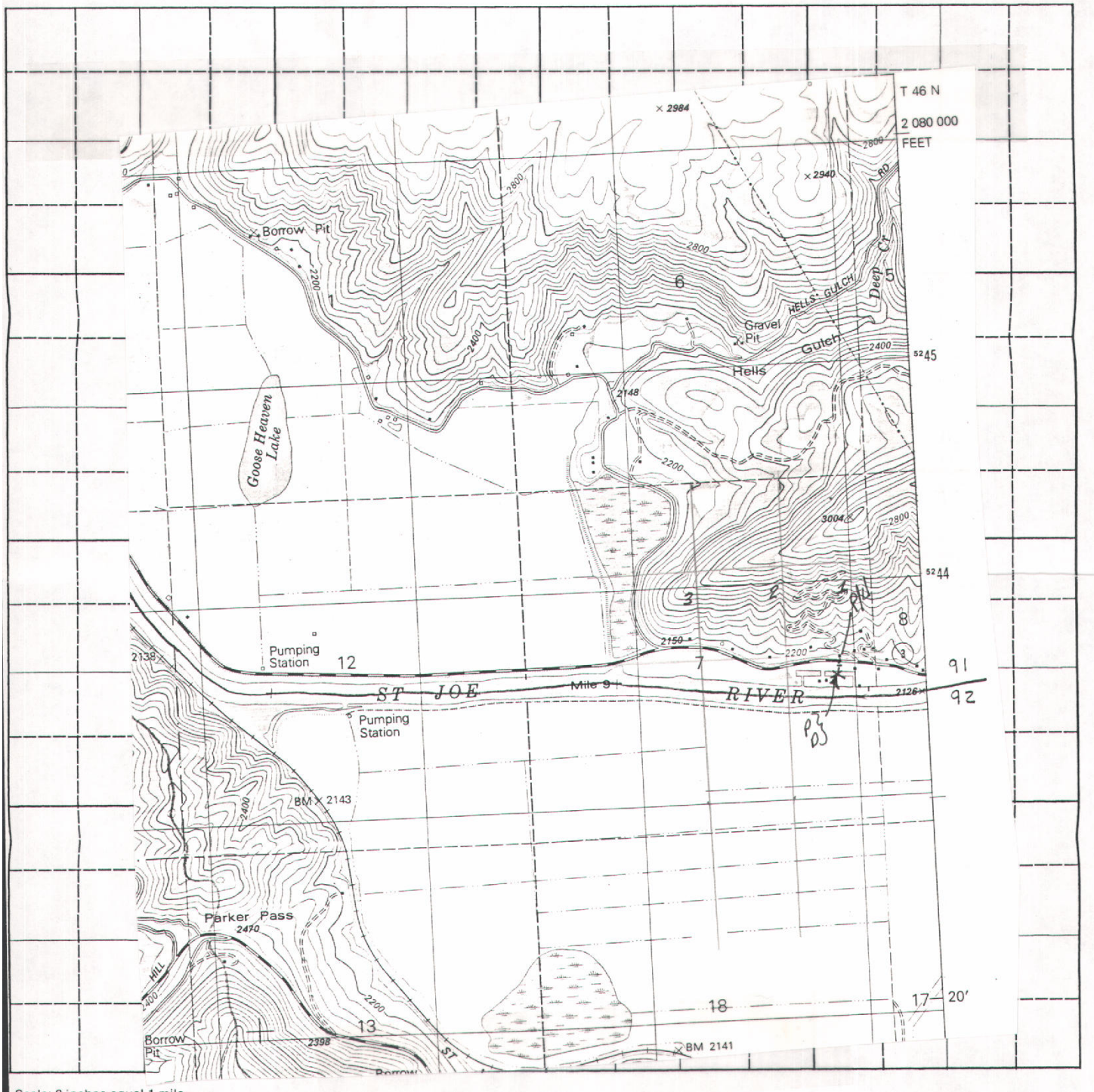
1. Domestic use is for irriagation of lawn & garden.

Dates:
Licensed Date: 07/20/1990
Decreed Date:
Permit Proof Due Date: 11/1/1989
Permit Proof Made Date: 10/19/1988
Permit Approved Date: 10/6/1988
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date: 07/22/1988
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

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

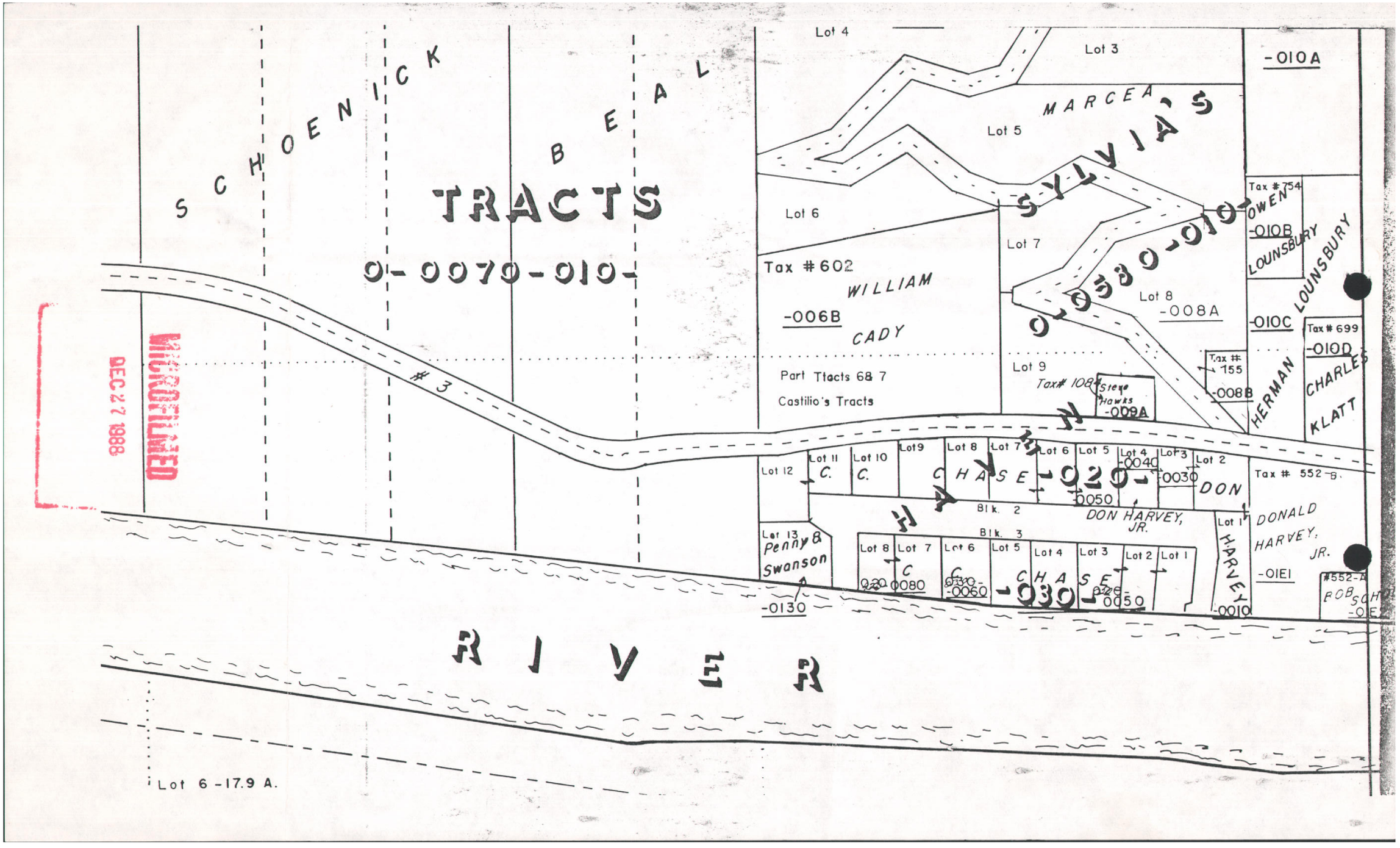


Scale: 2 inches equal 1 mile.

MICROFILMED
DEC 27 1988

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.

Steve Hawks
(Applicant)


SCHOENICK
BEAL
TRACTS
0-0070-010-
MICROFILMED
DEC 27 1988
#3
Lot 4
Lot 3
-010A
MARCEA
Lot 5
SYLVIA'S
Lot 6
Tax #602
WILLIAM
-006B
CADY
Part Ttacts 6& 7
Castilio's Tracts
Lot 7
0-0030-010-
Lot 8
-008A
Tax #754
OWEN
-010B
LOUNSBURY
-010C
LOUNSBURY
Tax #699
-010D
CHARLES
KLATT
HERMAN
Tax # 155
-008B
Lot 9
Tax# 108
Steve Hawks
-009A
Lot 12
Lot 11
C.
Lot 10
C.
Lot9
Lot 8
Lot 7
Lot 6
Lot 5
Lot 4
-0040
Lot3
Lot 2
CHASE
-0050
-0030
DON
Tax # 552-B
Blk. 2
DON HARVEY, JR.
Lot 1
DONALD HARVEY, JR.
-01E1
Lot 13
Penny & Swanson
-0130
Blk. 3
Lot 8
Lot 7
Lot 6
Lot 5
Lot 4
Lot 3
Lot 2
Lot 1
C
0080
-0060
CHASE
-0050
HARVEY
-0010
#552-A
ROB SCHO
-01E
RIVER
Lot 6 -17.9 A.

Hawks 0962

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT SUPPLEMENT

C O N T E N T S

( ) B/U Acknowledgment Letter Sent

This Examination Report Contains the Following Documents.

(✓)Field Report (✓)Quad Sheet (✓)Gov. Lot Plat (✓)Rules Check list

( )Aerial Photo ( )Photo PD/PU ( )Well Log

Number of Diagrams Attached _____ Number of Calculation Sheets Attached _____

( ) Correspondence (Date) _____

( ) Other (List) _____



Contacts:

Remarks: The PD

Exam Completed By Doris Dahl Date 8/8/89

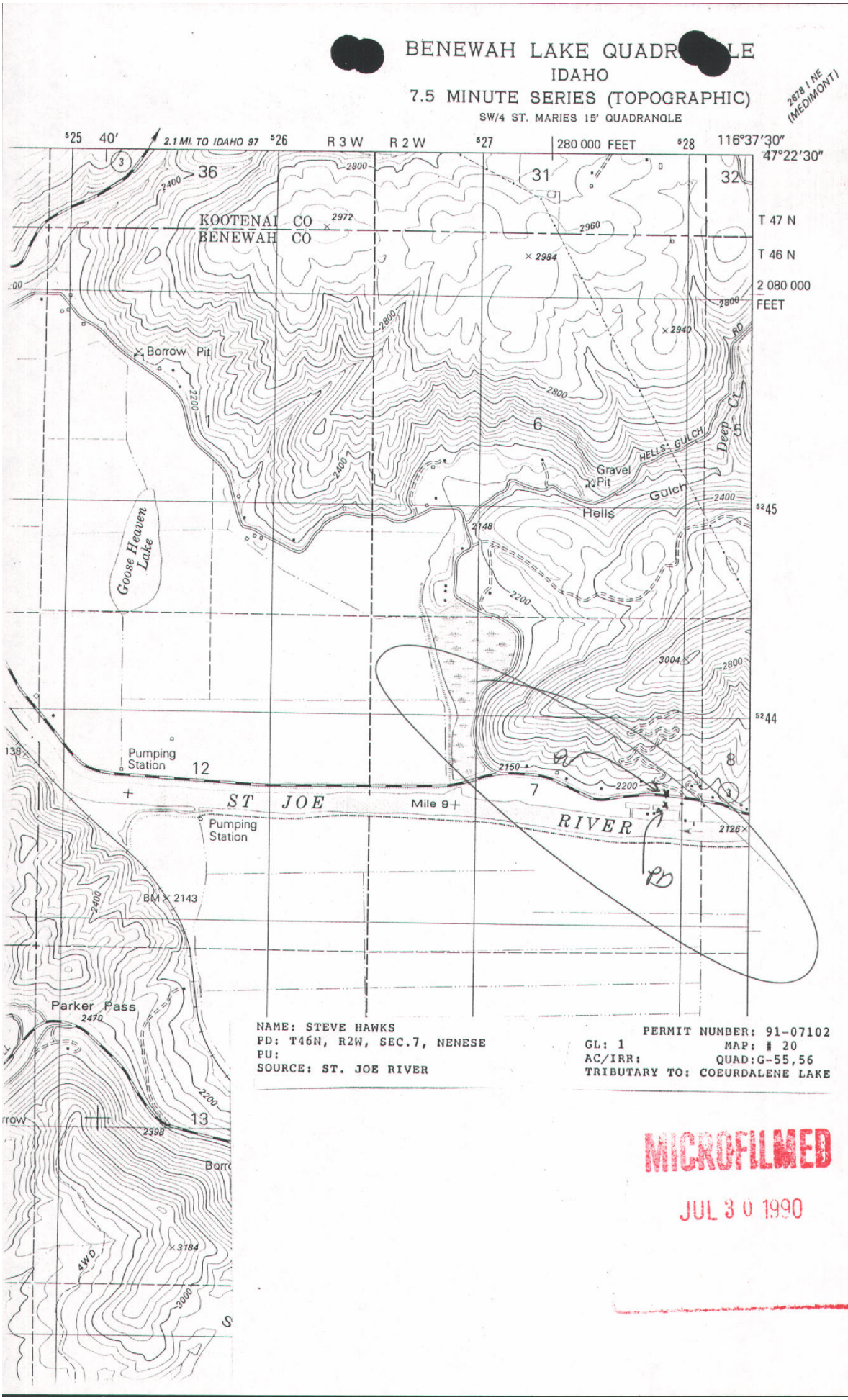
Sr. Agent Review _____ Date _____

Regional Manager Review _____ Date _____

MICROFILMED
JUL 30 1990

PERMIT NUMBER

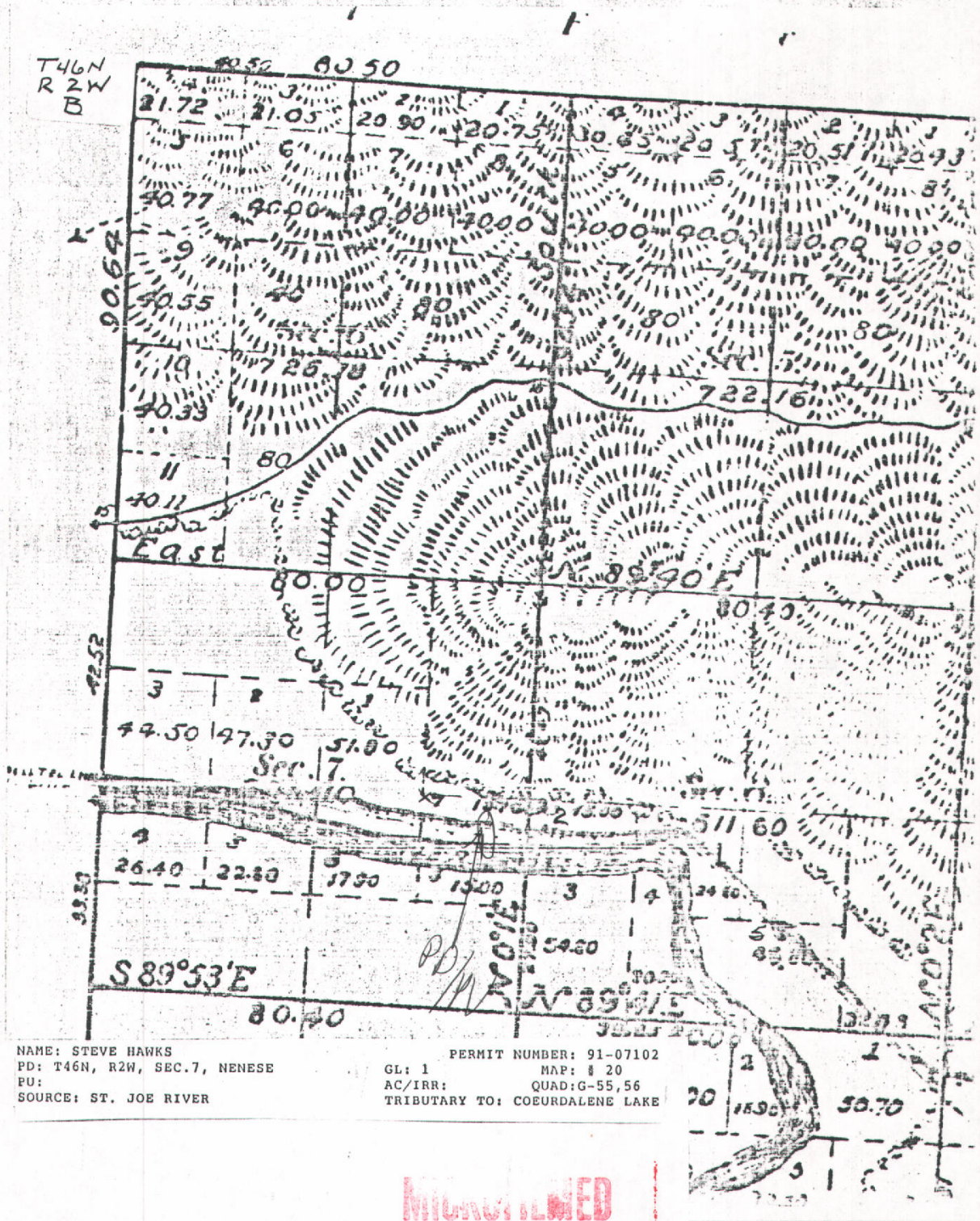
91-07102



NAME: STEVE HAWKS
PD: T46N, R2W, SEC.7, NENESE
PU:
SOURCE: ST. JOE RIVER

PERMIT NUMBER: 91-07102
GL: 1 MAP: # 20
AC/IRR: QUAD:G-55,56
TRIBUTARY TO: COEURDALENE LAKE

MICROFILMED
JUL 30 1990



RECEIVED
JUL 30 1990

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 91-07102

Priority: July 22, 1988

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume:[1] 0.6 AF

This is to certify, that STEVE HAWKS
RT 2 BOX 86
ST. MARIES, ID 83861 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 22, 1988; and has submitted Proof of Beneficial Use on October 19, 1988. An examination indicates that the works have a diversion capacity of .020 cfs of water from:

ST. JOE RIVER tributary to **COEUR D ALENE LAKE**

source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
DOMESTIC	03/15 to 11/15	0.02 CFS	0.6 AF

LOCATION OF POINT(S) OF DIVERSION: LOT 7(NESE), Sec. 7, Township 46N, Range 02W
BENEWAH County

PLACE OF USE: DOMESTIC

TWN	RGE	SEC	
46N	02W	7	LOT 7(NESE)

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Domestic use is for irriagation of lawn & garden.

MICROFILMED

JUL 30 1990

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 91-07102

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 20TH day of July, 1990.

Acting for R. Keith Higginson, Director

MICROFILMED
JUL 30 1990

Form 202
6/85

Ident. No. 91-07102

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

1. Name of applicant Steve Hawks Phone 245-2403

   Post office address Rt. 2 Box 86 St. Maries, Id. 83861

2. Source of water supply St Joe River which is a tributary of Coeur d'Alene Lake

3. Location of point of diversion is NE ¼ of NE ¼ of SE ¼, Govt. Lot 1

   Sec. 7 Township 46N Range 2W B.M. Benewah County; additional

   points of diversion if any: _____

4. Water will be used for the following purposes:

   Amount 0.02 (cfs ~~or acre-feet per annum~~) for Domestic garden watering purposes from 1 MAR to 1 Dec (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated is (a) 0.02 cubic feet per second and/or (b) _____ acre feet per annum

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. 1¼" pipe through culvert to canal

   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.

   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

   d. Is ground water with a temperature of greater than 90°F being sought? _____

7. Time required for the completion of the works and application of the proposed beneficial use is 1 years (*minimum 1 year*).

MICROFILMED
DEC 27 1988

8. Description of proposed uses (*if irrigation only, go to item 9*):

a. Hydropower; show total feet of head and proposed capacity in KW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. _____

_____

_____

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 the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
46N	2W	7													D				~~35~~

Total number of acres to be irrigated ~~35~~

10. Describe any other water rights used for the same purposes as described above. Drinking water from well I am ¼ partner

11. a. Who owns the property at the point of diversion? Cyril Chase

b. Who owns the land to be irrigated or place of use? Steve Hawks

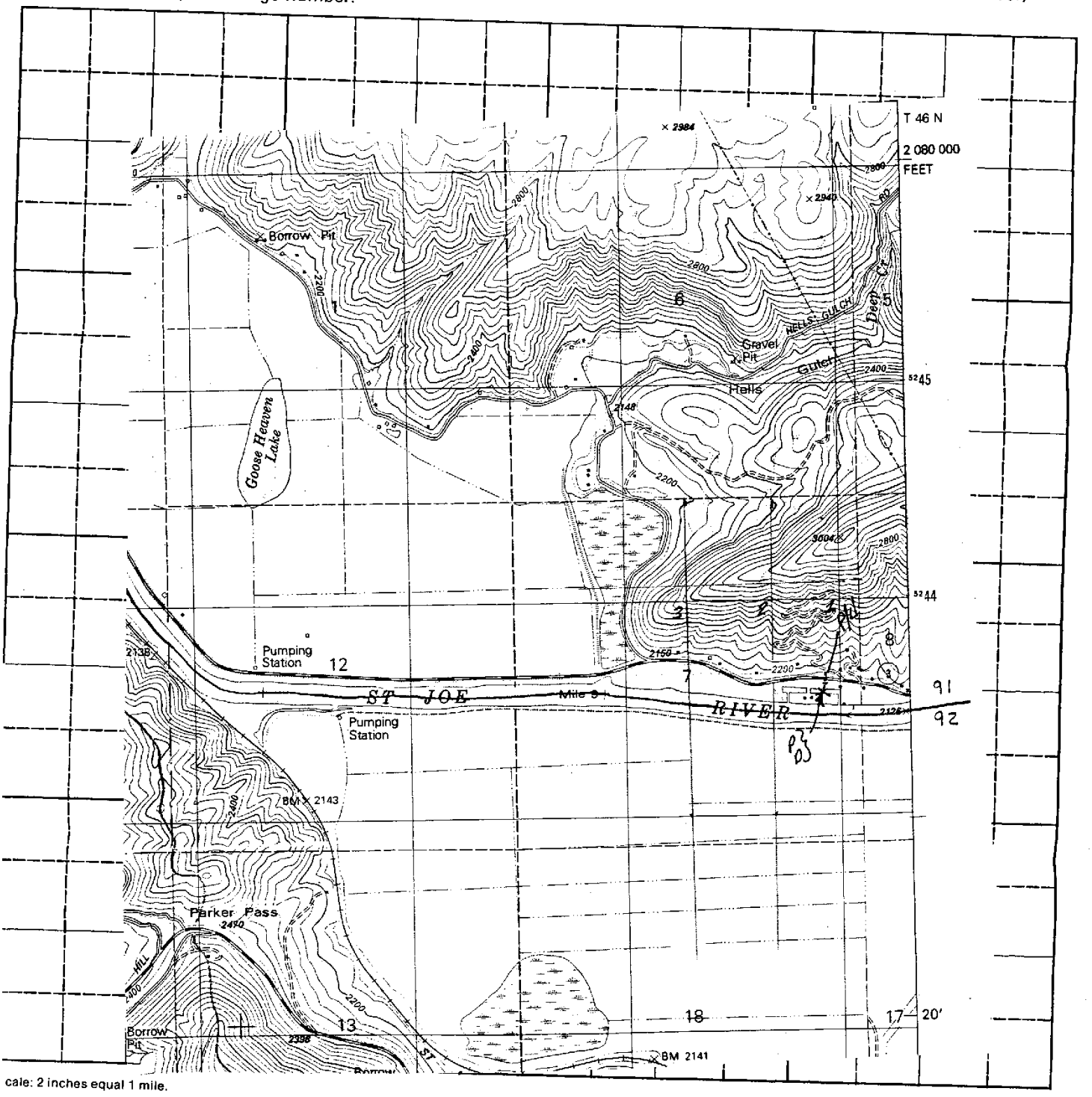
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

MICROFILMED

DEC 21 1988

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



cale: 2 inches equal 1 mile.

BE IT KNOWN that the undersign[illegible] application for permit to appropriate the public waters of the State of Idaho as herein set forth.

RECEIVED
DEC 27 1988

Steve Hawks
(Applicant)

Proposed Priority 7/22/88

Received by KK Date 7/22/88 Time 1:00 PM Preliminary check by JK

Fee $ 30.00 Receipted by JK # N 741 Date 7/20/88

Publication prepared by [signature] Date 8/16/88 Published in 8/17 & 24/88 Ft. Hawks Gazette

Publication approved [signature] Date 8/29/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 91-7102, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 19 89.

   c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

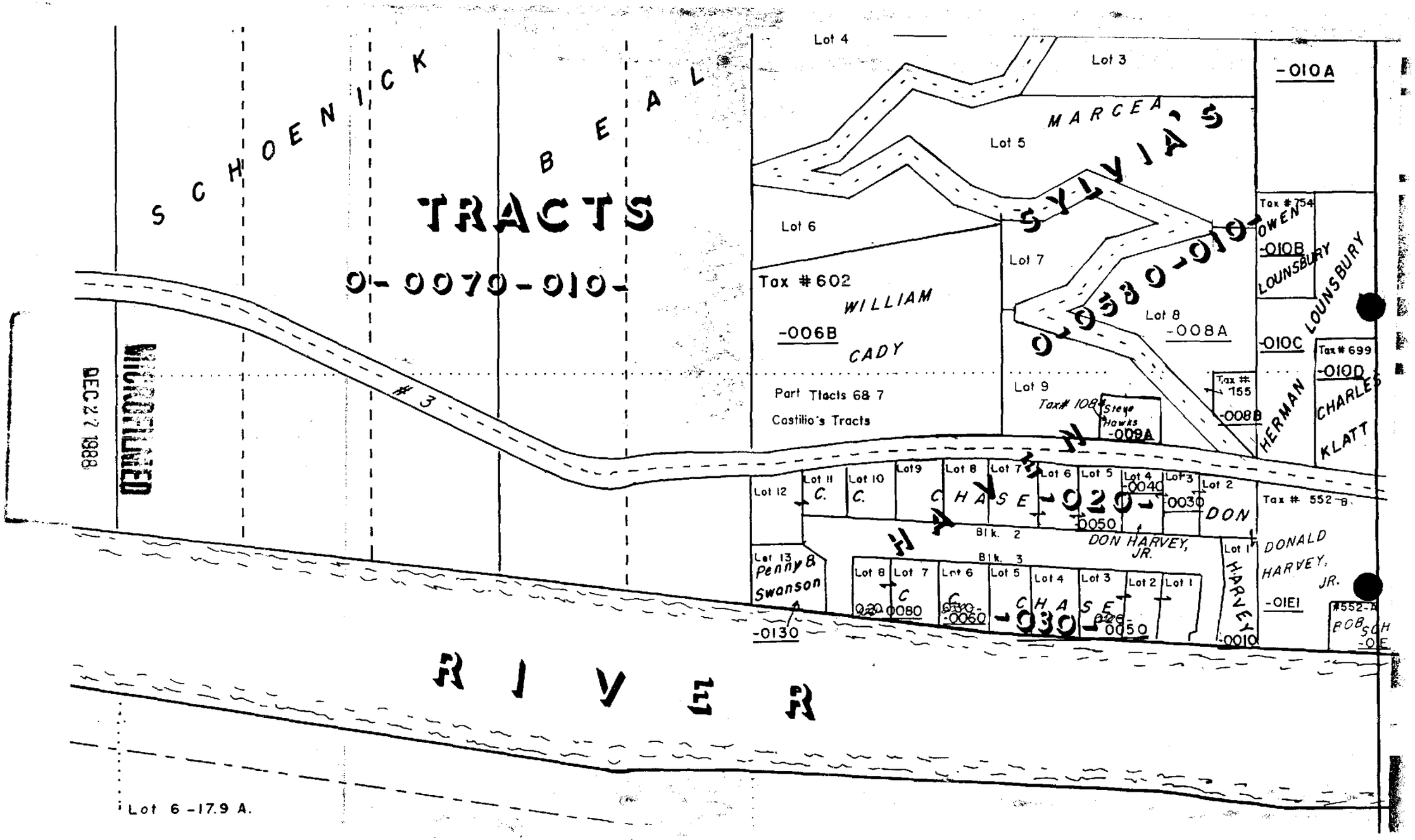
   d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

   e. Other: The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Witness my hand this 6th day of October, 1988.

for [signature]
Director

MICROFILMED
DEC 27 1988


SCHOENICK
BEAL
TRACTS
0-0070-010-
Lot 4
Lot 3
-010A
MARCEA
SYLVIA'S
Lot 5
Lot 6
Lot 7
Lot 8
-008A
Tax #602
WILLIAM
-006B
CADY
Part Tracts 6& 7
Castilio's Tracts
Lot 9
Tax# 108
Steve Hawks
-008A
Tax # 155
-008B
Tax #754
OWEN
-010B
LOUNSBURY
-010C
LOUNSBURY
Tax # 699
-010D
CHARLES
KLATT
HERMAN
0-0080-010-
#3
DEC 27 1988
Lot 12
Lot 11
C.
Lot 10
C.
Lot9
Lot 8
Lot 7
Lot 6
Lot 5
Lot 4
-0040
Lot 3
-0030
Lot 2
CHASE
0-0020-
-0050
DON
DON HARVEY, JR.
Tax # 552-B
Blk. 2
Blk. 3
Lot 13
Penny & Swanson
-0130
Lot 8
Lot 7
C
Lot 6
C
-0060
Lot 5
Lot 4
CHASE
0-0030-
-0050
Lot 3
Lot 2
Lot 1
HARVEY
-0010
Lot 1
DONALD HARVEY, JR.
-01E1
#552-A
ROBSON
-01E
RIVER
Lot 6 -17.9 A.

Hawks 0972

Affidavit of Publication

STATE OF IDAHO
County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah county, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of the notice of advertisement hereon.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of 2 issues, the first publication being on the 17th day of Aug., 19 88 and the last on the 24th day of Aug., 19 88.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 26th day of Aug., 19 88

Cynthia Ann Hammes

STATE OF IDAHO }
COUNTY OF BENEWAH } ss.

On this 26th day of Aug in the year 19 88, before me, a Notary Public, personally appeared Cynthia Ann Hammes known or identified to me to be the person whose name subscribed to the within instrument, and acknowledged to me that she executed the same.

Sharon D. Blackburn
Notary Public
Residing at St. Maries, Idaho

Application for water right filed by Hawks

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

91-07102

Hawks, Steve
Rt 2 Box 86
St. Maries, ID 83861
Source: St. Joe River
Tributary: Coeur d'Alene Lake
Diversion Pt: Lot 1 (NENESE) Sec 7 T 46N R 02W
Use: Domestic (.020 CFS)
Date Filed: 7/22/1988
In: T46N R02W S07 Lot 1 (NESE)

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Northern Region, Government Way Suite 9, Coeur d'Alene, Idaho 83814 on or before September 6, 1988.

R. Keith Higginson, Director
No. 549 --- Aug. 17-24.

OK
8/29/88

July 20, 1990

STEVE HAWKS
RT 2 BOX 86
ST. MARIES, ID 83861

RE: PERMIT NO. 91-07102

Dear Permit Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

JUL 30 1990

RECEIVED
JUN 27 1990
Department of Water Resources

SENIOR AGENT REVIEW

Check List
for
Beneficial Use Field Report

Permit 91-07102

A. GENERAL INFORMATION
- ✓ 1. Name and address are most current available. (Check BU statement)
- ✓ 2. Exam Date
- ✓ 3. Source (Check Permit)

B. OVERLAP REVIEW
- ✓ 1. & 2. (Rule 5,1,4)

C. SYSTEM DESCRIPTION
- ✓ 1. Diversion System Diagram (Rule 5,1,3 / 5,1,4)
- ✓ 2. USGS (Rule 5,1,7 / 5,1,9) Aerial (Rule 5,1,17)
- ✓ 3. Word Picture (Rule 5,1,3 / 5,1,4)
- ✓ 4. Diversion (Rule 5,1,3)
- ✓ 5. Compare with USGS Map, Land Survey Maps, Aerial Photos and Permit.
- ✓ 6. Irrigation (Rule 5,1,8)

✓ D. FLOW MEASUREMENTS Check math (Rule 5,1,13 / 5,1,14)

✓ E. FLOW CALCULATIONS Check math (Rule 5,1,13 / 5,1,14)

✓ F. OPTIONAL

G. VOLUME CALCULATIONS
✓ Three significant figures and no more than 1/10's (Rule 6,1,2)
Fish (Rule 5,1,11) number stock, homes, etc... (Rule 5,1,12)

H. REMARKS AND OVERLAP ANALYSES
- ✓ All actual uses listed; all permitted uses not used, also listed; (Rule 5,1,2):
- ✓ Overlaps (Rule 5,1,4):
- ✓ Return flows (Rule 5,1,5):
- ✓ Conditions (Rule 5,1,6).

I. RECOMMENDATIONS
- ✓ 1. Municipal (Rule 5,1,10): Compare with items E & G, permit, fee, capacity (Rule 5,1,15): Measured flows for each use listed separately (Rule 5,1,14). Period of year (Rule 5,1,13)
- ✓ 2. Compare permit to exam for amendments (Rule 5,1,16)

J. AUTHENTICATION
✓ Name, Signature, Certification Date, Exam Date.

WELL INSPECTION REPORT
✓ Check with permit and well log for discrepancies

Signature JHK Date 8/29/89

Hawks 0975

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT SUPPLEMENT

C O N T E N T S

( ) B/U Acknowledgment Letter Sent

This Examination Report Contains the Following Documents.

(✓)Field Report (✓)Quad Sheet (✓)Gov. Lot Plat (✓)Rules Check list

( )Aerial Photo ( )Photo PD/PU ( )Well Log

Number of Diagrams Attached _____ Number of Calculation Sheets Attached _____

( ) Correspondence (Date) _____

( ) Other (List) _____



Contacts:

Remarks: The PD

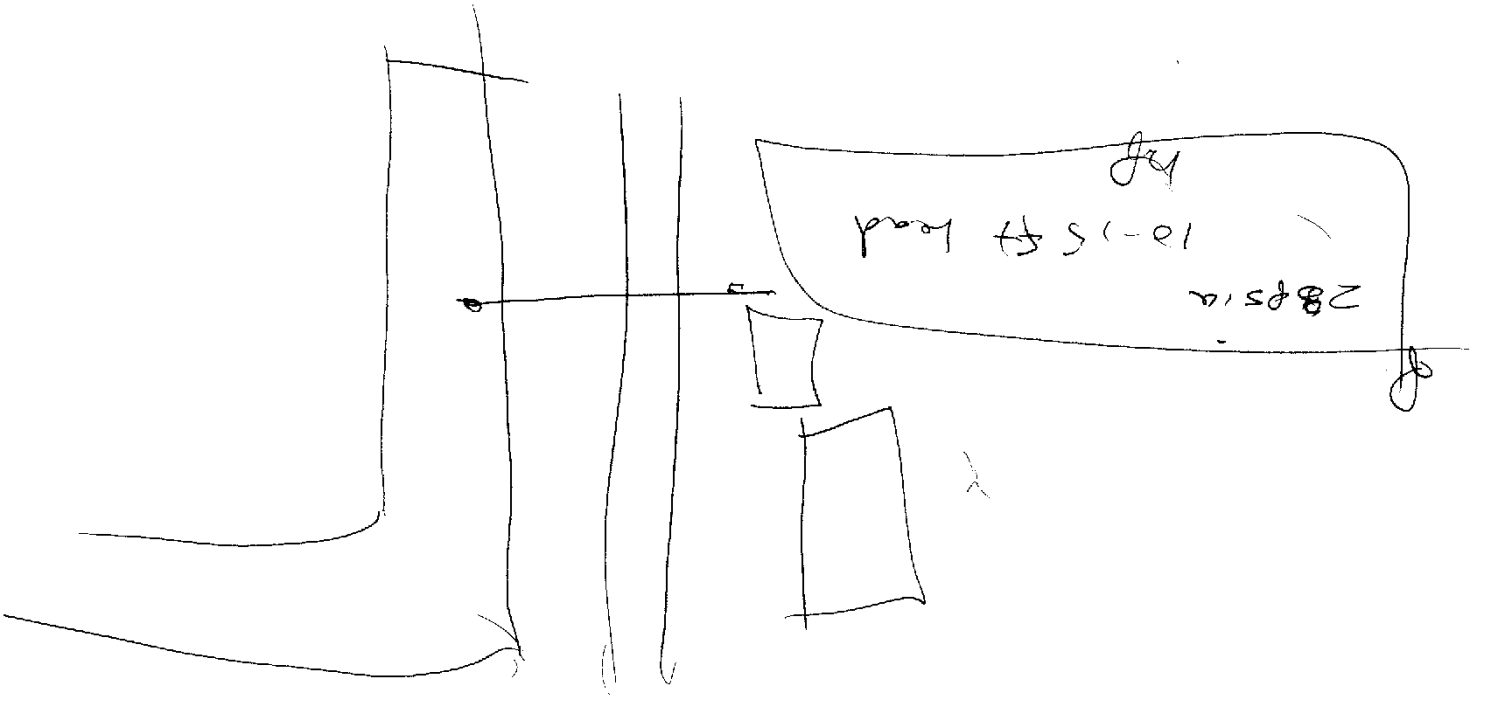
Exam Completed By _____ Date 8/8/89

Sr. Agent Review _____ Date _____

Regional Manager Review _____ Date _____

PERMIT NUMBER

91-07102



Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

RECEIVED
JUN 27 1990
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 91-7102

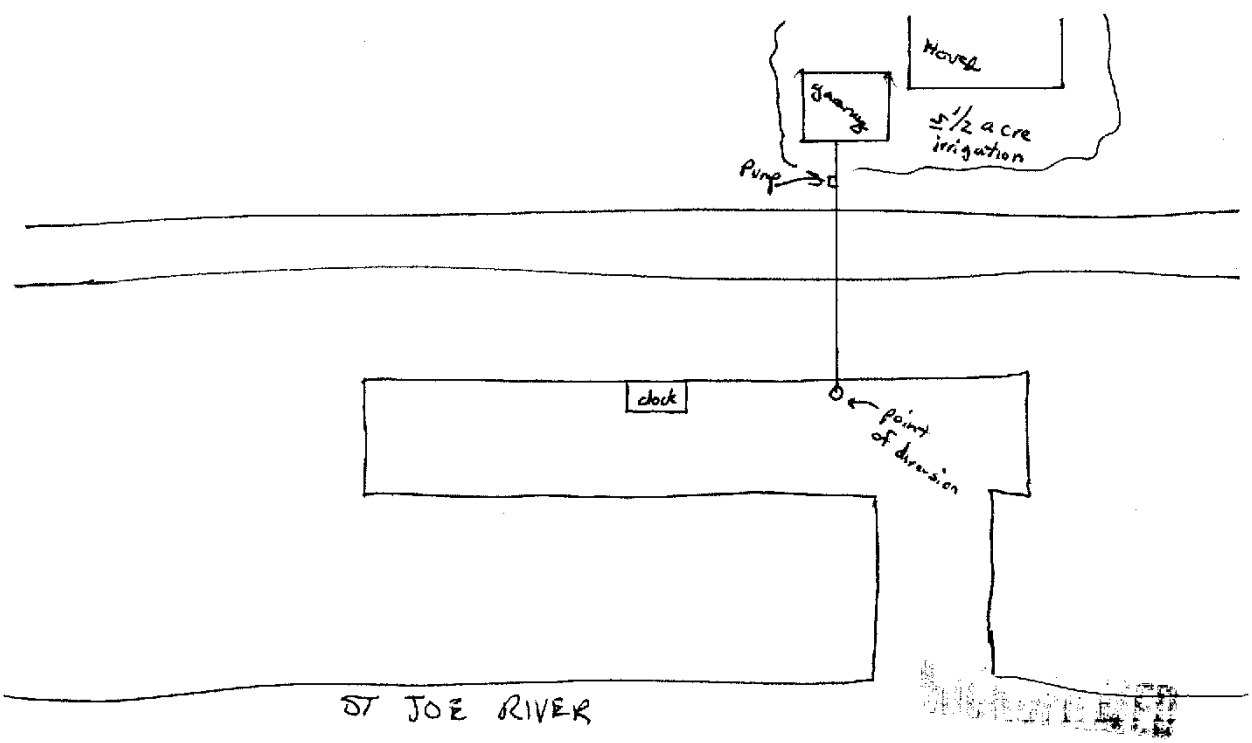
1. Owner: Steve Hawks Phone No. 245-2403
   Current Address: Rt 2 Box 86 St. Maries, Id 83861
2. Accompanied by: Mrs. Hawks EXAM. DATE: 7/26/89
   Address: Same Phone No. Same
   Relationship to Permit Holder: wife
3. Source: St. Joe River tributary to Coeurd'Alene Lk.

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE
   ☐ Copies Attached
2. Other water rights with same point of diversion: NONE
   ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



Scale: 1" = NTS.

2. ☐ Copy of U.S.G.S. Quadrangle Attached
   Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☐ Aerial Photo Attached
   (required for irrigation of 10 acres or more).
   ☐ Photo of Diversion and System Attached
   (required for all but single household domestic groundwater, and stockwater.

Hawks 0979

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Pick up in private boy with 1 1/2" black pvc pipe across under road to 1/2 hp pump. Water is the distributed through hoses and sprinklers.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	TEEL	3 1/2	?	?	1"

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
	7	NE	NE	SE	7	46N	2W	Benewah	Map

6. **Place(s) of Use:** Indicate Method of Determination Map

Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
46N	2W	7													40				

Do not use this space

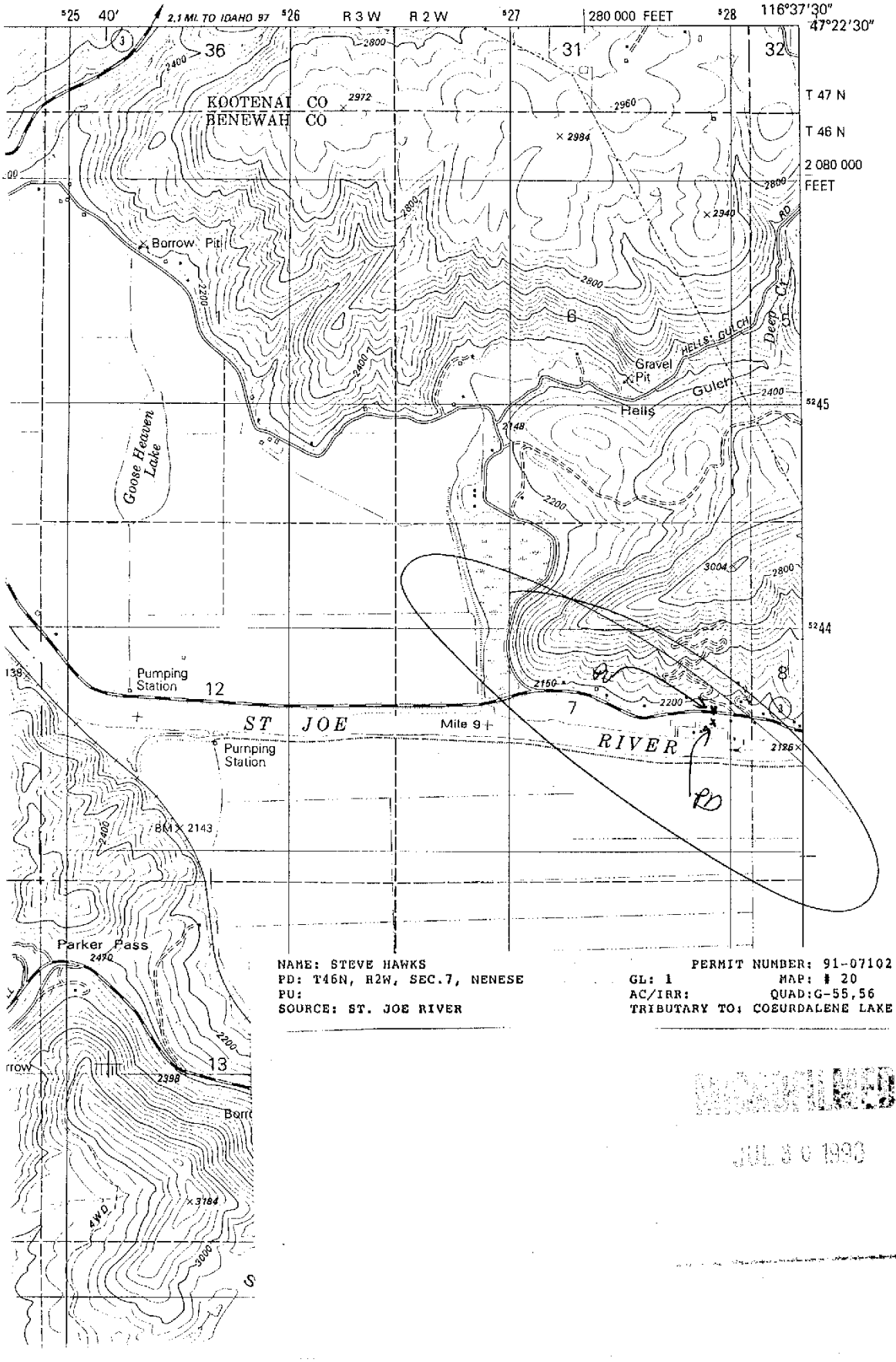
BENEWAH LAKE QUADR[redacted]LE

IDAHO

7.5 MINUTE SERIES (TOPOGRAPHIC)

SW/4 ST. MARIES 15' QUADRANGLE

2578 I NE (MEDIMONT)

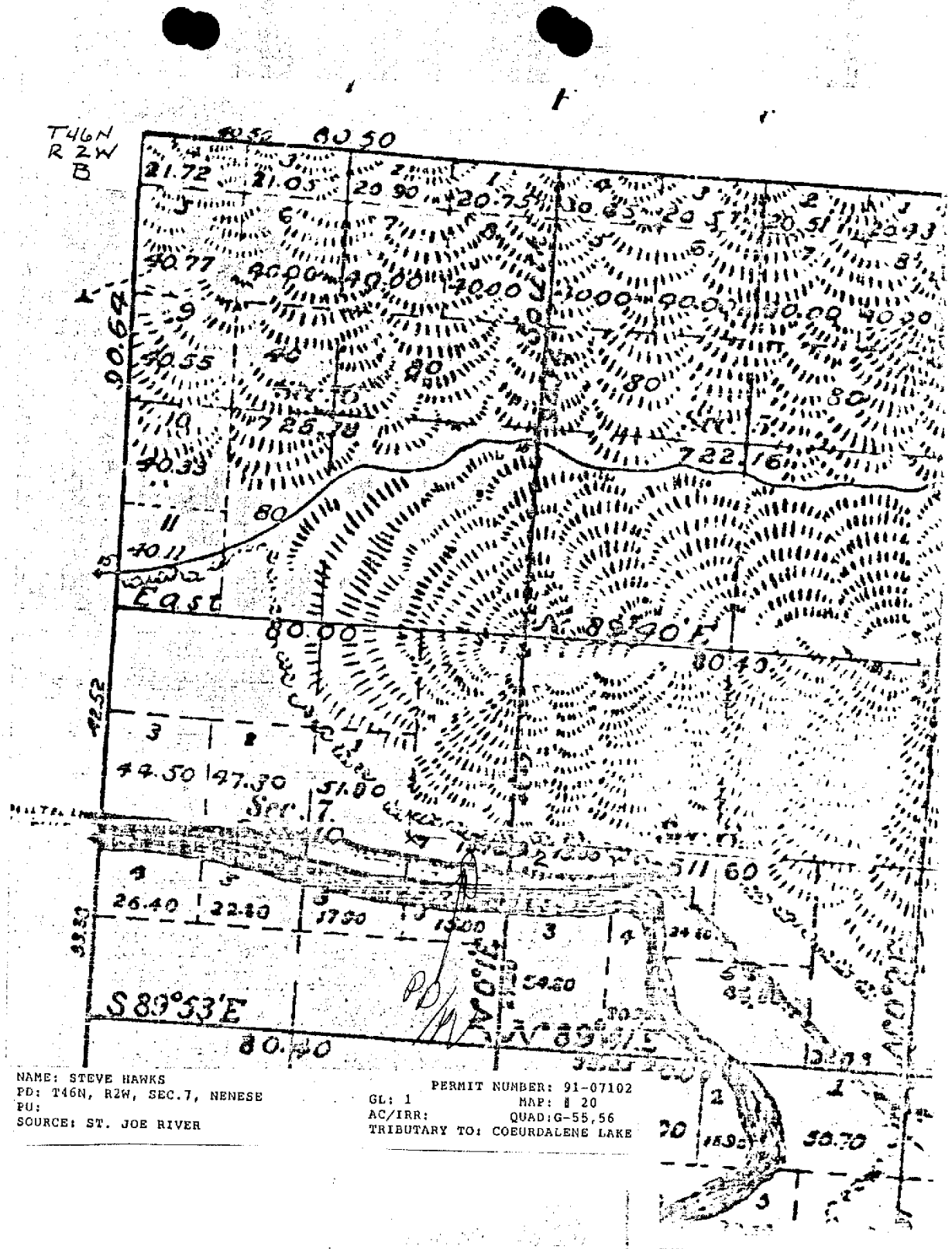


NAME: STEVE HAWKS
PD: T46N, R2W, SEC.7, NENESE
PU:
SOURCE: ST. JOE RIVER

PERMIT NUMBER: 91-07102
GL: 1 MAP: # 20
AC/IRR: QUAD:G-55,56
TRIBUTARY TO: COEURDALENE LAKE

[redacted]

JUL 3 0 1990


T46N
R 2W
B
East
S 89°53'E
80.00
Sec. 7.
NAME: STEVE HAWKS
PD: T46N, R2W, SEC.7, NENESE
PU:
SOURCE: ST. JOE RIVER
PERMIT NUMBER: 91-07102
GL: 1
MAP: # 20
AC/IRR:
QUAD:G-55,56
TRIBUTARY TO: COEURDALENE LAKE

Do not use this space

D. FLOW MEASUREMENTS

NONE ☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. **Measurements:**

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method: $Q = \frac{8.8(.7)(\frac{1}{2})}{2.3(28)+30} = .033$ cfs 28 psi 30

2. Alternate Method for Checking Purposes: limited to .02 by application

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) : Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = _____

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = _____

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

2. Volume Calculations for Other Uses:

Domestic (.2 af a yr) 1 Home

Hawks 0983

H. **REMARKS AND OVERLAP REVIEW ANALYSIS**

Domestic Irrigation was all that was found.

I. **RECOMMENDATIONS**

1. **Recommended Amounts**

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Domestic	3/15	11/15	0.02 cfs	0.6 afa
Totals:			0.02 cfs	0.6 afa

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

J. **AUTHENTICATION**

Field Examiner's Name: Louis Sukoraty

Signature: [signature]

Certification Date: 2/17/89

Field Report Preparation Date: 2/26/89

REGISTERED PROFESSIONAL ENGINEER 2346 STATE OF IDAHO ROBERT G. HAYNES

CONSULTANT

K. **Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.**

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

November 4, 1988

Mr. Steve Hawks
Rt. 2 Box 86
St. Maries, Id. 83861

Re: 91-7102

Dear Permitholder:

We acknowledge receipt of your statement of completion of water development use for the above-referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We do not know at this time when he will be able to conduct the examination; however, the examiner will try to contact you at the time he makes the examination so that you may show him the system. If you will not be available to show the system, please provide this office with the name and address of someone who will be able to do so. Your permit will remain valid until the examination is made.

If you have any questions concerning the field examination, please contact this office. Please be sure to use the above-referenced permit number in all future correspondence concerning this examination.

Sincerely,

/s/
TOM D. KING
Senior Water Resource Agent

TDK/pms

Celebrate IDAHO 1890 • CENTENNIAL • 1990

1/88

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 91-7102 Date: 10/21/88

General Considerations:
- Y Name same as permit
- Y Signature the same as permit holder
- N Address change _____ If yes, prepare a data entry
- Y Proof received timely
- _____ Reinstated

Source of Water:
- Y Surface water
- _____ Groundwater
  - _____ 1. well log in file
  - _____ 2. drilling permit
    - _____ A. amount of drilling fee paid for proposed uses

Extent of Use and Rate of Diversion:
- Y Rate of diversion appropriate for uses
  - Y Is rate or volume and fee appropriate?
- Y Has permit holder indicated when water was first put to a beneficial use?

Measuring Device:
- Is a measuring device or access port required?
- N/A Has one been installed?
- Waiver or modification of measuring device requested

Remarks:

Proof acceptable

N/A Priority Calculation:

Date proof received	_____	_____
Date proof due	_____	-_____
No. of days late		=_____
Priority date	_____	+_____
NEW PRIORITY DATE	_____	=_____

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

Form 217
03/86

RECEIVED
OCT 19 1988
No Fee.
Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received _____
Date _____
Receipt # _____
Receipt by _____
Reviewed by SS
Sent to region ____

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 91-07102

Name(s) of Permit Holder: Steve Hawks

Post Office Address: Rt. 2 Box 86 St. maries, Idaho 83861

Telephone No. 245-2403

Source of Water: St. Joe River

Extent of Use:

Domestic 1 (number of households) Stockwater _____ (number and type of stock)

Irrigation _____ (acres) Other/Remark _____

Total rate and/or volume for which proof is submitted 0.02 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: 7-26-88

Measuring Device: Required? __ Yes X No
Installed? __ Yes __ No

Fee enclosed $_____
(See License Examination Fee Schedule)

Flow Measurement Port: Required? __ Yes X No
Installed? __ Yes __ No

Person to contact to accompany the Department representative during the field examination:

_____
(Name) (Telephone Number)

_____
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

10-15-88
Date

Steve Hawks M^cM
Signature of Permit Holder (and title, if appropriate)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Statehouse
Boise, Idaho 83720
(208) 334-7900
October 11, 1988

STEVE HAWKS
RT 2 BOX 86
ST. MARIES, ID 83861

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 91-07102

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

We have enclosed a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed for your convenience is a form entitled "Proof of Beneficial Use" that must be submitted to the Department when your project is completed.

Sincerely,

Gary Spackman
Supervisor, Water Allocation Section

GS: SC
Enclosures

Form No. 202a.
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: JK DATE: 7/26/89 APPLICATION: 91-7102

REQUIRED INFORMATION

- ✓ Name: (If applicant is a corporation or partnership, names must be provided for the director,officers, and other partners.)
- ✓ Address:
- ✓ Source: (See USGS Quad for names of water sources)
- ✓ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ✓ County:
- ✓ Quantity: (flow and/or volume)
- ✓ Period of use:
- ✓ Nature of proposed use: (Include description of use)
- ✓ Description of diverting works:
- ✓ Time required for beneficial use of water:
- ✓ Place of use or acres irrigated:
- ✓ Map:
- ✓ Signature: (If applicant is corp., partnership, or municipality title of signator is required)
- ✓ Fee:
- ✓ yes ___No* In form to receipt:

ADDITIONAL INFORMATION

YES	NO	
___	___	Overlapping place of use: (Describe source & relationship to present application on the back.)
✓	___	Overlapping point of diversion:
___	✓	Field check required:
		Field check by: _____
___	✓	Field report attached:
___	___	Critical groundwater area:
___	___	Groundwater management area:
___	___	Send dam safety information:
___	___	Send power requirement letter:
___	___	Send fish farm requirement letter:
___	___	Power residency affidavit:
___	___	Power efficiency form:
___	___	Within trust water boundry: (If yes, attach Trust Water Supplementary Analysis Sheet.)
___	___	Diversion greater than 5 cfs or 500 af: (If yes, attach Large Diversion supplementary analysis sheet.)
___	___	Additional information on reverse side:

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

RECEIVED
SEP 28 1989
Department of Water Resources

Verified KW 10/30/89

Hawks 0989

PROCESSING

YES NO
✓ ___ In form for advertising:
___ ✓ Statewide advertising:
✓ ___ Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES	NO		YES	NO	
___	___	I.D. Health and Welfare	___	___	U.S. BLM
___	___	I.D. Fish and Game	___	___	U.S. Forest Svc.
✓	___	I.D. Lands	___	___	Water District #_____
___	___	Adjudication Bureau	___	___	Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO
✓ ___ Affidavit of publication received:
✓ ___ Application published correctly: If not, record action taken.

_____

_____

_____

✓ ___ Publication dates and paper recorded on application:
___ ✓ Protests received, Final date for protest 9/6/88
___ ✓ Protests, dates, resolution of protest recorded on application:
___ ✓ Recommendations attached:
___ ✓ Measuring device required:
___ ✓ Measuring port required:
___ ✓ Water delivered by water master? District #_____
___ ✓ Special conditions of approval or cover letter: (see additional info. below)
___ ✓ See Below For Additional Information

Recomended Date of Priority 7/22/88 ✓

Recomended by: KMT Date 9/7/88

STATE OFFICE REVIEW P16 04

_____

___ See below for additional information. By KW Date 9/29/88

ADDITIONAL INFORMATION

91-07032 & 91-07184 ~ ALL SHARE SAME P.O.

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

September 8, 1988

Dept. of Lands
Statehouse
Boise, Id. 83720

Re: 91-7102

Gentlemen:

Enclosed is a recent filing with this Department that may be of interest to your Agency.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms

Enclosure

Celebrate IDAHO
1890 • CENTENNIAL • 1990

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 9 • 4055 Government Way • Coeur d'Alene, Idaho 83814 • (208) 765-4639

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Dear Claimant:

The Department of Water Resources acknowledges receipt of your water right application for permit.

This office is currently in the process of advertising the application in the local county newspaper. The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our state office in about five weeks. State office personnel will conduct a complete review prior to the final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Enclosed please find your receipt for the fee involved in filing this application.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/pms
Enc. - Receipt

RECEIVED
DEC 2 6 1989

Celebrate IDAHO
1890 · CENTENNIAL · 1990

91-07102

HAWKS, STEVE
RT 2 BOX 86
ST. MARIES, ID 83861

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

Diversion Pt: LOT 1 (NENESE) Sec 7 T 46N R 02W

Use: DOMESTIC (.020 CFS)

Date Filed: 7/22/1988

In: T46N R02W S07 Lot 1 (NESE)

State of Idaho
Department of Water Resources

Adjudication Claim

91-7102

DOMESTIC

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters

0 0.035 0.07 0.14 Miles

N

Map produced on May 04, 2016

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

5/4/2016

WATER RIGHT NO. 91-7102

Owner Type	Name and Address
Current Owner	DEANNE HAWKS
Current Owner	STEVE HAWKS
	89231 HWY 3 N
	ST MARIES, ID 83861
	(208)245-2403
Attorney	NORMAN M SEMANKO
	MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD
	PO BOX 829
	BOISE, ID 83701-0829
	(208) 345-2000

Priority Date: 07/22/1988
Basis: License
Status: Active

Source	Tributary
ST JOE RIVER	COEUR D ALENE LAKE

Beneficial Use	From	To	Diversion Rate	Volume
DOMESTIC	03/15	11/15	0.02 CFS	0.6 AFA
Total Diversion			0.02 CFS	

Location of Point(s) of Diversion:

ST JOE RIVER	NESE Lt 7	Sec. 07	Township 46N	Range 02W	BENEWAH County

Licensed Diversion Capacity: 0.02

Place(s) of use:

Place of Use Legal Description: DOMESTIC BENEWAH County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
46N	02W	7	7	NESE										

Conditions of Approval:

1. Domestic use is for irriagation of lawn & garden.

Dates:
Licensed Date: 07/20/1990
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:
State or Federal:
Owner Name Connector: OR
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

BASIN 91 GENERAL PROVISIONS

The Director of the Idaho Department of Water Resources recommends to the Coeur d'Alene-Spokane River Basin Adjudication District Court that the following general provisions be included in the degree determining rights to water from Basin 91.

---

1. The following water rights from the following sources of water in Basin 91 shall be administered separately from all other water rights in Basin 91 in accordance with the prior appropriation doctrine as established by Idaho law:

WATER RIGHT NO.	SOURCE
None	None

2. The following water rights from the following sources of water in Basin 91 shall be administered separately from all other water rights in the Coeur d'Alene-Spokane River Basin in accordance with the prior appropriation doctrine as established by Idaho law:

WATER RIGHT NO.	SOURCE
None	None

3. Except as otherwise specified above, all other water rights within Basin 91 will be administered as connected sources of water in the Coeur d'Alene-Spokane River Basin in accordance with the prior appropriation doctrine as established by Idaho law.

State of Idaho
Department of Water Resources

Adjudication Recommendation

91-7102

DOMESTIC

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters

0 0.035 0.07 0.14 Miles

N

Map produced on May 04, 2016

Pedigree Search (History of Water Right Number splits)

Adjudication Pedigree for 91-7102

-- Water Right Number / Status /Reason for split

--91-7102 /Active /Combined

--91-7273 /Closed /Combined

Water Right Pedigree for 91-7102

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

5/4/2016

WATER RIGHT NO. 91-7102

Owner Type	Name and Address
Current Owner	DEANNE HAWKS
Current Owner	STEVE HAWKS
	89231 HWY 3 N
	ST MARIES, ID 83861
	(208)245-2403
Attorney	NORMAN M SEMANKO
	MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD
	PO BOX 829
	BOISE, ID 83701-0829
	(208) 345-2000

Priority Date: 07/22/1988
Basis: License
Status: Active

Source	Tributary
ST JOE RIVER	COEUR D ALENE LAKE

Beneficial Use	From	To	Diversion Rate	Volume
DOMESTIC	03/15	11/15	0.02 CFS	0.6 AFA
Total Diversion			0.02 CFS	

Location of Point(s) of Diversion:

ST JOE RIVER	NESE Lt 7	Sec. 07	Township 46N	Range 02W	BENEWAH County

Licensed Diversion Capacity: 0.02

Place(s) of use:

Place of Use Legal Description: DOMESTIC BENEWAH County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
46N	02W	7	7	NESE										

Conditions of Approval:

1.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.		Domestic use is for irrigation of lawn and garden.
3.	PIN	Parcel No. RP005300200061A for point of diversion.
4.	PIN	Parcel No. RP00530010009AA and RP005300100095A for place of use.

Dates:

Other Information:
State or Federal:
Owner Name Connector: OR
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close