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DISTRICT COURT, 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, SUBCASE NOS. 91-7102; 91-7173

vs.
COEUR D'ALENE TRIBE, a federally recognized Indian Tribe,

Objector.

DEPOSITION OF

STEVE HAWKS

TAKEN ON
MONDAY, MAY 2, 2016
1:17 P.M.

MORRIS AND WOLFF, P.A.
722 MAIN AVENUE
SAINT MARIES, IDAHO 83861

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ALSO PRESENT:

DEANNE HAWKS

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DEPOSITION OF

STEVE HAWKS

TAKEN ON

MONDAY, MAY 2, 2016

1:17 P.M.

STEVE HAWKS, having been first duly sworn, was examined, and testified as follows:

EXAMINATION

BY MR. MIHARA:

Q. Good morning [sic], Mr. Hawks.

A. Good morning.

Q. My name is Kinzo Mihara and I'm a lawyer with Howard Funke and Associates in Coeur d'Alene representing the Coeur d'Alene Tribe.

To the right you have your attorney, Mr. Norm Semanko, Moffatt Thomas; and then at the end of the table there is Mr. Steve Strack with the State of Idaho. We also have Mr. Dylan Hedden-Nicely of my office, and your wife is at the end of the table as well. Just a couple early ground rules. You were here for your wife's deposition.

A. Uh-huh.

Q. We have a written transcript of the deposition today. So if I ask you a question, can

you please try to give me a verbal answer, either "Yes," "No," or another verbal answer, versus nodding your head up and down for a yes or shaking it side to side for a no?

A. Okay.

Q. Okay. During this deposition, your lawyer or the lawyer for the state may enter an objection. If they do that, please give them time to finish their objection and then after they're finished you can answer the question.

Are you under the influence of any alcohol, drugs, legal or illegal, which would impair your ability to answer any of my questions?

A. No.

Q. Okay. If at any time during this deposition I ask you a question and you don't understand it, please ask me to repeat the question or let me know you don't understand it and I'll try to rephrase the question.

A. Okay.

Q. Okay. If at any time during the deposition you need to take a rest room break or any other break, please let me know and we can stop and come back in a few minutes.

A. Okay.

Q. All right. Can you please state and spell your full name and give your date of birth.

A. Steve Hawks, S-t-e-v-e H-a-w-k-s. October 2nd, 1948.

Q. And, Mr. Hawks, are you an American citizen and a resident of the State of Idaho --

A. Yes.

Q. -- with your permanent home in the State of Idaho?

A. Yes.

Q. I take it you are married and your wife is sitting at the end of the table?

A. Yes.

Q. We took her deposition this morning.

A. Yes.

Q. Okay. Are you familiar with your wife's signature?

A. Yes.

Q. Okay. Your wife indicated this morning neither of you have any children; is that correct?

A. Correct.

Q. Okay. Do you have any brothers or sisters?

A. Yes.

Q. Okay. Would you please give your

brothers' and sisters' names and approximate dates of birth?

A. Two sisters. One is Karen Sovereign, and her birth date is April 9, 1951, about there; and Melissa Hawks is, I'm thinking, August 31st, 1958, about there.

Q. Okay. Where do your sisters live?

A. One lives in Everett, Washington; and the other one is in Toque, Washington -- Toqueville or Toque, Washington.

Q. Okay. Your wife had indicated that you'd both been party to a lawsuit regarding access on lot 13 --

A. Yes.

Q. -- that we discussed this morning.

A. Yes.

Q. And you were also named as a party in that lawsuit that she referenced this morning.

A. Yes.

Q. Have you been a party to any other lawsuits?

A. No.

Q. Okay. Have you ever had your deposition taken before?

A. No.

Q. Okay. Other than your attorney, have you prepared or consulted with anyone about this deposition prior to coming here today?

A. No.

Q. Okay. What is your occupation?

A. Carpenter.

Q. Do you still work?

A. Yes.

Q. Do you work for a firm or do you work independently?

A. Self-employed.

Q. Self-employed. Do you own a business or is it just -- do you work as -- in an individual --

A. Just part-time business.

Q. Okay. What kind of carpentry do you do?

A. All kinds of. I've built boats and cabinets and additions to houses and about everything.

Q. So carpentry?

A. Yeah.

Q. Have you ever attended any formal education beyond high school?

A. Just community college for a year.

Q. What was the name of that community college?

A. Bellevue Community College.

Q. Okay. What did you study?

A. Drafting.

Q. Okay. Any other college or post-high school education?

A. Huh-uh.

Q. Trade school?

A. Military.

Q. When --

A. I --

Q. -- were you in the military?

A. From '68 to '72 as an aircraft mechanic.

Q. What branch of service?

A. Air Force.

Q. Thank you for your service, sir.

Where have you lived since the priority date of claim at 91-7102?

A. My address now, Highway 3.

Q. Highway 3. And prior to living there where did you live?

A. Forks, Washington.

Q. And when did you move from Forks, Washington, to your present address?

A. Probably 1978.

Q. Were you married to your wife at the time?

A. Yes.

Q. Okay. When you lived in Forks, Washington, had you lived here prior?

A. No.

Q. Do you know if your wife has lived here prior to 1978?

A. No.

Q. Okay. So in 1978 that's the first either yourself or your wife had come to Idaho?

A. Yes.

Q. Okay. So prior to '78 you had not lived in Idaho?

A. No.

Q. Neither of you?

A. No.

Q. Okay.

A. Or I should say, I guess, St. Maries. Because Deanne lived in Lewiston and grew -- no, I guess it was Asotin, Washington. I'm sorry. I didn't mean to say that.

Q. So prior to 1978 --

A. Uh-huh.

Q. -- your wife lived in Lewiston?

A. Or Asotin.

Q. Or Asotin, Washington?

A. Yes.

Q. Okay. Do you know if either you or your wife had come to Idaho, to St. Maries, Idaho, prior to 1978?

A. No.

Q. And you know that for a fact?

A. Yes.

Q. Okay.

MR. MIHARA: Would you mark this as Exhibit 1, please.

(WHEREUPON, a document headed "The United States of America" was marked as Exhibit 1 for identification.)

MR. MIHARA: Let the record reflect I'm showing counsel for Mr. Hawks and counsel for the state what's been marked as Exhibit 1.

BY MR. MIHARA:

Q. Mr. Hawks, I'm going to show you what's been marked as Exhibit 1. Are you familiar with that document at all?

A. No. I've never seen it before, but -- nope.

Q. Okay. Can you tell me what's noted on this document on the very bottom paragraph (indicating)?

A. Yeah. Do you want me to read it?

Q. Please.

A. "The lands above described are subject to all rights under an application by the Washington Water Power Company, approved February 2, 1909, under the Act of February 15, 1901 -- 31 Stat. 790 -- being an application for a permit for the construction of a reservoir for water power purposes."

MR. MIHARA: Thank you.

(WHEREUPON, a tract map was marked as Exhibit 2 for identification.)

MR. MIHARA: Please let the record reflect I'm handing Mr. Hawks's counsel and counsel for the state what's been marked as Exhibit 2.

BY MR. MIHARA:

Q. Mr. Hawks, handing you what's been marked as Exhibit 2, have you seen that document before?

A. Yes.

Q. Can you -- have you seen both pages of that document before?

A. I don't think I've seen this (indicating), the second page.

Q. When you say you haven't "seen this, the second page," can you tell me, below in the right-

hand corner, what the numbers and letters noted in the bottom corner are?

A. It's CDAT OBJ-7102 0132.

Q. Okay. But the first page of Exhibit 2 you have seen before?

A. Yes.

Q. Can you tell me where you've seen that document before?

A. I think we have a copy, bigger, at home.

Q. Okay. When you say you have a copy at home, would this be in the same filing system that your wife noted earlier in her deposition?

A. Probably.

Q. Okay. Now, there's a ballpoint pen and a Sharpie marker there. Could you please take the Sharpie marker and draw a box around the properties that you're claiming to own.

A. **(Witness complied.)** I think it's lot six, but I'm not sure, that we talk about the -- the pump being on? I'll try it.

Q. Okay. Mr. Hawks, can you -- inside of the boxes you just drew, can you mark an X inside the boxes that you just drew?

A. **(Witness complied.)**

Q. Okay. Are you familiar with the term

"point of diversion"?

A. Uh-huh.

Q. Okay. And, now, when I ask you this question, I'm referring to the point of diversion for water right claims 91-7102 and 91-7173.

Can you please mark with a Y where those points of diversion are on that map?

A. Okay. I'm not sure if lot six is the one we're talking about, but it would be right about there (indicating), right about there (indicating).

Q. Okay.

MR. MIHARA: Would you please mark this as Exhibit 3.

(WHEREUPON, a record of survey was marked as Exhibit 3 for identification.)

MR. MIHARA: Let the record reflect that I'm handing what's been marked as Exhibit 3 to counsel for Mr. Hawks as well as counsel for the state.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what's been marked as Exhibit 3. Are you familiar with this document?

A. Or something similar, yes, but not this exact one, no.

Q. Okay. Can you take a look at the second page and let me know if you've ever seen the second page of that exhibit?

A. **(Witness complied.)** No.

Q. Okay. Do you recognize what that exhibit purports to depict?

A. Sylvia's Haven.

Q. Like Exhibit 2, can you take the Sharpie marker and on the properties that are noted on it, can you draw a box around the properties that you claim to own?

A. **(Witness complied.)** An X?

Q. Yeah.

A. **(Indicating.)**

Q. Okay. And like Exhibit 2, can you put a Y where your points of diversion are?

A. **(Witness complied.)**

Q. Okay. I'll refer you to Exhibit 2. Can you read what's marked at the very bottom of that exhibit?

A. "Mean summer level" -- or "Mean summer water."

Q. Are you aware of what the term "mean summer water level" is?

A. Just what the level of the lake is in the

summer that's regulated by the dam.

Q. And the dam would be --

A. Post Falls.

Q. -- the dam -- just so we're making a written record, when I'm asking a question, before you answer or if -- I apologize if I interrupted you. So let's try to, if I'm speaking, to let me finish and if you're speaking, I will try my hardest to let you --

A. Okay.

Q. -- finish. It's for the benefit of the court reporter.

A. Okay.

Q. So the dam is located in Post Falls, correct?

A. Right.

Q. And that regulates the water level at your properties --

A. Yes.

Q. -- correct?

Now, is there a difference of water level between lot six and lot 13, meaning is the water adjacent to lot 13 any different level?

A. No.

Q. So it's the same level at the same time?

A. Yes.

Q. So if the water goes up on lot six, the water goes up on lot 13?

A. Yes.

Q. And if the water goes down on lot six, the water goes down on lot 13?

A. Yes.

Q. Okay. Now, I notice on Exhibit 2 and Exhibit 3 you marked your Y's inside the boxes (indicating), (indicating). And that's correct?

A. **(Witness nods head.)** Yeah.

Q. Okay. Now, for those diversions, do those diversions have piping?

A. Yes.

Q. And so would you say that the ends of those pipes are where you drew the Y?

A. No -- well, yeah, that one is (indicating). Yeah, it's pretty close.

Q. Okay. And when you say "that one," you're referring to lot six on Exhibit 3?

A. Yes.

Q. Okay. And that's the same for Exhibit -- lot six on Exhibit 2?

A. Yes.

Q. So is it different on lot 13?

A. Yes. It goes out -- out to the piling.

Q. Okay. Could you mark with the Sharpie with a Y on where the end of those pipes would be on both Exhibit 3 and Exhibit 2?

A. Well, depending on how far the pilings go. I'm just going to guess (indicating), (indicating).

Q. And would you circle both of the Y's that you just drew on those exhibits so we know -- we can differentiate?

A. **(Witness complied.)** Okay.

Q. Okay. Thank you. Now, you say that the point of diversion for lot six is approximately where you drew the Y's on both Exhibit 3 and Exhibit 2, correct?

A. Yes.

Q. Okay. Do you see any of -- it's kind of hard to see, but do you see any of the circles --

A. Yes.

Q. -- noted --

A. Yes.

Q. -- here (indicating)?

A. Uh-huh.

Q. Could you please circle with the Sharpie marker those circles that you observe on those documents?

A. **(Witness complied.)**

Q. Okay.

A. This one (indicating), too?

Q. Yes, please. When you say, "This one, too," you're referring to --

A. Yes.

Q. -- Exhibit 3?

A. Sorry. **(Witness complied.)**

Q. And if you don't see them, don't mark them.

A. I see one (indicating).

Q. Okay. Have you ever seen any survey pins on your property?

A. Yes.

Q. Have you seen any survey pins on lot six approximately at the locations where you've marked circles?

A. There's one by the highway, probably this one (indicating).

Q. And by "this one" you mean the north --

A. I'm sorry.

Q. -- the northern two circles?

A. Yes.

Q. That's what you just indicated on Exhibit 3?

A. Yes.

Q. Okay. Have you seen where the southern two pins are --

A. No.

Q. -- on lot six?

A. No.

Q. Okay. But the line you drew around lot six approximate where those pins are located --

A. Yes.

Q. -- is that correct?

A. Yes.

Q. Okay.

MR. MIHARA: Please mark this document as Exhibit 4.

(WHEREUPON, a copy of an aerial photograph was marked as Exhibit 4 for identification.)

MR. MIHARA: Let the record reflect I'm handing counsel for Mr. Hawks, counsel for the state, what's been marked as Exhibit 4.

BY MR. MIHARA:

Q. Mr. Hawks -- oh, before -- before we get into Exhibit 4, let me follow up a little bit on Exhibit 3.

Have you ever observed anybody else surveying Sylvia's Haven in the general vicinity of

blocks two or three?

A. No.

Q. Okay. When you were involved in the access litigation with your neighbor on lot 12 of block two, was there ever a surveyor hired in relation to that lawsuit?

A. I don't remember.

Q. Okay. Have you ever seen anybody move any of the pins that you've marked with a circle on any of these --

A. No.

Q. Would you have any reason to believe anybody ever has moved any of those pins?

A. No.

Q. Okay. I'm handing you what's been marked as Exhibit 4. Like you've done with Exhibits 2 and 3, can you please diagram the properties which you claim an ownership in with the Sharpie marker?

A. **(Witness complied.)** X?

Q. And place an X where you've marked the properties?

A. **(Witness complied.)**

Q. Okay. I'm going to go back to what's been marked as Exhibit 3 and I'm going to ask you a question.

I note that on Exhibit 2 and Exhibit 4 that you've highlighted the area surrounding parcel six, but on Exhibit 3 --

A. Oh.

Q. -- you circled and X'd and Y'd what's marked on that document as parcel five --

A. Yep.

Q. -- is that correct?

A. I -- to tell you the truth, I don't know which one is which, but I can tell with this picture. I really can't tell. I think it must be this one (indicating), then, because I can see the pump business there.

Q. Okay. So I just wanted to make sure --

A. Yeah, I --

Q. -- on this one, were you incorrect on Exhibit 3 when you marked --

A. I think --

Q. -- lot five?

A. I think so.

Q. I believe from this morning, if I recall correctly, your wife marked lots four, five and six.

A. Huh.

Q. Do you know if you own any interest in lots four and five as well as lot six?

A. Yeah, I think we do.

Q. Okay.

A. But I thought we were just talking about where the pump was is why I'm --

Q. Okay. Well, I -- just to clarify my question, if you could highlight -- circle or diagram on those -- on that photo, Exhibit 4, all the property you own that's depicted on that and mark with an X inside of it.

A. **(Witness complied.)**

Q. And then for water right claim No. 7102, if you could mark the point of diversion with a Y.

A. **(Witness complied.)**

Q. And could you mark water diversion for 7173 with a Y?

A. **(Witness complied.)**

Q. Okay. Now, when we were talking earlier, we talked about having pipes --

A. Uh-huh.

Q. -- and there was pipes out in the water, and you drew this Y (indicating) and circled it on Exhibit 3.

A. Uh-huh.

Q. Could you do the same on Exhibit 4 if you can tell approximately where the end of your pipe

for water right claim 91-7173 comes out into the water?

A. If I could see the pilings -- it goes out to the second piling. I'm just going to guess at it here (indicating). Put a Y?

Q. Put a Y and then circle it, if you --

A. **(Witness complied.)**

Q. Okay. Thank you.

MR. MIHARA: Would you please mark this as Exhibit 5.

(WHEREUPON, a deed of distribution subject to a life estate was marked as Exhibit 5 for identification.)

MR. MIHARA: Let the record reflect I'm showing counsel for Mr. Hawks and counsel for the state what's been marked as Exhibit 5.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what's been marked as Exhibit 5. Do you recognize what that document depicts?

A. Yeah.

Q. Are you familiar with that document?

A. No.

Q. Okay. Were you familiar with Mrs. Perkins, Mrs. Jill Lorene Perkins?

A. Yes.

Q. How long have you known Mrs. Perkins?

A. As long as I've known Deanne.

Q. And how long is --

A. And that's --

Q. -- that?

A. -- since 1975.

Q. Okay. And you've known your wife since 1975?

A. Yes.

Q. I won't hold you to it because we're here in a deposition, so -- but to the extent you've known Mrs. Perkins, that's since 1975?

A. Yes.

Q. Okay. And you said you and your wife had not come to Idaho before 19 -- approximately 1978; is that correct?

A. Right.

Q. Between 1975 and 1978 had you come to Idaho to visit Mrs. Perkins at all?

A. No.

Q. Okay. Do you know if Mrs. Perkins lived in her properties which you've took via this deed --

A. No.

Q. -- in 1975?

A. No.
Q. You do not know?
A. She did not.
Q. She did not live there?
A. No.
Q. Do you know where she lived?
A. Pendleton, Oregon.
Q. Pendleton, Oregon?
A. Yes.
Q. Okay. Do you know who owned any of the property depicted in Exhibits 2, 3 or 4 --
A. We --
Q. -- before 1978?
A. Cy Chase.
Q. Okay. But do you know if either you or your wife had visited any of these properties?
A. No.
Q. Okay. No, you don't know whether you --
A. We did not.
Q. Okay. You did not visit -- neither you nor your wife visited any of these properties --
A. No.
Q. -- before 1978?
A. Correct.
Q. Thank you. Do you know whether you or

your spouse pay property taxes to Benewah County for any of the property depicted in this exhibit? And by "this exhibit" I mean Exhibit 4.

A. Yes. Thirteen (indicating) and these three (indicating) -- whatever numbers they are.

Q. Okay. And by "these three" are you referencing lots four, five, and six?

A. I believe so, yes.

Q. Okay. So do you or your wife pay any property taxes to either Benewah County or the State of Idaho for any of the area depicting water (indicating) in Exhibit 4?

A. I don't believe so.

Q. Okay. Do you know for a fact yes or no?

A. No.

Q. Have you ever sold -- you and your wife ever sold any property which is --

A. No.

Q. Okay. Now, I believe earlier when we were in your wife's deposition, in approximately -- and forgive me -- it may have been 1990, but you acquired the full interest in lot 13; is that correct?

A. That's correct.

Q. At the time you acquired your property on

lot 13, do you know if you acquired any title insurance?

A. I don't know.

Q. What company did you use to close on -- escrow company did you use to close on that property?

A. I don't know.

Q. Do you know if you closed on that property here in Benewah County?

A. Probably. I don't know for sure.

Q. Okay. Did you go to an office to sign deeds?

A. No.

Q. Okay. Do you contend that any of the properties you've marked here (indicating) by outlining the property boundaries and marking inside with an X -- do you know if any of the title of those properties goes out into the water?

A. I was told from the gentleman we bought that our property goes to the center of the canal (indicating) and the lagoon.

Q. Have you ever seen a document which purports to extend the property line out into the center of the lagoon?

A. I have seen a schematic like this

(indicating) that has lines in the canal (indicating) and the lagoon.

Q. And by "this" you were referencing what's been marked as Exhibit 2?

A. Yes. Sorry.

Q. The first page of Exhibit 2?

A. Yes.

Q. Okay. Thank you.

A. But to the center lines (indicating) of canal and lagoon.

Q. And when did you see those documents?

A. They were documents that belonged to Cy Chase that he had showed me.

Q. Okay.

A. And I don't have a copy of them.

Q. Okay.

MR. MIHARA: Could we mark this as Exhibit 5, please. Oh, I believe it would be Exhibit 6.

(WHEREUPON, a water agreement and easement was marked as Exhibit 6 for identification.)

MR. MIHARA: Please let the record reflect I'm showing Mr. Hawks's counsel and counsel for the state what's been marked as Exhibit 6.

BY MR. MIHARA:

Q. Mr. Hawks, I'm showing you what's been

marked as Exhibit 6. Are you familiar with what that document is?

A. Oh, yeah, I know what it is.

Q. And what is that document, Mr. Hawks?

A. There was a well that I believe we signed over to Don Harvey, the neighbor across the street.

Q. And where is that well located?

A. Next door to our place.

Q. Can you tell me if the location, the approximate location, of the well is located on either Exhibits --

A. Right up in there somewhere (indicating).

Q. And by "right up in there" you were referencing the --

A. It's --

THE REPORTER: I'm sorry. Could you wait, please. I can't write two people at the same time.

BY MR. MIHARA:

Q. And by "right there," sir, you mean the upper right-hand corner of what's been marked as Exhibit 4?

A. Yes.

Q. Could you mark with your Sharpie a W in a circle under the approximate location of where you're referencing?

A. **(Witness complied.)**

Q. Okay. And that is on Exhibit 4, correct?

A. Correct.

Q. Okay. Thank you. Do you know what the tax parcel identification numbers are for lots four, five, and six or lot 13?

A. No.

Q. Okay. Are you aware of the Supreme Court case we talked about earlier in your wife's deposition where the Supreme Court of the United States had quieted title in favor of the Coeur d'Alene Tribe to the bed and banks below navigable waters within the Coeur D'Alene Reservation?

A. Yes.

Q. And how are you aware of that Supreme Court case?

A. It was in the paper. And I kind of researched it, and I thought it was the bed and banks back in 1906 before the dam was put in. I thought that's what it was talking about --

Q. Okay.

A. -- for bed and banks.

Q. And where did you research that case, sir?

A. Probably on the web.

Q. Okay. Would you say that tribal ownership

of the bed and banks of the St. Joe River is kind of a common understanding here in the community?

A. No. I've had different answers from different people.

Q. Okay. Who have you talked to about the ownership -- other than your lawyer, who have you talked to about the ownership of the St. Joe River -- of --

A. Like neighbors, Bud Harvey probably. And got into a lot of discussions with Dr. John Broccoli, who followed the goings-on with the tribe, and I can't think of anyone else in particular.

Q. Okay. Thank you, Mr. Hawks.

MR. MIHARA: Would you please mark this as Exhibit 7.

(WHEREUPON, a State of Idaho Department of Water Resources Application for Permit was marked as Exhibit 7 for identification.)

MR. MIHARA: Okay. Mr. Hawks, I'm going to hand your counsel and counsel for the state what's been marked as Exhibit 7.

BY MR. MIHARA:

Q. I'm going to hand you what's been marked as Exhibit 7, Mr. Hawks. Are you familiar with that document?

A. Yeah.

Q. Can you tell me what that document is?

A. It's for our permit to pump from the St. Joe.

Q. Okay. And by "permit" you mean permit for water right claim No. 91-7102?

A. I believe so. It doesn't have that number on here, but -- oh, yes, it does (indicating).

Q. And --

A. Yes.

Q. -- you just indicated to the document and you indicated to the upper right-hand corner of the first page of Exhibit 7?

A. Yes.

Q. Okay. Thank you. The only reason I'm saying that is because, again, we have to make the --

A. Yes.

Q. -- record.

Is that your handwriting within Exhibit 7?

A. That is (indicating) on the bottom of page CDAT OBJ-7102 0015.

Q. And --

A. Right-hand bottom.

Q. And that's -- you're indicating to your

signature there, sir?

A. Yes.

Q. Okay. Flipping to the pages in front of your signature, can you tell me whose handwriting is there in block letters?

A. My wife's, Deanne.

Q. Okay. Can you tell me -- may I see the exhibit, sir?

A. Sure (indicating).

Q. Have you ever seen the last page of what's been marked as Exhibit 7?

A. I don't know. I don't think so.

Q. Okay. Can you read for me what -- under -- what's marked as 1.e. under "Action of the Director, Department of Water Resources"?

Can you read for me what that says?

A. It says: "Other: The issuance of this permit in no way grants any right-of-way or easement across the land of another."

Q. And what does that language mean to you?

A. I can't go across anybody's land.

Q. And by -- when you say it means you can't go across anybody's land, would you include the Coeur d'Alene Tribe within that statement?

A. Yeah, if they were anywhere there

(indicating).

Q. And when you say "if they were anyone [sic] there," you were referring to the statement under 1.e. --

A. Yes.

Q. -- under "Action of the Director, Department of Water Resources"?

A. Yes. There's no Indian land involved.

Q. Okay. Can you tell me what you mean by what you just said, that there's no Indian land involved?

A. Well, did you ask me if that was -- it included Indian land?

Q. My question, sir --

A. Say it again.

Q. Okay. I'll ask the question again, sir.

When -- under item 1.e. when it says: "The issuance of this permit in no way grants any right-of-way or easement across the land of another" --

A. Uh-huh.

Q. -- would you understand that statement to mean that that would also include the lands of the Coeur d'Alene Tribe?

A. Yes.

Q. Okay. Thank you.

MR. MIHARA: Please mark this as Exhibit 8.

(WHEREUPON, an affidavit of publication was marked as Exhibit 8 for identification.)

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks, counsel for the state, what's been marked as Exhibit 8.

BY MR. MIHARA:

Q. Mr. Hawks, I'm going to hand you what's been marked as Exhibit 8. Are you familiar with this document or any portion of it?

A. Oh, yeah (indicating). This is our advertisement for water right.

Q. Okay. And you're indicating on that document, sir, and just for the record, is it correct that you're indicating on the upper right-hand portion of that -- what's been marked as Exhibit 8 --

A. Correct.

Q. -- under what's noted "Application for water right field by Hawks"?

A. "Filed by Hawks."

Q. "Filed by Hawks"?

A. Yes.

Q. I'm sorry. I'm trying to read it upside down.

A. Good job, though.

Q. Okay. And that's marked in the bottom right-hand corner CDAT OBJ-7102 0018?

A. Correct.

Q. Okay. Do you see a marking on -- in that area under "Diversion Pt"?

A. Yes.

Q. And can you read for me what is noted there?

A. It says "Pt: Lot 1 (NENESE) Section 7T 46N R 02W."

Q. Okay. Is there a portion of that area where you've indicated that notes the source?

A. St. Joe River.

Q. Okay.

MR. MIHARA: Would you please mark this as Exhibit 9.

(WHEREUPON, beneficial use field report documents were marked as Exhibit 9 for identification.)

BY MR. MIHARA:

Q. Mr. Hawks, going back to Exhibit 8, just wanted to clarify that Exhibit 8, can you tell

anywhere in this area that you've indicated up here (indicating) as to what water right claim that this deals with?

A. Yeah. The 91-07102, which is the license number, I believe.

Q. Okay. Thank you.

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks and counsel for the state what's been marked as Exhibit 9.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what's been marked as Exhibit 9, which is a series of documents.

Can you look through those documents and tell me if you recognize any of those documents?

A. **(Witness complied.)** No. Just looks like the documents the guys that came to inspect had.

Q. When you say "the documents the guys that came to inspect had," were you present during any inspection --

A. Yes.

Q. -- by the Idaho Department of Water Resources?

A. Yes.

Q. Can you tell me when that occurred?

A. Well, if there's a -- looks like August

19, 1989.

Q. Do you know, referring to Exhibit 9, who made the diagram on what's marked as page CDAT OBJ-7102 022?

A. No.

Q. Do you know who made the diagram on the page that's marked as CDAT OBJ-7102 0023?

A. No.

Q. Okay. Thank you, Mr. Hawks.

A. Uh-huh.

Q. Do you know if either you or your spouse hold any permits from the Coeur d'Alene Tribe?

A. No.

Q. Okay. Do you know if either you or your spouse had ever applied for an encroachment permit from the Idaho Department of Lands for either of your water rights, 91-7102 or 91-7173?

A. I don't know specifically what that means. I mean isn't this (indicating) part of that?

Q. I'm asking you --

A. Oh, that's right.

Q. -- Mr. Hawks.

A. I don't know.

Q. No, you don't know or --

A. I don't know.

Q. -- no, you never did?

A. I don't know.

Q. Thank you.

MR. MIHARA: Mark this as Exhibit 10, please.

(WHEREUPON, a State of Idaho Department of Water Resources Water Right License was marked as Exhibit 10 for identification.)

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks what's been marked as Exhibit 10 and counsel for the state as well.

BY MR. MIHARA:

Q. I'm going to hand you what's been marked as Exhibit 10, Mr. Hawks. Have you ever seen a copy of that document before?

A. No.

Q. Do you know what that document is?

A. It says "Water Right License."

Q. Does that document have a source noted on it?

A. No.

Q. And is that the water right license for water right claim 91-7102?

A. Yes. Oh, it does say "St. Joe River." I'm sorry.

Q. Okay. Now, for claim 91-7102 do you divert any other water from any other source other than the St. Joe River?

A. No.

Q. Okay. Now, we took a look at a water right permit earlier, and by "water right permit" I'm referring to the back -- the very last page of Exhibit 7.

A. Okay.

Q. Do you understand how the water right permit and the water right license works?

A. We get to pump water if we have these (indicating).

Q. Would you consider this water right license as granting anything greater than what's contained in your permit?

A. I don't know what you mean.

Q. Would you say that your water right license gives you something different than what had been contained in your permit, a right to do anything different?

A. I don't believe so.

Q. So the rights that you were -- and don't let me put words in your mouth. So if you understand, you understand. If you don't, you

don't.

But do you understand that this water right license grants you to do anything other than what this water right permit --

MR. SEMANKO: It's been asked and answered, counsel. You can answer if you want.

THE DEPONENT: But I don't -- I don't think so.

MR. MIHARA: Okay. Thank you.

Would you please mark this as Exhibit 11.

(WHEREUPON, a document entitled "Idaho Department of Water Resources Recommended Water Rights Acquired under State Law" was marked as Exhibit 11 for identification.)

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks and counsel for the state what's been marked as Exhibit 11.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what's been marked as Exhibit 11. Are you aware what that document is?

A. Well, water rights to pump from the St. Joe.

Q. Have you ever seen a copy of that document before?

A. No.

Q. Is the term "Source" noted on that document, Mr. Hawks?

A. Yeah. St. Joe River.

Q. Is there any other source noted on that document, Mr. Hawks?

A. Just "tributary Coeur d'Alene Lake."

Q. Okay. Can you read to me what it says under "Period of Use"?

A. Can't seem to find it. Oh, "Period of Use 3/15 to 11/15."

Q. And do you understand what those numbers represent?

A. Yeah, month and year.

Q. Okay.

A. Or -- yeah. Or month and day probably. I'm sorry.

Q. Is there a term on that document which is called "Explanatory Material"?

A. Yep.

Q. And can you read to me what it says under "Explanatory Material"?

A. Says: "Basis of claim -- License "Parcel No. RP005300200061A for point of diversion. "Parcel No. RP00530010009AA and RP005300100095A for place of

use."

Q. Do you understand what those terms mean?

A. Nope.

Q. Okay. Now, this morning when we deposed your wife, we were asking about your neighbors, about do you interact with any of your neighbors.

A. To say hi.

Q. Okay. Do you interact socially with any neighbors?

A. Once in a while. A couple times this summer.

Q. Okay. How do you interact socially with them?

A. Sit around a campfire.

Q. Okay. Do you know if any of your neighbors hold any permits from the Coeur d'Alene Tribe?

A. Nope.

Q. Okay. Do you -- let me rephrase. Strike that.

This morning your wife indicated you owned a boat.

A. Uh-huh.

Q. Is that correct?

A. Yes.

Q. Do you know how large your boat is?

A. It's a 12-foot aluminum Hewescraft.

Q. Do you have an engine on that boat?

A. Yeah.

Q. What horsepower engine do you have?

A. Ten horse.

Q. Okay. How many people does that fit?

A. Two.

Q. Okay. What do you use that boat for?

A. Just boating around.

Q. Where do you go when you boat around?

A. Up the St. Joe.

Q. How far up the St. Joe do you go?

A. Been up as far as the big eddy and to the lake and back.

Q. Okay. So you can travel up the river to what's known as the bagetti?

A. The big eddy, yeah.

Q. The big eddy?

A. Yes.

Q. Okay. And then as far as down to the lake?

A. Uh-huh.

Q. I don't want to put words in your mouth, but does that mean to the mouth of the St. Joe

River?

A. Yeah, and beyond to Harrison probably and, well, to Coeur d'Alene.

Q. You've traveled from your property here (indicating) in your 12-foot boat --

A. Yeah.

Q. -- from your property to Coeur d'Alene?

A. Yep.

Q. How long did that take you?

A. Day.

Q. What did you do while you were in Coeur d'Alene?

A. Nothing. I just turned around and came back.

MR. SEMANKO: Had to ask.

THE DEPONENT: I had enough beer to get back.

MR. SEMANKO: Okay. You need to just leave it there.

BY MR. MIHARA:

Q. Do you know if any of your neighbors have made water right claims in the CSRBA?

A. No.

Q. Do you know if any of your other neighbors have boats?

A. Yeah.

Q. Big boats? Little boats?

A. Maybe 20-footers.

Q. Okay. Do other people boat in the areas adjacent to your property?

A. Yeah.

Q. I'm showing you what's been marked as Exhibit 4. And by the waters where people boat, I'm indicating the waters which are blue in the photo (indicating).

A. Uh-huh.

Q. Okay. So you boat in those waters?

A. Uh-huh.

Q. And your neighbors boat in those waters; is that correct?

A. Mostly, and the river.

Q. Okay. And --

A. I come in here (indicating) to get in the boathouse.

Q. Do members of the public --

A. Come in here (indicating)?

Q. -- boat in those waters?

A. Yeah, on the river.

Q. Okay. Are you familiar with the term "ordinary high water mark"?

A. Summer level. Is that it?

Q. I'm asking you, Mr. Hawks -- sorry -- if --

A. If it's summer level, that's what it means to me.

Q. Okay. Would you equate ordinary high water mark, ordinary summer level, to ordinary summer pool?

A. I don't know for sure.

Q. Okay. Do you know what the elevation is of the ordinary high water mark in relation to your property?

A. No. But it's on -- I look on a website that has a graph, and I can't think of the name of it, and it's in the paper every day.

Q. In --

A. In The Spokesman.

Q. In The Spokesman Review every day?

A. Yeah.

Q. Do you know what website that you were just referring to?

A. Nope.

Q. Okay.

A. I have it on the favorites.

Q. Okay. Are you familiar with the term

"navigable waters"?

A. Uh-huh.

Q. Is that a "Yes"?

A. Yes. I'm sorry.

Q. Okay. I -- just for the benefit of the court reporter.

Would you consider the waters depicted on Exhibit 4 to be navigable?

A. At certain times of the year.

Q. When the water is at its ordinary high water mark or ordinary summer pool, would you consider the waters depicted in Exhibit 4 to be navigable?

A. Yes.

Q. Any waters that are depicted on Exhibit 4 would you consider to be not navigable at the ordinary high water mark or ordinary summer pool?

A. No.

Q. Okay. Forgive me. I'm just trying to maintain organization here.

MR. MIHARA: Would you please mark this (indicating) Exhibit 12 and this (indicating) Exhibit 13, please.

(WHEREUPON, a State of Idaho Department of Water Resources Beneficial Use Field Report

Supplement was marked as Exhibit 12 and a photocopy of photographs was marked as Exhibit 13 for identification.)

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks what's been marked as Exhibit 12 and 13.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what have been marked as Exhibits 12 and 13.

A. Uh-huh.

Q. Are you familiar with what those pictures depict?

A. Yeah.

Q. And what do those pictures depict?

A. The lot (indicating) where we have our diversion.

Q. Okay. And is that the same answer for both Exhibit 12 and 13?

A. Yes.

Q. Okay. Focusing your attention on Exhibit 12 for a second, this morning in your wife's deposition I believe we referred to that as the orange thingy out in the water.

A. Yeah.

Q. Can you tell me what the orange thingy out

in the water is?

A. That's the foot valve that goes to my pump.

Q. The foot valve that goes to your pump. Can you circle that with the black Sharpie?

A. **(Witness complied.)**

Q. Now, does the end of your pipe end at that foot valve or does it extend beyond the foot valve?

A. Goes down about 6 inches into the water.

Q. So directly down --

A. Yes.

Q. -- 6 inches?

Is there a screen at the end of that?

A. Yes.

Q. Do you know at what time of the year that photo was taken?

A. The date here says August 8, '89.

Q. Okay. Is the water level depicted in that picture approximately the normal water level at August?

A. Yes.

Q. Okay. And is there a boat located in that photo, Mr. Hawks?

A. Yep.

Q. Is it a little boat or a big boat or --

A. Oh, that's an old lifeboat that belonged to Bud Harvey.

Q. Okay. Was that a little boat or a big boat?

A. That was about a 25-footer.

Q. That's a pretty big boat.

A. Lifeboat, yeah.

Q. Pretty big boat.

A. Yeah. Doesn't draw much though.

Q. And with the water level -- forgive my memory, but we just said the water level was at the ordinary high water mark?

A. Looks to be, yes.

Q. And that foot valve is out in the water at that time, correct?

A. Yes.

Q. Okay. Turning your attention to the handwriting next to the picture --

A. Uh-huh.

Q. -- can you tell me what that says?

A. "The PD."

Q. Do you know what that refers to?

A. I'm guessing pump diversion.

Q. Okay. Do you know who made -- do you know whose handwriting that is?

A. No.

Q. You don't. And do you recognize which claim that that photo is in regard to?

A. Yeah, the 9102 -- or 7102.

Q. Okay. Thank you. Turning your attention to Exhibit 13, Mr. Hawks --

A. Uh-huh.

Q. -- earlier today your wife informed me to ask you about how that system works. Can you tell me how that system works?

A. Sure. There's a pump right behind this pipe (indicating).

Q. Okay. Can you mark an X at the approximate location of your pump?

A. **(Witness complied.)**

Q. And are part of those pipes your pipes and part of them someone else's pipes?

A. They're all mine.

Q. Can you circle the pipes that are yours?

A. **(Witness complied.)**

Q. Okay. Now, there is what looks to be a culvert standing on edge --

A. Oh, this one (indicating). Yes.

Q. Could you mark that with a C, please?

A. **(Witness complied.)**

Q. Now, earlier today your wife said that that does not belong to you.

A. No.

Q. Do you know who that belongs to?

A. Belonged to Joe Marcea.

Q. Do you know if that has any way been used anytime recently?

A. No, it has not.

Q. Okay. But you do continue to use your pipes that you've circled?

A. Yes.

Q. Now, when you circled -- there's two photos in what's marked Exhibit 13. You marked the approximate location of the pump in the top photo.

Could you mark the approximate location of the pump in the bottom photo?

A. **(Witness complied.)**

Q. You marked that with a circle. Am I correct --

A. Oh, supposed to be an X, right?

(Indicating.)

Q. Now, we're referring to the bottom photo and you've marked the approximate location of the pump with a circle and an X inside the circle, correct?

A. Yes.

Q. Okay. Thank you. How does that pipe draw water from the water area there?

A. Just a hose from the pump into the lagoon --

Q. Okay.

A. -- with the foot valve on it.

Q. Is that foot valve still --

A. Yeah.

Q. -- located at the same place it was located in what has been marked as Exhibit 12?

A. Yeah, within a couple feet.

Q. Okay. And that would still be out in the water area?

A. Yes.

Q. Okay. How does that system work?

A. Well, I have a pump, a pressure tank, and there's a 4-inch line that goes under the highway up to our house; and from there we water everything.

Q. How many acres do you water?

A. Not an acre. Half an acre.

Q. Half an acre?

A. **(Witness nods head.)**

Q. Okay. Does anybody else share that system?

A. No.

Q. So that's your system that you --

A. Yes.

Q. -- use exclusively for your property to the north of the highway there?

A. Yep, and for fire.

Q. Okay. Are there any holding tanks on your system?

A. Just a pressure tank.

Q. And where is that pressure tank located?

A. Right there (indicating) on the -- where I have -- right next to the pump.

Q. On the upper photo of what's been marked as Exhibit 13 could you put a P on what you're referring to as a pressure tank?

A. **(Witness complied.)**

Q. Do you know the capacity of that pressure tank?

A. Thirty gallons.

Q. Okay. Now, is that system -- is that hard-wired or is that run off a generator?

A. Hard-wired.

Q. Do you know who installed that system?

A. I did.

Q. And do you know when you installed that

system?

A. '89.

Q. Okay.

A. The -- no, before then. It would probably be -- I'd say 1980.

Q. Has the system ever broken?

A. Huh-uh.

Q. So the same pump you were using in '89 is the same pump you're using right now?

A. Uh-huh.

Q. Okay. And can you tell me -- is the water level which is depicted in Exhibit 13 -- can you tell me if that's higher or lower than the water level which is depicted in Exhibit 12 -- or can you tell me?

A. This (indicating) looks a little higher in Exhibit 13.

Q. Okay. And what makes you say that?

A. Just the amount of bank showing.

Q. Okay. Turning your attention to this part (indicating) of the photo in Exhibit 13 --

A. Uh-huh.

Q. -- what I'm indicating is what looks to be a culvert --

A. Yes.

Q. -- below the circles you've drawn --

A. Right.

Q. -- on Exhibit 13 in both photos. Do you know what that culvert is?

A. Yeah. It's from the highway department to keep the road from flooding over. Rain comes off the hill and floods the road, so they put a culvert in.

Q. Okay. And that's the drain for that culvert?

A. Yes.

Q. Okay. Do you know where the water comes -- in the culvert which you've marked as a C in these pictures, do you know where that water comes from?

A. There's no water involved with it. It's full of gravel.

Q. Oh, okay.

A. And Marcea had a pump on top of it.

Q. And so that's all been filled in?

A. Yeah, with gravel.

Q. Okay. Do you know when Mr. Marcea filled that in with gravel?

A. I think it was before we got there.

Q. And when you say "before we got there," that's --

A. Because I --

Q. -- in 1978?

A. Yes.

Q. Okay. Have you ever seen anybody fishing in these waters (indicating) which are depicted in Exhibits 12 and --

A. Oh --

Q. -- 13?

A. -- yes.

Q. Do you fish in those waters?

A. No.

Q. Do you know what kind of fish people catch in those waters?

A. Bass.

Q. Large mouth or small mouth?

A. I don't know the difference.

Q. Okay. Other than bass, have you heard of anybody catching --

A. They --

THE REPORTER: I'm sorry. If you could start that over, please.

And if you could wait until the question is done.

THE DEPONENT: Okay.

BY MR. MIHARA:

Q. Do you know if anybody's ever caught catfish in there?

A. Yes.

Q. Okay. Are you familiar with the term "brownie"?

A. Yes.

Q. Would you equate that to a brown trout?

A. No. I was thinking of Girl Scouts.

Q. (Laughter.)

A. The young ones.

Q. Are you familiar with the fish, brown trout?

A. No.

Q. Are you familiar with cutthroat trout?

A. Yes.

Q. Have you ever caught or know anybody who's caught cutthroat trout in --

A. Yes, they go by.

Q. Has anybody caught cutthroat trout in these waters (indicating)?

A. No.

Q. And by "these waters" I'm indicating the waters noted in Exhibit 4 (indicating).

A. No trout in here (indicating). That's too stagnant.

Q. Okay. But there are bass?

A. Uh-huh.

Q. Okay.

A. Bass tournaments.

Q. Wow. And do you know which organization puts on bass tournaments?

A. No.

Q. So since you installed these diversion works (indicating) they've never moved?

A. Huh-uh.

Q. Is that a "No"?

A. That's a no.

Q. Okay. Other than irrigation, do you use that water that comes out of that system for any other purpose?

A. Wash my car --

Q. Okay.

A. -- about once a year.

Q. Okay.

MR. MIHARA: Could you mark this as Exhibit 14, please.

(WHEREUPON, a correction deed was marked as Exhibit 14 for identification.)

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks, counsel for the

state, what's been marked as Exhibit 14.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what's been marked as Exhibit 14. Are you familiar with that document?

A. Yes.

Q. Can you tell me what that document is?

A. A correction deed.

Q. Can you tell me to which property that correction deed applies?

A. Lot 13.

Q. Okay. We discussed this document earlier today with your wife; is that correct?

A. Uh-huh.

Q. And you were present during that line of questioning?

A. Yes.

Q. Okay. Do you recall your wife indicating that that deed had somehow been superseded by a document which granted you the full interest in lot 13 --

A. Yes.

Q. -- as opposed to a partial interest?

A. Yes.

Q. Okay. And that's -- that document

purports to transfer a partial interest to you, correct?

A. Yes.

Q. Okay. How did that deal come about?

A. Well, the Swansons offered to do all the paperwork for us, and they used their attorney. And he was an elderly fellow, got a few things wrong and had to be corrected.

Q. Okay. How many times did it have to be corrected?

A. Twice.

Q. Okay. Do you have a copy of the other deeds which --

A. Probably. I don't know for sure but, yeah, we do somewhere.

Q. Okay.

MR. MIHARA: Could you mark this as Exhibit 15, please.

(WHEREUPON, a map was marked as Exhibit 15 for identification.)

(A discussion was held off the record.)

MR. MIHARA: I'm going to hand your counsel what's been marked as Exhibit 15, counsel for Mr. Hawks as well as counsel for the state.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what's been marked as Exhibit 15 on the back.

A. Uh-huh.

Q. Are you familiar with that document?

A. Uh-huh.

Q. Can you tell me what that document is?

A. A map of Sylvia's Haven.

Q. Is there handwriting on that document?

A. Looks like, yes.

Q. Are you familiar with that handwriting?

A. No.

Q. Okay. Can you tell me in relation to lot 13, is lot 13 shaded in on that?

A. Yes.

Q. Do you know who shaded that in?

A. No.

Q. Okay. Right below the shading of lot 13 there's an X --

A. Uh-huh.

Q. -- with some writing underneath it.

A. Yes.

Q. Can you tell me what that says?

A. "Point of diversion."

Q. Okay. Does that X and "Point of diversion" roughly correspond to the points of

diversion that you marked on Exhibit 4, Exhibit 3 --

A. Yes, roughly.

Q. -- and Exhibit 2?

A. Yes.

Q. Let the record reflect I have shown the witness Exhibits 2, 3, and 4.

A. And then it goes to the river. I mean --

Q. Right. And the end of the pipe for the point of diversion for lot 13 extends out in the river?

A. Yes.

Q. Does the end of the pipe -- your wife had indicated this morning that that pipe is sometimes removed.

A. Yes.

Q. When do you -- approximately do you remove it?

A. October.

Q. And is that a rough estimate of time?

A. Yes.

Q. And when do you approximately put it back into the river?

A. When it looks like it's not going to flood.

Q. Okay. Have you had problems with that

pipe washing away before?

A. No. I have it tied to a piling.

Q. Okay.

A. It's supported two places.

Q. Why do you remove the pipe?

A. Because the water goes away and it freezes.

Q. Does the pipe crack?

A. If it freezes, yes.

Q. And that's why you remove it?

A. Yes.

Q. Okay.

A. And take all the water out.

Q. Okay. So during the time that that pipe is removed, do you use water on that property?

A. No.

Q. Okay. When the pipe is in its location, is that at a period of what you would understand to be ordinary high water?

A. Yes.

Q. Okay. So that portion would extend past the water line of the ordinary high water mark?

A. Yes.

Q. Do you know how far that extends past there?

A. Four feet or so.

Q. Okay. And that's to a piling out in the St. Joe River?

A. Yes.

Q. Approximately?

A. Yes.

Q. You said -- now, earlier I believe you said it was the second piling; is that correct?

A. There's two pilings (indicating) that go out.

Q. Okay.

A. And I attach it to both of those to keep it out of the mud.

Q. Okay. And so when you say "the second piling," are you talking about the piling that's furthest from land?

A. Yes.

Q. Okay. Thank you.

MR. MIHARA: Could you mark these Exhibits 16 and 17, please.

(WHEREUPON, an Idaho Department of Lands encroachment permit was marked as Exhibit 16 and a diagram of St. Joe's River was marked as Exhibit 17 for identification.)

MR. MIHARA: I'm handing your counsel what

has been marked as Exhibit 16 and 17. Let the record reflect that counsel for Mr. Hawks and counsel for the state have been handed Exhibits 16 and 17.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what have been marked Exhibits 16 and 17. Are you familiar with those two documents?

A. Yep. Yes.

Q. Is that your signature on Exhibit 16?

A. Yes.

Q. Okay. Who filled out the typed portions of Exhibit 16?

A. I don't know.

Q. Did you --

A. I mean --

Q. Did you fill those out? Did you type any of that in?

A. No.

Q. Okay. Turning to Exhibit 17, can you tell me if it says "Source" on there anywhere?

A. Points of diversion (indicating) of the source St. Joe River (indicating).

Q. Okay. Does it say "Conditions of Approval"?

A. Uh-huh. Yes.

Q. Okay. Can you read to me what it says under No. 3 under "Conditions of Approval"?

A. "This right does not grant any right-of-way or easement across land of other" -- "of another."

Q. Okay. And would you understand the language that you just read to me to include the lands of the Coeur d'Alene Tribe?

A. Yes.

Q. Okay.

MR. MIHARA: Would you please mark this as Exhibit 18.

(WHEREUPON, documents regarding an encroachment permit were marked as Exhibit 18 for identification.)

MR. MIHARA: Okay. Let the record reflect handing counsel for Mr. Hawks, counsel for the state, what's been marked as Exhibit 18.

BY MR. MIHARA:

Q. Mr. Hawks, while counsel is reviewing that document, turning back to something you said about the fishing --

A. Uh-huh.

Q. -- you said they had bass tournaments in

the water area which depict --

A. Just all over the lake and to the Cave Lake and the whole system.

Q. Do you know, during those bass tournaments, whether any of those people have entered what you've termed as the lagoon area (indicating) in Exhibit 4?

A. Yes.

Q. And people have fished in there?

A. Yes.

Q. Okay. Has anybody from the bass tournament or any of those fishermen ever asked for permission to go in there?

A. No.

Q. Can you tell me if there's "No Trespassing" signs marked at the entrance (indicating), at these entrances (indicating)?

A. No.

Q. Okay. Can you tell me if that's always been the case?

A. As far as I know.

Q. Okay. And you've lived there since 1978?

A. Yes.

Q. Okay. Thank you. I'm handing you what's been marked as Exhibit 18, Mr. Hawks. It took

counsel a minute, so please take a minute and flip through what's been marked as Exhibit 18 and if you can let me know whether you're familiar with the documents that Exhibit 18 purports to contain.

A. **(Witness complied.)** Maybe this one (indicating).

Q. And by "this one," can you read the --

A. Yes.

Q. -- numbers and letters in the bottom right-hand corner?

A. Yes. CDAT OBJ-7173 0044.

Q. So you're familiar with that document?

A. Uh-huh.

Q. And by -- is that a "Yes"?

A. Yes. I'm sorry. Yes.

Q. Okay.

A. Yep, I'm familiar with all that.

Q. When you say, "I'm familiar with all that," you were talking about the pages of Exhibit 18 subsequent to the page you identified previously?

A. Yes.

Q. And that was for --

A. These (indicating) I don't know.

Q. Okay. And by "these" you mean the first --

A. The first three --

Q. -- three pages of the exhibit?

But am I correct in asserting that you recognize the balance of the pages of the exhibit?

A. Yes.

Q. Okay. And that's -- just to be clear for the record, that's CDAT OBJ-7173 --

A. 00 --

Q. -- 0044 --

A. Correct.

Q. -- to CDAT OBJ-7173 0050?

A. Yes.

Q. Okay. Thank you. Can you tell me what those documents are --

A. Two --

Q. -- the ones you recognize?

A. Yes. We had pilings installed to reinforce the existing pilings.

Q. Okay. And by "pilings" you mean pilings out in the St. Joe River?

A. Yes.

Q. And these are some of the same pilings you discussed earlier that you had attached your water pipe to?

A. Yes.

Q. Can you tell me if any part of that application or any of those documents which you have indicated that you recognize --

A. Uh-huh.

Q. -- authorize any of the water pipe withdraw?

A. No.

Q. No, you can't tell me --

A. It --

Q. -- or no, they do not?

A. They don't.

Q. They don't authorize it?

A. No.

Q. Okay. Thank you.

MR. MIHARA: Would you please mark this as Exhibit 19.

(WHEREUPON, a letter from the Idaho Department of Lands was marked as Exhibit 19 for identification.)

MR. MIHARA: Let the record reflect handing counsel for Mr. Hawks, counsel for the state, what's been marked as Exhibit 19.

BY MR. MIHARA:

Q. Turning back to Exhibit 18, Mr. Hawks, can you tell me if you have ever applied to the Idaho

Department of Lands for your water withdraw pipe like you did for your dock?

A. Yeah, in some of these previous (indicating) license and permit things.

Q. Now, is that a -- do you understand that there is a difference between the Idaho Department of Water Resources and the Idaho Department of Lands?

A. I guess not.

Q. Okay. Mr. Hawks, let me hand you what's been marked as Exhibit 19. Do you recognize that document?

A. Yes.

Q. Have you seen that document before?

A. Yeah.

Q. When have you seen that document before?

A. Well, it says November 30th, '88.

Q. Do you recall having seen that document around November 30th, 1988?

A. Not exactly, but I remember seeing this (indicating).

Q. Okay. Do you recall ever responding to that letter?

A. Yeah. We paid the 60 and the 25 and the ten to get the temporary permit.

Q. So have you ever -- do you know if you ever received a permanent permit?

A. I believe so.

Q. Do you know what time -- around what time you received a permanent permit?

A. Probably '89.

Q. Okay. And for what water right claim can you tell me is that letter referencing?

A. 7102. That's the pump in the chan -- or in the lagoon --

Q. Okay.

A. -- is -- I think. Yes.

MR. MIHARA: Would you please mark this as Exhibit 20.

(WHEREUPON, a photocopy of a photograph and diagram was marked as Exhibit 20 for identification.)

MR. MIHARA: Let the record reflect I'm handing counsel for Mr. Hawks and counsel for the state what's been marked as Exhibit 20.

BY MR. MIHARA:

Q. Mr. Hawks, handing you what's been marked as Exhibit 20, can you tell me what that diagram, that hand-drawn diagram, and what that photo depict?

A. Yeah. Summer level at our prop -- lot 13.

Q. Okay. Do you know when approximately that photo was taken, during which month of the year?

A. Oh, probably June or July.

Q. Okay. Would the distances marked on the pilings correspond to the distances of the pilings at ordinary high water/ordinary summer pool?

A. Yes.

Q. Okay. Can you tell me from that diagram how far out those pilings extend into the river?

A. It would have to be a guess, but -- well, it says 52 feet here (indicating).

Q. Okay. Now, at ordinary high pool does your water pipe extend to the second of those pilings?

A. Should I mark where it goes to?

Q. You can -- well, actually, use a Sharpie, please, because it looks like that's a color. So I don't want to get it --

A. How do you want it marked?

Q. Mark it from -- would you mark it from what's -- the blue line where it says "Summer level shore."

A. Uh-huh.

Q. Do you see that blue line?

A. Yes.

Q. Can you mark it from that blue line to wherever it goes?

A. **(Witness complied.)**

Q. Okay. Now, Mr. Hawks, forgive me if I recall incorrectly, but I somehow recollect you said it followed to the second piling (indicating) of your dock; is that correct?

A. Yes. Well, not the dock but the second row of pilings.

Q. Okay. And where you've marked it is the second row of pilings --

A. Yes.

Q. -- that you've -- okay.

And do the most waterward pilings -- are they pretty much equidistant from the shore into the water? Are they --

A. Yes. They're --

Q. -- about set --

A. -- in a line.

Q. So you do understand what I mean by equidistant from the --

A. Yes.

Q. -- shore?

And that's noted on this drawing as 52 feet, correct?

A. Yes.

Q. And you've noted your line extending at least that far, correct?

A. Yes.

Q. Okay. Thank you.

MR. MIHARA: Would you please mark this as Exhibit 21.

(A discussion was held off the record.)

(WHEREUPON, a memorandum from the Idaho Department of Lands was marked as Exhibit 21 for identification.)

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks and counsel for the state what's been marked as Exhibit 21.

BY MR. MIHARA:

Q. While counsel's looking at that document, Mr. Hawks, do we need to take a break or are you fine to --

A. No, I'm good.

Q. -- continue? Okay.

Mr. Hawks, I'm going to hand you what's been marked as Exhibit 21. It's quite a packet of documents, so please take your time and go through them and let me know whether you're familiar with what those documents are.

A. **(Witness complied.)** I remember this (indicating) very well. It was --

THE REPORTER: I'm sorry. I couldn't hear you.

THE DEPONENT: Oh. That was really a mess when they did that.

BY MR. MIHARA:

Q. Just to clarify, and not to put words in your mouth, you said, "I remember this very well" --

A. Uh-huh.

Q. -- "this was a very big mess"?

A. Yes.

Q. Okay. And would you confirm that you have now flipped through every single page of Exhibit 21?

A. Yes.

Q. Okay. What can you tell me from -- from what this was?

A. He just wanted to make the lagoon deeper.

Q. Okay. You had indicated earlier in your deposition that Cy Chase had shown you some maps with lines that purported to go out into the middle of the lagoon area.

A. Yes.

Q. Were those documents -- are they --

A. No. They --

Q. Are those documents reflected in any part of Exhibit 21?

A. No.

Q. Okay. So they're different documents?

A. Yes.

Q. Okay. What can you tell me about the -- why it was such a mess?

A. It was just the middle of winter. It was real cold. And you can imagine digging out that canal with a big, long (indicating) steam shovel type thing and hauling that stuff away.

Q. Okay. How long did the work take approximately?

A. Maybe three weeks.

Q. Okay. And did it make the canal deeper?

A. Yes.

Q. And turning to page CDAT OBJ-7173 0067, can you read what's marked as item No. 3 there?

A. "This permit does not convey the State's title or jurisdiction or management of lands lying below the natural ordinary high water mark."

Q. And the property that's referenced in Exhibit 21, that's to the lagoon area --

A. Yes.

Q. -- of the property that we've been

discussing, correct?

A. Yes.

Q. And that's the property between blocks two and three of Sylvia's Haven, correct?

A. Yes.

Q. Okay. And you have seen these documents before?

A. No. No, I haven't.

Q. Okay. But you do understand what these documents were in relation to?

A. Yes.

Q. Okay. Now, you said you had not seen these documents before. I'm going to reference you to --

A. Oh.

Q. -- page CDAT OBJ-7173 0085.

A. Uh-huh.

Q. Is this your signature, Mr. Hawks?

A. Yes.

Q. And can you read to me what it says there?

A. Well, it -- just that we gave him permission to do that, that we wouldn't sue him or anything.

Q. Okay. But did he show you any portion of these --

A. No, just these last two (indicating) on the exhibit that I signed and all the other neighbors had to sign off --

Q. Okay.

A. -- that were on the lagoon.

Q. Okay. So earlier in your deposition I'm not sure whether it was you or your wife, but you noted that the property was Cy Chase's --

A. Yes.

Q. -- out in the lagoon. Was that your deposition, this current deposition here?

A. Say again.

Q. Did you tell me earlier in this deposition that it was Cy Chase who owned the lagoon?

A. Yes.

Q. Okay. Can you tell me on page -- now I'm referencing page CDAT OBJ-7173 0078 -- where, at what elevation, the ordinary high water mark is in relation to these plans?

A. I don't know which number is good.

Q. Well, if you can't tell me, that's fine. But if you can --

A. Just dockage lagoon at 2126. Looks like the bed goes down to 2120 in the lagoon.

Q. Is there a notation on that page that says

"OHWM"?

A. Oh, up here (indicating), yes.

Q. Can you tell me what number is adjacent to that notation?

A. 2128.

Q. Okay. Thank you. Do you know what the notation "OHWM" stands for?

A. No.

Q. Okay. But the documents in what has been marked as Exhibit 21 note that Cy Chase is the applicant, correct?

A. Yes.

Q. Do you know if -- how did the ownership of the lagoon go from Cy Chase to other adjacent land owners?

A. I don't know. What do you mean?

Q. Do you know if Cy Chase ever transferred, by deed or other legal conveyance, any property in the -- that lagoon area you were --

A. No.

Q. -- talking about to anybody else?

A. Just with the descriptions (indicating) from the surveyors.

Q. And when you say "descriptions from the surveyors," what do you mean?

A. It shows some of the pins are in the lagoon.

Q. Are any of the surveys that you just referenced part of the packet of exhibits we've talked about earlier?

A. Yes.

Q. Can you tell me which ones? And here's -- just to make sure they're all in order there --

A. Maybe it's not here. I --

THE REPORTER: I'm sorry. What did you just say?

THE DEPONENT: I might be mistaken.

THE REPORTER: Thank you.

THE DEPONENT: I think I am mistaken.

BY MR. MIHARA:

Q. Mr. Hawks, do you have any surveys in your possession that are not part of what have been marked as Exhibits 1 through 21?

A. No. They all -- no, I don't think so.

Q. Okay. Do you know why Cy Chase would have filed an encroachment permit application to the Idaho Department of Lands if he had owned that property?

A. No.

MR. MIHARA: Please mark this as Exhibit

22.

(WHEREUPON, a State of Idaho Department of Water Resource Water Right License was marked as Exhibit 22 for identification.)

MR. MIHARA: Please let the record reflect I'm handing counsel for Mr. Hawks what's been marked as Exhibit 22 and counsel for the state.

BY MR. MIHARA:

Q. Turning to -- before I show you Exhibit 22, I want to turn back to Exhibit 21. Can you tell me what approximate years or year that Exhibit 21 relates to, what year that project occurred in?

A. I believe '90 -- well, it's '97, it says here (indicating). I'm going to go with that.

Q. Okay. Are you aware of what year the United States Supreme Court case we discussed earlier in relation to the Coeur d'Alene Tribe -- do you know what year that United States Supreme Court case came out in?

A. No.

Q. Okay. I'm handing you what's been marked as Exhibit 22, Mr. Hawks. Are you familiar with that document?

A. No, but I see what it is.

Q. Can you tell me what that document

purports to be, Mr. Hawks?

A. It's a water right license from the St. Joe River.

Q. And who is the owner of that license?

A. Me, I believe. Yes.

Q. Okay. And is there a source noted on that?

A. St. Joe River.

Q. Okay. Any other source?

A. No.

Q. Okay. Can you tell me the period of use, if a period of use is noted on that license?

A. Permit dated June 16, 2008. Proof of beneficial use on August 21, 2008.

Q. Okay. Do you mind if I see that document, sir?

A. **(Witness complied.)**

Q. Do you see a notation on this document that says "Conditions of Approval"?

A. Yes.

Q. Can you read to me what is marked as No. 2 under "Conditions of Approval"?

A. "This right does not grant any right-of-way or easement across the land of another."

Q. And we discussed that language earlier

with the permit --

A. Yes.

Q. -- correct?

A. Correct.

Q. And would you consider that notation to apply to lands of the Coeur d'Alene Tribe as well?

A. Yes.

Q. So to understand, you would not consider this water right license to grant any right-of-way or easement across the land of the Coeur d'Alene Tribe?

A. Yes.

Q. Yes, you would consider it a right to do so?

A. No. It says right here (indicating) I don't.

MR. MIHARA: Okay. Thank you.

(A discussion was held off the record.)

(A recess was taken.)

(The record was read.)

BY MR. MIHARA:

Q. Turning back to what's been marked as Exhibit 22, Mr. Hawks --

A. Uh-huh.

Q. -- have you ever had any discussions with

any Idaho Department of Water Resources personnel regarding ownership of the land underlying your points of diversion?

A. No.

Q. Okay. Can you tell me at what time of the year is water usually at its highest point at lot 13 and lot six?

A. It depends. Like if there's a flood, it could be in February it could be flooded or even late as July. So it's never a simple answer.

Q. Okay. So it fluctuates?

A. Yes.

Q. Okay.

MR. MIHARA: Would you please mark this as Exhibit 23.

(A discussion was held off the record.)

(WHEREUPON, encroachment permit documents were marked as Exhibit 23 for identification.)

MR. MIHARA: Let the record reflect I'm handing counsel for Mr. Hawks and counsel for the state what's been marked as Exhibit 23.

BY MR. MIHARA:

Q. Mr. Hawks, I'm handing you what's been marked as Exhibit 23. Do you recognize the letter up front and the document behind it?

A. Looks like the permit for my dock.

Q. Okay. And was this the dock that we discussed earlier in Exhibit 20?

A. Yes.

Q. Okay.

MR. MIHARA: Could you mark this as Exhibit 24, please.

(WHEREUPON, Coeur d'Alene Tribe documents were marked as Exhibit 24 for identification.)

MR. MIHARA: Please let the record reflect I'm showing counsel for Mr. Hawks, counsel for the state, what's been marked as Exhibit 24.

BY MR. MIHARA:

Q. Showing you a series of documents that have been marked as Exhibit 24, could you take a minute and look through those documents and let me know if you recall ever seeing those documents before?

A. **(Witness complied.)** Uh-huh. I mean I remember these.

Q. Now, did your prior statement, sir -- did that include all the documents contained in Exhibit 24?

A. No. There was other letters I received that said I was supposed to pay for any power lines

that went over my property and some other little extra -- I don't particularly remember except that one about the power lines (indicating), and I was just going to let it roll. They're going to take my dock and all my boom logs and everything? It's kind of threatening, I thought.

Q. But in regards to the documents contained in Exhibit 24, you have seen --

A. Yes.

Q. -- all these documents?

A. Yes.

Q. Okay. Turning to what's been -- the second page of Exhibit 24, what's marked at the bottom as CDAT OBJ-7173 0146, is that your handwriting, sir?

A. Yes.

Q. And that is your signature?

A. Yes.

Q. And you did send that letter?

A. Yes.

Q. Did you send that letter in response to either one or all of the letters from the Coeur d'Alene Tribe to you?

A. I just sent that one.

Q. Okay. And which letter was your letter in

response to?

A. Say again.

Q. You sent this letter in response to a letter you received from the Coeur d'Alene Tribe, correct?

A. Yes.

Q. Which letter did you send it in response to?

A. Probably this first one (indicating). Yep, first page in Exhibit 24.

Q. Okay. Can you read to me what your letter to the Coeur d'Alene Tribe says?

A. "I protest having to pay any fees beyond the permits I paid through the State of Idaho."

Q. Okay. Can you tell me why you wrote that?

A. I think it explains itself (indicating). I just figured I didn't owe the tribe any money for having a dock on the commons.

Q. Okay. But you removed your dock?

A. Yes.

Q. Okay. Why did you remove your dock?

A. So I wouldn't get hassled anymore.

Q. Okay. Did you ever approach the State of Idaho?

A. About?

Q. About letters you'd received from the Coeur d'Alene Tribe?

A. No.

Q. Why did you not approach the State of Idaho?

A. I already had all the paperwork I needed from them.

Q. Did you ever tell anybody from the State of Idaho that "I'm getting a letter from the Coeur d'Alene Tribe yet I have a permit from you. What am I supposed to do?"

A. No.

Q. Can you tell me if you've ever spoken with anybody from the State of Idaho, either the Idaho Department of Water Resources or the Idaho Department of Lands, about whether either of those departments consider your encroachment permit valid?

A. No. I'm just assuming it is since I -- they give me -- give it to me.

Q. Okay. Other than this letter that we just referenced as CDAT OBJ-7173 0146, had you sent any other correspondence --

A. No.

Q. -- to the Coeur d'Alene Tribe?

A. I did. I wrote them a letter telling them

I moved my dock out of the river.

Q. Okay. Do you --

A. And we'd still get letters (indicating) wanting the money.

Q. Do you have a copy of that other letter that --

A. No.

Q. Okay. Turning back to what's been marked as Exhibit 16, under item 9a. can you read me what the question is and what the answer is?

A. "Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing. Applicant." [sic]

Q. Okay. But if I recall correctly from that line of questioning, you had said you had not typed that information in.

A. No.

Q. Do you know if that document had been prepared by somebody else?

A. Evidently.

Q. Okay. Do you know who prepared --

A. No.

Q. And do you know which water right is in relation to that permit?

A. The 91-7173.

Q. Okay. Would you consider that the land underneath your point of diversion to be owned by you and/or your wife?

A. Yes.

Q. Why do you consider it to be owned by you and/or your wife?

A. Oh, this is on the river, right? 7173 is the lot 13?

Q. I ask the questions, but --

A. Oh, I'm sorry.

Q. -- if it would help refresh your memory, sir --

A. Let me look back --

Q. -- you can look at some of these (indicating).

A. Well, I guess I don't know.

Q. If we proceeded under the -- if we proceeded under the assumption, Mr. Hawks, that water right claim 91-7173 is in relation to lot 13 --

A. Uh-huh.

Q. -- your river lot --

A. Yes.

Q. -- would you consider that statement on

that application accurate?

A. Yes.

Q. And that is statement 9b.: "Who owns the land" -- oh, I'm sorry. Statement 9a.: "Who owns the property" --

A. Oh.

Q. -- "at the point of diversion? If other than applicant" --

A. Well --

Q. I'm sorry. I'm trying to read it upside down?

A. Well, I own the property at the point of diversion.

Q. "If other than the applicant, describe the arrangement enabling the applicant to make this filing." It says "Applicant."

A. Yeah. But I didn't realize this is an answer that's typed in.

Q. Okay. But --

A. So I don't know who -- I don't know who prepared this.

Q. Okay.

A. But I know I signed it.

Q. But you would consider the question and the answer correct?

A. Yes.

Q. Why would you consider that you own the land at the point of diversion?

A. Because we bought it.

Q. Turning back to exhibit No. 4, Mr. Hawks, when you marked the Y in the circle (indicating) --

A. Uh-huh.

Q. -- below lot 13, do you consider that you own that property that's marked with a Y with a circle?

A. Well, it's not touching the ground anywhere. It's suspended in the water.

Q. But at that point -- on the ground at that point do you consider that you and your wife own that property --

A. Yes.

Q. -- below that?

A. Yes. Because it's still on our property or I hook up to it, I mean, put that pipe on.

Q. So just to be clear, we're referencing Exhibit 4 and you drew a line --

A. Uh-huh.

Q. -- around the box with an X in it --

A. Uh-huh.

Q. -- at lot 13?

A. That's the point of diversion, isn't it --

Q. I -- I --

A. -- that Y?

Q. Well, there's a Y and then there's a Y with a circle in it --

A. Uh-huh.

Q. -- and I believe that we've talked about that, that it goes to the second piling out.

A. Yes.

Q. And we drew another line, I believe, on Exhibit 20 --

A. Uh-huh.

Q. -- that would correspond to the pipe.

A. Oh, because I'm going over the river bed? That's what you're trying to point out?

Q. Yes. Would you consider that you and your wife own the river bed where the Y in the circle is marked on Exhibit 4?

A. Yeah, because I believe the measurement that we make from that pin goes out into the river for our property --

Q. Would it --

A. -- the dimensions they give.

Q. Would it go out to the second piling that's noted on Exhibit 20 where you made that mark

(indicating)?

A. I think it goes pretty close.

MR. MIHARA: Mark this as Exhibit 25, please.

(WHEREUPON, a document entitled "Delivery System" was marked as Exhibit 25 for identification.)

MR. MIHARA: Let the record reflect I'm showing counsel for Mr. Hawks, counsel for the state, what's been marked as Exhibit 25.

BY MR. MIHARA:

Q. Mr. Hawks, I'm showing you what's been marked as Exhibit 25. Are you familiar with that document?

A. No.

Q. Do you know what that document purports to depict?

A. Well, it looks like lot 13 and a few others.

Q. Now, it looks like there's a pre-existing line drawn from lot 13 out to a place in the water.

A. Yeah.

Q. Is that an approximation of the delivery system for your piping?

A. No. It's on -- no.

Q. So that's --

A. I'm on the other side of that.

Q. That's incorrect?

A. Yes.

Q. Okay. Could you take the Sharpie marker and circle what's pre-existing?

A. What do you mean?

Q. The writing that's already on it, could you just make a circle around it?

A. This (indicating)?

Q. Yes.

A. **(Witness complied.)**

Q. Okay. Now, with the same Sharpie marker can you draw the correct delivery system for your piping?

A. **(Witness complied.)** Does the -- I wonder, is that the -- because I don't know what this is out here (indicating). That looks like a dock but there's no dock there.

Q. Was there ever a dock there?

A. Yes.

Q. Was that the approximate location of the dock when it was there?

A. Yeah.

Q. Could you draw the delivery system in

relation to the dock when it was there?

A. I did.

Q. Okay. Thank you.

MR. MIHARA: Can you mark this as Exhibit 26, please.

(WHEREUPON, photocopies of photographs were marked as Exhibit 26 for identification.)

MR. MIHARA: Let the record reflect I'm handing counsel for Mr. Hawks, counsel for the state, what's been marked as Exhibit 26.

BY MR. MIHARA:

Q. Mr. Hawks, handing you Exhibit 26 --

A. Uh-huh.

Q. -- can you take a minute and take a look at those pictures.

A. **(Witness complied.)** Okay. What would you like to know?

Q. Do you recognize what those pictures depict?

A. Yeah.

Q. Can you tell me, what do those pictures depict?

A. This (indicating) is the pump that was there, and this --

Q. Okay. When you say, "This is the pump

that was there," you're referring to --

A. The property when we bought it.

Q. Can you read me the letters and numbers at the bottom of the page there?

A. Yes. It's CDAT OBJ-7173 0019.

Q. And you said that's the pump that was there at the property when you bought it?

A. Yes.

Q. Is there a different pump there now?

A. No.

Q. Is that pump still there today?

A. Yes.

Q. Okay. And that pump is still working?

A. Yeah.

Q. Okay. Can you flip the page and tell me what's on the next page?

A. **(Witness complied.)** This is the bottom (indicating) of the old shack that was there and the interior of the old shack (indicating).

Q. Okay. And what is that page marked, sir, on the bottom?

A. It's CDAT OBJ-7173 0020.

Q. And when you say this was "the interior of the old shack," that was -- you're referencing the bottom picture on that page?

A. Yes.

Q. Okay. Can you tell me -- or can you use the Sharpie marker and show me where the water comes into that pump that's depicted on that photo?

A. Right there (indicating).

Q. That's where the water comes in?

A. Uh-huh.

Q. Okay. And can you show me where the water leaves?

A. Here (indicating).

Q. And from those circles that you just drew, can you draw an arrow up from the circle, from the circle that you indicated where the water comes in?

A. Like direction of the water?

Q. Direction of the water.

A. **(Witness complied.)**

Q. Okay. And what is the blue tank there to the right?

A. A pressure tank.

Q. A pressure tank. Do you know what the capacity of that pressure tank is?

A. Probably a 30 gallon. Thirty gallon.

Q. Okay. Could you just write "30 Gal"?

A. **(Witness complied.)**

Q. Okay. Thank you, sir. Can you turn the -

- and what can you tell me is depicted on the upper picture on that same page?

A. This pipe (indicating) goes down to this (indicating) where all the hoses hook up.

Q. And is it dispersed on your property from there?

A. Yes.

Q. Can you tell me which hose goes to the house?

A. Nothing went to the house. It just was a -- like an open kitchen type of deal. Like this (indicating) is where we used to do the camping.

Q. And when you said, "This is where we used to do the camping," you have turned the page now and you're discussing what's on page C --

A. CDAT OBJ-7173 0021.

Q. Thank you. Can you turn that page, please.

A. **(Witness complied.)**

Q. And now we're talking about CDAT OBJ-7173 0 --

A. 022.

Q. -- 022?

A. Yes.

Q. Can you tell me what those two photos are,

sir?

A. The lower one is the shack that the pump was in.

Q. Uh-huh.

A. And I don't know what this other picture is (indicating) on top. I don't remember that electrical box or that hydrant. I don't think that was on our property. And on page CDAT OBJ-7173 0023, I don't know what that is. Looks like a pipe going into the water.

Q. Does that look like the pipe that is removed and replaced every year?

A. No, because it doesn't -- there's grass (indicating) where it goes through.

Q. Okay. Does it --

A. And this looks like it's more in the lagoon.

Q. Why do you say it looks like it's more in the lagoon?

A. Because it looks like the water's gone down and this is (indicating) what the bottom of the lagoon looks like.

Q. That does not look like what the bottom of the river looks like at your river property?

A. No. This looks more like the lagoon.

Q. Huh.

A. And this log (indicating) looks like a part of the old dock that was moved in there.

Q. Can you tell me what the next picture on the next page is?

A. Oh, this (indicating) is our boathouse on the top --

Q. Okay.

A. -- top left on CDAT OBJ-7173 0128. The top left is our boathouse and our dock. The top right is part of our dock and part of Fix's new water system, it looks like.

Q. And that's -- when you say "Fix's new water system," can you circle --

A. He just --

Q. -- can you circle what you're referencing as Fix's new water system?

A. **(Witness complied.)** This is something I just noticed a couple days ago.

Q. So do you --

A. Or when Phillip came by in the Indian boat.

Q. Can you tell me, are you claiming any water right to any of that which you've just circled?

A. No.

Q. Okay. Turning back to Exhibit 20 and Exhibit 25, you circled what you had said was an incorrect depiction of the point of diversion --

A. Uh-huh.

Q. -- and then -- is that a "Yes"?

A. Yes.

Q. Okay. And then you drew a line where you -- that you had indicated is the correct point of diversion?

A. Yes.

Q. And can you indicate to me whether the line you drew on this photo extends past your property boundary there?

A. Possibly. This (indicating) is -- yeah, it goes a little past.

Q. Okay. Now, turning your attention on Exhibit 20, when you drew this line (indicating) --

A. Uh-huh.

Q. -- and you drew the line to the piling --

A. Yes.

Q. -- and we indicated that that piling you drew it to --

A. Maybe I'll put this out farther (indicating).

Q. Okay. I just wanted to make sure it was about --

A. Yeah.

Q. Okay. Can you tell me, Mr. Hawks, whether you know if either you or your wife pay any taxes to Benewah County or the State of Idaho for property that extends past the boundaries noted on Exhibit 4, the property boundaries being the property boundaries that you circled with the Sharpie marker?

A. Yeah, we pay taxes on those (indicating).

Q. Do you pay property taxes on tax -- on property outside of those --

A. This block up here (indicating).

Q. When you say "This block up here" --

A. Block -- I don't remember what number that is.

Q. So now you're drawing, again, another -- a line around property --

A. Uh-huh.

Q. -- on the north --

A. It's partially there (indicating).

Q. Okay, which is partially there. Can you please diagram that and put an X on that?

A. **(Witness complied.)** Oops.

Q. Okay.

A. Two X's.

Q. So you put two X's in that one.

A. Sorry about that.

Q. No, that's good. It helps delineate which one you just did. So now there's properties indicated by one in the north with two X's?

A. Uh-huh.

Q. Three lots directly to the south of that, each marked individually with an X?

A. Uh-huh.

Q. And a property which we've been referring to as lot 13, and you've marked that with an X?

A. Yes.

Q. Outside of those boundaries which you've just drawn, do you know if you pay any taxes to the City of St. Maries?

A. No.

Q. Benewah County?

A. No.

Q. The State of Idaho?

A. No.

Q. So you pay taxes just on the properties which you've indicated?

A. Vehicle license. Is that a tax, too?

Q. Fair enough. Real property taxes --

A. Okay.

Q. -- property, the land?

A. No, that's it.

Q. That's it. Okay. Thank you very much. And before we put it away, just to be clear, you don't pay any taxes to any of the water portion which is depicted on Exhibit 4?

A. I don't believe so.

Q. Okay. Thank you. Turning to Exhibit 20, Mr. Hawks, do you consider -- this hand-drawn diagram, do you consider these pilings (indicating) to be part of lot 13 which are depicted on Exhibit 20?

A. I'm not sure.

Q. But we note that there's a notation here that says "Summer level" --

A. Uh-huh, "shore."

Q. -- "shore." And is it your testimony that you equate the summer level with the ordinary high water mark?

A. Yes.

Q. Okay.

A. But I think the measurements we took from the pins go beyond the summer level mark.

Q. Okay.

MR. MIHARA: I think that's all I would have. Norm, if you want to have any follow-up questions.

MR. SEMANKO: Steve, do you have anything?

MR. STRACK: I don't have anything.

MR. SEMANKO: I have just a few.

EXAMINATION

BY MR. SEMANKO:

Q. Let's pull Exhibit 3 out, if you would, Mr. Hawks.

A. **(Turning pages.)**

Q. One more.

A. So much for being neat and tidy.

Q. Okay. Do you recall Mr. Mihara having you circle circles where the plat shows those circles --

A. Uh-huh (indicating).

Q. -- in lot six?

A. Yes.

Q. Have you actually seen where the pins are on the property, the southern portion of the property -- not southern -- the water-side portion of that property?

A. No. There's just one showing.

Q. So you just circled circles that are on a map?

A. Yes.

Q. You don't know if -- where the pins are on that side?

A. The one pin (indicating).

Q. You don't know -- on the water side --

A. No. I don't know --

Q. -- you don't know where --

A. -- where they are.

Q. -- the pins are? You've never seen them?

A. No.

Q. Do you if they're in the water, on --

A. I don't know if --

Q. -- the land?

A. They could be in the water from the measuring we did.

Q. But you don't know?

A. No.

Q. Sticking to that property, do you know exactly where the property line falls? Is it before it hits the water? Is it at the water? Is it into the water? Do you know exactly where your property line is?

A. No.

Q. You were asked earlier by Mr. Mihara about conversations you had with people about the U.S.

Supreme Court case or the lake level related or the river level related to that case. Do you recall that --

A. Uh-huh.

Q. -- conversation?

A. Yes.

Q. Do you recall having a conversation or hearing one of the attorneys for the tribe speak about this matter at any time?

A. No.

Q. Were you at the federal building for a meeting last year?

A. No.

Q. Okay. All right. Let's look at Exhibit 7. You can pull some of those off there, if you want.

A. Five, six, seven (indicating).

Q. All right. So on Exhibit 7 Mr. Mihara asked you about 1.e., I believe. Do you recall that? No, that's not going to be right. 6.e. Hold on. Let me find this for you.

On the last page, on the permit approval, 1.e. on the last page of that exhibit, do you see that?

A. Uh-huh.

Q. Do you recall Mr. Mihara asking you about that?

A. Yes.

Q. That's the one that says: "The issuance of this permit in no way grants any right-of-way or easement across the land of another," correct?

A. Yes, that's right.

Q. At the time that you received that document from the department or submitted that application for permit to the department, did the department tell you that you needed to get a permit from the tribe?

A. No.

Q. Did the tribe tell you to get a permit for the water right diversion?

A. No.

Q. Did they ever do that at any point later in time?

A. No.

Q. For either of the water right applications?

A. No.

Q. Did the state ever tell you to do that?

A. No.

Q. And the tribe didn't?

A. I just did what the state told me.

Q. Okay. Did the tribe ever tell you to get a permit for the water use, the water right diversion --

A. No.

Q. -- from the tribe?

A. No.

Q. I want to clarify. You said there's no Indian land involved. I just want to clarify. Looking at this application for permit, let's look where it says "Description of place of use" on the second page --

A. Uh-huh.

Q. -- No. 9. That land that you've listed -- do you see that?

A. Yes.

Q. Is any of that land owned by the tribe?

A. No.

Q. Okay. How about the land at the point of diversion for that water right?

A. No.

Q. Is it owned by the tribe?

A. No.

Q. Okay. Anywhere in between the point of diversion and the place of use, does the tribe own

any of the land there?

A. No.

Q. Is that what you meant by there's no Indian land involved in this application?

A. Uh-huh.

Q. Is that a "Yes"?

A. Yes. I'm sorry.

Q. Do you have any kind of permit from the tribe to travel in your boat on the St. Joe?

A. No.

Q. To park your boat?

A. No.

Q. To fish?

A. Nope.

Q. For your water use?

A. No.

Q. For your water diversion?

A. No.

Q. Have you ever been asked by the tribe to get a permit for any of those activities?

A. No.

Q. In the lagoon, is the pool the same level when water's let out of the Post Falls dam?

A. Yes. As the river?

Q. No, as it is in the summer.

A. Oh, no. No, no.

Q. So what happens when the water is let out of the dam? What happens to the lagoon?

A. They go dry.

Q. How many years -- what percentage of the years have you seen the lagoon go dry?

A. Every year.

Q. So can you navigate in the lagoon area then?

A. No.

Q. So if the dam isn't holding water back, there's no boating in the lagoon?

A. No.

Q. Just to be clear, several -- the multiple times that Mr. Mihara asked you about an OHWM or an ordinary high water mark --

A. Uh-huh.

Q. -- did you understand that to mean the summer pool or the summer level?

A. Yes.

Q. Okay. And that's based on your own recollection of what the summer pool is?

A. It's what we keep track of from the paper and how it looks on our land --

Q. Okay.

A. -- how it corresponds.

Q. You don't know an exact level that that is?

A. No.

Q. Okay. But you know what it looks like when you see it?

A. That's right.

Q. You were asked with regard to several of these documents by Mr. Mihara about the condition that says that it doesn't grant you right across the land of another. Do you recall that?

A. Uh-huh.

Q. Did that specifically refer to the tribe or was it more generic?

A. It seemed generic to me.

Q. But you would say it does apply to the tribe, among others --

A. Yes.

Q. -- if they own land?

A. Yes.

Q. Okay. So down to the river lot, lot 13, how long has water been diverted from the river to that lot?

A. I think since Ray bought it, since 1969.

Q. So there's been a pipe in there every

year, year in, year out, since 1969?

A. Well, in the summers.

Q. Can I ask you why your application for a water right was filed in -- whatever year it was -- 2000 and --

A. I think the --

Q. -- 8 or whatever it was?

A. I think that's when Nancy Wolf recommended that we start keeping track of that stuff --

Q. Okay. So you're --

A. -- to get all the licensing and permits.

Q. So you just decided to file an application for a permit at that time?

A. Yes.

Q. Okay. As far as you know, the use went back to 1969?

A. Yes.

Q. Is that the immediately previous owner to you?

A. Yes.

Q. What was his name?

A. Ray Swanson.

Q. Ray Swanson. Is he still around?

A. No.

Q. How long has he been gone?

A. Ten, 15 years.

Q. By "gone" are we saying moved out of the area or passed away?

A. Went and graduated. Died.

Q. Okay. Thank you. You were asked a long series of questions about the Cy Chase encroachment permit, Exhibit 21. Do you recall that?

A. Uh-huh.

Q. Do you recall anywhere, during review of those documents, Cy Chase acknowledging that anyone other than himself owned any of that land?

A. No.

Q. Okay.

A. Well, just that we owned lot 13. That was the only one.

Q. So the permissions that he had to get from all the neighbors --

A. Yes.

Q. -- including the one you signed?

A. Yes.

Q. Okay. So just to be clear, with regard to some questions you were being asked earlier on the river lot, where the pipe actually touches the ground --

A. Uh-huh.

Q. -- you own that ground, correct?

A. Yes.

Q. Okay. It doesn't touch any ground that is under water?

A. No.

Q. Okay. Is that what you were trying to say earlier?

A. Yes.

Q. Okay.

A. If it touches the ground, it gets buried.

MR. SEMANKO: Thank you. That is all.

MR. MIHARA: (Indicating.)

MR. STRACK: (Shakes head.)

MR. MIHARA: We'll order.

THE REPORTER: All right. Copy for you, Mr. Semanko?

MR. SEMANKO: Yes. Review and sign, please.

THE REPORTER: Yes. How about you, sir?

MR. STRACK: You know, I'd like transcripts of both. I changed my mind.

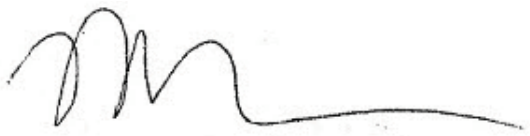
(WHEREUPON, the deposition of STEVE HAWKS was concluded at 3:57 p.m.)

CERTIFICATE

I, Maryann Matthews, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 11th day of May, 2016.



Maryann Matthews

Date: May 13, 2016 Assignment #: 21391-1

Attorney: Norman M. Semanko, Esquire

Deponent: Steve Hawks

Case: CSRBA

ATTORNEY - TRANSCRIPT ENCLOSED: Signature of your client is required. Please have your client make any corrections necessary. Sign the Correction Sheet where indicated. Forward a COPY of the executed Correction Sheet directly to the attorney(s) listed below. (The Address(es) can be found on the Appearance page of the deposition.) Also, send a COPY of the executed Correction Sheet to our corporation.

CC: Naegeli Deposition & Trial
Kinzo H. Mihara, Esquire
Steven W. Strack, Esquire

CORRECTION SHEET

Deposition of: Steve Hawks Date: 05/02/16

Regarding: CSRBA

Reporter: M. Matthews

_____

Please make all corrections, changes or clarifications to your testimony on this sheet, showing page and line number. If there are no changes, write "none" across the page. Sign this sheet on the line provided.

Page	Line	Reason for Change
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Signature_____

Steve Hawks

DECLARATION

Deposition of: Steve Hawks Date: 05/02/16

Regarding: CSRBA

Reporter: M. Matthews

_____

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Page herein.

Signed at _____, _____

on the _____ day of _____, 2016.

Signature_____

Steve Hawks

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108:19
110:18
112:24

Wolf 123:8

wonder 104:16

work 13:7
13:9 13:9
13:13 60:16
85:12

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106:13

works 46:11
58:9
58:10 66:9

Wow 66:5

write 35:17
107:23

writing 69:20
104:8

written
9:24 21:5

wrong 68:7

wrote 96:15
97:25

X

X'd 27:5

X's 113:1
113:2 113:6

Y

Y'd 27:5

Yep 27:7
48:20
51:8
56:24
61:6 73:9
76:17 96:9

yet 97:10

young 65:10

yours 58:19

yourself 15:9

you've 18:7
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26:16 26:20
27:2 30:8
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33:15 42:15
43:1 51:4
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75:22 82:10
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Y's 22:9 23:7
23:13

Sylvia's Haven

A Subdivision of

Castlio's Tracts Nos. 6, 7, 8, & 9

Sec. 7, Twp. 46 N., Rg. 2 W., B. M.

Benewah County, Idaho

DESCRIPTION

A further subdivision of Tracts 6, 7, 8, and 9 of Castlios Tracts, a platted subdivision of the SE1/4 of the NE1/4 and Government Lots 1 and 7 of Sec. 7, Twp. 46 N., Rg 2 W., B. M., Benewah County, Idaho. Except a portion of Tracts 6 and 7, the boundary of which is described as: Beginning at a point on the west line of Tract 6, said point being S1°17'E a distance of 1,108.41 feet from the NW corner of Tract 6; thence S1°17'E along the west line of Tract 6 a distance of 327.03 feet to a point on the North R/W boundary of State Hwy No 3, thence easterly along said North R/W boundary a distance of 330.10 feet to the point of intersection of said R/W boundary and the East line of Tract 7; thence N1°12'W along said East line of Tract 7 a distance 378.32 feet to a fence corner; thence S 79°30'W along a fence a distance of 535.68 feet to the point of beginning

OWNER'S CERTIFICATE

Be it known that we Cyril C Chase and Verdie J. Chase, husband and wife are the owners of the land described in the above Description and have caused the same to be subdivided into Lots and Roads as herein platted, to be known as Sylvia's Haven, Benewah County, Idaho

It is the intent of the undersigned owners to include said land in this plat subject to:

1. All roads as shown in Blk. I are dedicated to public use.
2. A 20 foot wide access and utility easement along the northerly portion of Block 3, along the easterly portion of Lot 2, along the line common to Lots 7 and 8, along the northerly line of Lots 8, 9, 10, 11, 12, and along the westerly line of Lot 12 all in Block 2 as herein platted, with dotted lines.
3. A 5 foot wide access and utility easement, as may be necessary, along each lot boundary not included in exception No 2, for public utilities.
4. The reserved right of jurisdiction over the waterways and frontage herein platted as Cockage Lagoons and Moorage Lots
5. All existing rights and easements, by use or by documents, specifically those rights pertaining to use of ground water from Lots 5, 6, 7, 8, and 9, Block I.

Cyril C Chase
Owner

Verdie J. Chase
Owner

STATE OF IDAHO S.S.
COUNTY OF BENEWAH

On the 9th day of December, 1968, before me appeared Cyril C Chase and his wife, Verdie J. Chase, known to me to be the persons who executed the above Owner's Certificate and acknowledged to me that they signed the same.

Notary Public in and for the State of Idaho

Residing in St. Maries, Idaho

My Commission expires 5-25-69

COUNTY RECORDER Plat Filing

I hereby certify that this plat was filed for record in the office of the Recorder of Benewah County at the request of C. C. Chase on the 9th day of December, 1968, at 4:15 p.m., and duly recorded in Plat Book ___ page ___

Alice Haugaard
Benewah County Recorder

COUNTY COMMISSIONER'S APPROVAL

This plat approved and accepted by the Board of Commissioners of Benewah County Idaho, this 9 day of December, 1968

Attest Alice Haugaard Clerk — Gordon Seely Chairman

COUNTY RECORDER Covenants Filing

I hereby certify that Restrictive Covenants for "Sylvia's Haven" were filed for record on the 9th day of December, 1968 under Recorders Fee No. Instrument No. 114647

Alice Haugaard
Benewah County Recorder

COUNTY TREASURER

I hereby certify that all taxes of record have been paid to this 31st day of January, 1968 Signed this 9th day of December, 1968

Mary E Law
Benewah County Treasurer

SURVEYOR'S CERTIFICATE

I, Darrell G Maher, a Registered Land Surveyor in and for the State of Idaho, do hereby certify that I did during the month of June, 1968, survey the above described Tract and set Iron Pins as shown on the above plat

Signed Darrell G Maher

STATE OF IDAHO S.S.
COUNTY OF BENEWAH

On the 7th day of DECEMBER, 1968, before me personally appeared Darrell G Maher known to me to be the person who executed the above certificate and acknowledge to me that he signed the same.

Edwin A. Mueller Jr.
Notary Public in and for the State of Idaho

Residing in St. Maries, Idaho

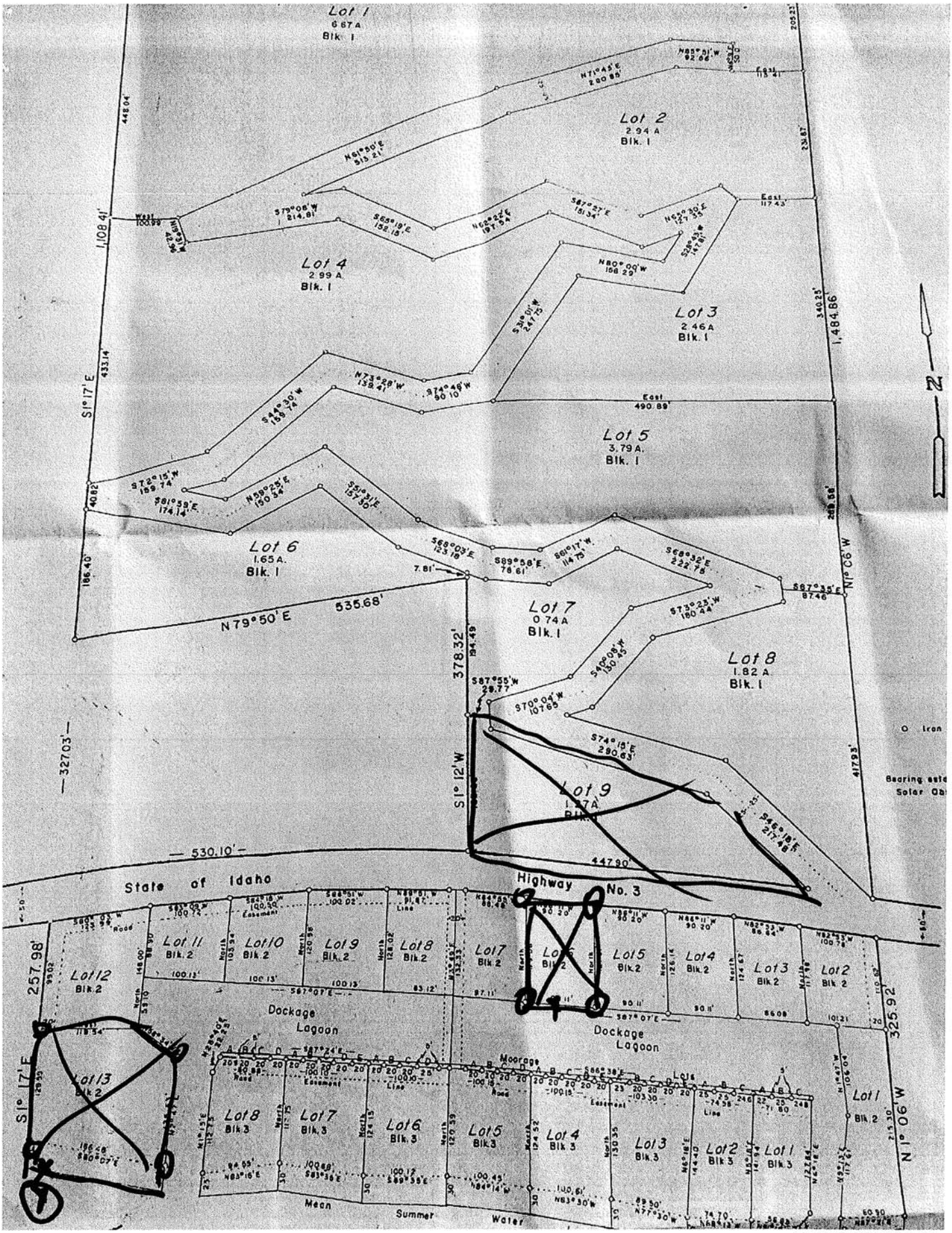
My commission expires FEBRUARY 12, 1972

114646

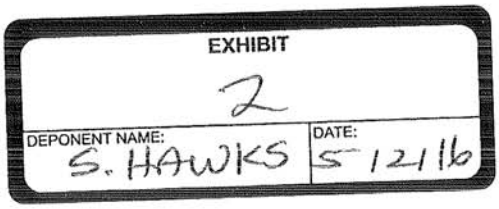
STATE OF IDAHO, } ss
County of Benewah }
Filed for record at the request of
C. C. Chase
in the 9 day of Dec. 1968 at 4:15
o'clock P. M. and recorded in Book 1
of Plats on page
Alice Haugaard
County Recorder
By ___ Deputy
Fee $5.00

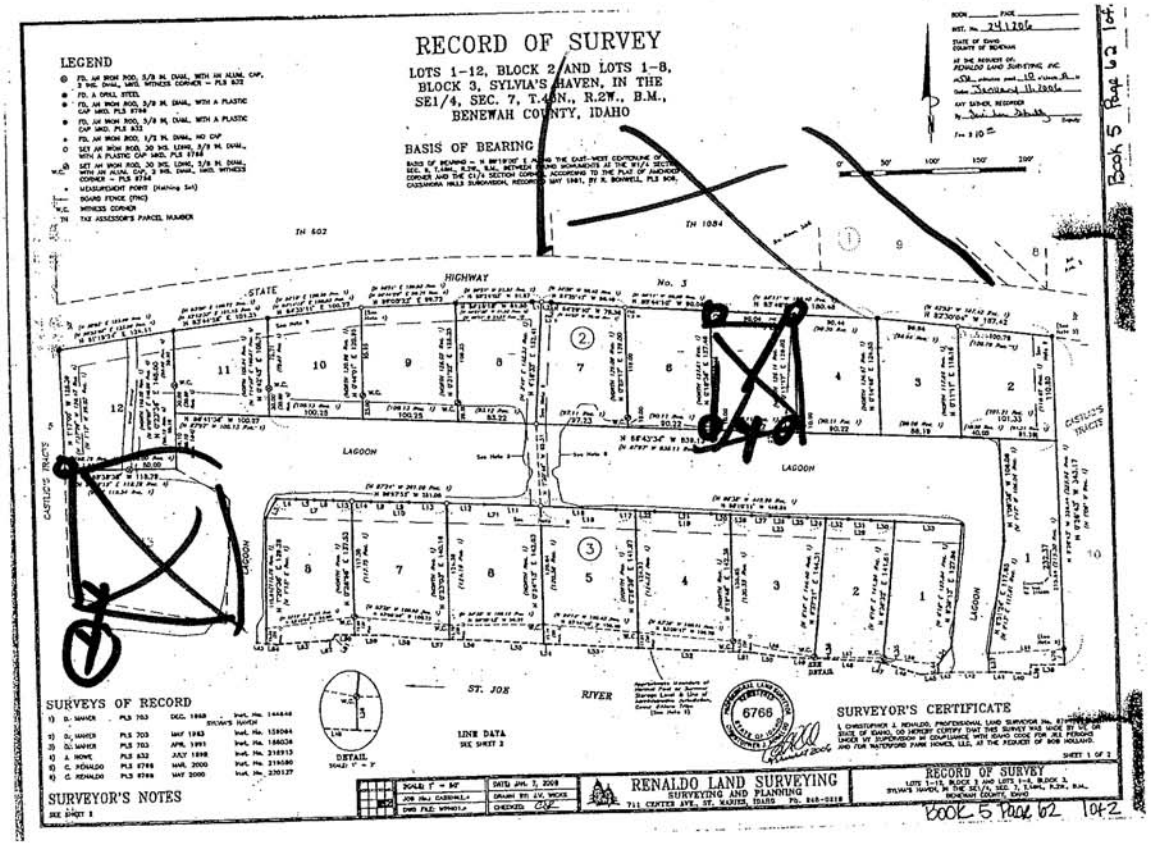
CDAT OBJ-7102 0132

CDAT OBJ-7173 0559



CDAT OBJ-7102 0131


EXHIBIT
2
DEPONENT NAME:
S. HAWKS
DATE:
5-12-16



EXHIBIT

3

DEPONENT NAME: S. HAWKS

DATE: 5/2/16

CDAT OBJ-7102 0040

CDAT OBJ-7173 0562

BOOK ____ PAGE ____
INST. No. 241206

2 of 2

RECORD OF SURVEY

LOTS 1-12, BLOCK 2 AND LOTS 1-8, BLOCK 3, SYLVIA'S HAVEN, IN THE SE1/4, SEC. 7, T.46N., R.2W., B.M., BENEWAH COUNTY, IDAHO

LINE DATA

LINE	BEARING	DISTANCE	REC.	BEARING	DISTANCE
L1	N 89°54'51" W	15.04	1	N 87°31' W	15.0
L2	N 84°07'20" W	15.13	1	N 84°52' W	15.0
L3	N 39°44'17" E	22.44	1	N 39°44' E	22.23
L4	N 86°37'32" W	20.88	1	N 87°24' W	20.9
L5	N 86°37'53" W	30.04	1	N 87°24' W	30
L6	N 86°57'32" W	29.82	1	N 87°24' W	29
L7	N 86°37'32" W	80.51	1	N 87°24' W	80.44
L8	N 86°37'32" W	29.63	1	N 87°24' W	30
L9	N 87°32'33" W	19.87	1	N 87°24' W	20
L10	N 87°01'37" W	100.04	1	N 87°24' W	100.10
L11	N 89°37'42" W	40.83	1	N 87°24' W	40
L12	N 88°40'20" W	40.83	1	N 87°24' W	40
L13	N 86°40'29" W	40.97	1	N 87°24' W	40
L14	N 88°37'32" W	19.99	1	N 87°24' W	20
L15	N 89°57'52" W	19.87	1	N 87°24' W	20
L16	N 89°04'42" W	100.18	1	N 86°34' W	100.13
L17	N 88°04'42" W	20.11	1	N 86°34' W	20
L18	N 88°04'42" W	80.06	1	N 86°34' W	80
L19	N 86°33'27" W	60.06	1	N 86°34' W	100.13
L20	N 85°04'18" W	20.04	1	N 86°34' W	20
L21	N 89°34'33" W	59.91	1	N 86°34' W	60
L22	N 89°33'37" W	20.01	1	N 86°34' W	20
L23	N 85°54'27" W	102.48	1	N 86°34' W	102.30
L24	N 83°59'27" W	20.18	1	N 86°34' W	20
L25	N 88°54'37" W	19.83	1	N 86°34' W	20
L26	N 89°53'58" W	20.01	1	N 86°34' W	20
L27	N 87°08'28" W	18.25	1	N 86°34' W	20
L28	N 83°34'27" W	33.51	1	N 86°34' W	33
L29	N 83°34'54" W	74.58	1	N 86°34' W	74.58
L30	N 87°11'32" W	25.07	1	N 86°34' W	24.8
L31	N 87°30'33" W	33.73	1	N 86°34' W	33
L32	N 88°44'34" W	24.34	1	N 86°34' W	25
L33	N 88°28'40" W	71.87	1	N 86°34' W	71.80
L34	N 38°24'13" E	13.04	1	N 38°12' E	13.49
L35	N 0°18'46" E	5.09	1	NORTH	30
L36	N 0°18'46" E	1.46	1	NORTH	30
L37	N 0°18'46" E	20.21	1	NORTH	30
L38	N 88°30'00" W	33.29			
L39	N 8°00'00" E	18.00			
L40	N 84°00'00" W	29.30			
L41	N 88°45'56" W	18.13			
L42	N 86°45'56" W	30.88			
L43	S 87°00'00" W	14.00			
L44	N 0°18'46" E	9.21	1	NORTH	30
L45	S 87°00'00" W	14.00			
L46	N 71°15'00" W	43.40			
L47	N 71°15'00" W	8.10			
L48	N 82°40'00" W	60.11			
L49	N 82°40'00" W	22.38			
L50	N 87°40'00" W	37.00			
L51	N 84°15'00" W	18.43			
L52	N 84°15'00" W	100.77			
L53	N 84°15'00" W	95.16			
L54	N 85°00'00" W	4.16			
L55	N 82°00'00" W	54.34			
L56	N 87°00'00" W	41.38			
L57	N 87°00'00" W	25.71			
L58	N 82°30'00" W	43.90			
L59	N 89°00'00" W	31.35			
L60	N 88°00'00" W	20.43			
L61	S 32°00'00" W	9.00			
L62	S 77°00'00" W	9.00			
L63	S 87°30'00" W	34.00			
L64	N 82°00'00" W	10.93			
L65	N 82°00'00" W	10.98			
L66	N 77°04'17" W	99.34	1	N 77°30' W	99.30
L67	N 87°01'17" W	74.77	1	N 86°13' W	74.70
L68	N 80°34'13" W	34.64	1	N 81°19' W	34.67
L69	N 87°54'24" E	80.83	1	N 87°21' E	80.80
L70	N 0°39'45" W	18.73	1	N 1°36' W	33
L71	N 88°51'56" W	100.04	1	N 87°24' W	100.10

SURVEYOR'S NOTES

1) FIRST AMERICAN TITLE INSURANCE COMPANY, TITLE COMMITMENT, No. 5M7303, DATED FEBRUARY 4, 2005, AND TITLE POLICY No. 5M 7304, DATED MARCH 25, 2005, WERE RELIED ON FOR THE PREPARATION OF THIS SURVEY.

2) THE SHOWN MEANDERS OF THE APPARENT SHORELINE OR NORMAL POOL OF THE ST. JOE RIVER ARE NOT AN ATTEMPT TO SHOW THE OLD MEANDER LINE OR THE LIMITS OF THE UPLAND OWNERSHIP.

3) NO CORNERS OF THE PUBLIC LAND SURVEY WERE LOCATED; THEREFORE, NO CORNER PERPETUATION AND FILING RECORDS ARE REQUIRED.

4) FOUND A LARGE NAIL, N 89° W, 1.8 FT. DISTANT.

5) FOUND A BRIDGE SPIKE, SET BY THE LANDOWNER, N 18° E, 0.3 FT. DISTANT.

6) ALSO FOUND A DRILL STEEL OF UNKNOWN ORIGIN, N 82°30' W, 11.8 FT. DISTANT.

7) THE PLAT OF SYLVIA'S HAVEN (Ref. 1) SHOWS VARIOUS "MOORAGE" AREAS ALONG THE NORTH LINE OF BLOCK 3. NO INDICATION WAS FOUND ON THE PLAT, AS TO THE PURPOSE OF THESE AREAS. SEE THE OWNER'S CERTIFICATE, ON SAID PLAT, FOR FURTHER DETAILS.

8) THIS LINE SHOWS THE APPROXIMATE LOCATION OF THE MEANDERS OF THE NORMAL POOL OR SUMMER STORAGE LEVEL OF THE WATER WITHIN THE EXISTING LAGOON.

9) THE PLAT OF SYLVIA'S HAVEN (Ref. 1) STATES: "... A 20 FOOT WIDE ACCESS AND UTILITY EASEMENT ... AS HEREON PLATTED WITH DOTTED LINES ..." SEE THE OWNER'S CERTIFICATE ON SAID PLAT, FOR FURTHER DETAILS.

10) THIS RECORD OF SURVEY DOES NOT ATTEMPT TO SHOW ALL EASEMENTS OR RIGHTS-OF-WAY OF RECORD, THE SIZE OR LOCATION OF PRESCRIPTIVE EASEMENTS, FENCE LINES OR PHYSICAL FEATURES OF THE PROPERTY. THE EASEMENTS WHICH ARE SHOWN, ARE AS THEY EXISTED AT THE TIME THEY WERE RECORDED. ITEMS SUCH AS THE NORMAL POOL AND FENCES WHICH ARE SHOWN, ARE FOR INFORMATIONAL PURPOSES ONLY.

11) THE ORIGINAL DESIGN AND CONTENT OF THIS DOCUMENT IS THE PROPERTY OF RENALDO LAND SURVEYING, INC. THE UNAUTHORIZED USE OR REPRODUCTION OF THIS DOCUMENT MAY CONSTITUTE AN INFRINGEMENT OF THE FEDERAL COPYRIGHT ACT. © COPYRIGHT 2006, RENALDO LAND SURVEYING, INC., ALL RIGHTS RESERVED.

SURVEYS OF RECORD

1)	D. MAHER	PLS 703	DEC. 1968	Inst. No. 144646 SYLVIA'S HAVEN
2)	D. MAHER	PLS 703	MAY 1983	Inst. No. 159064
3)	D. MAHER	PLS 703	APR. 1991	Inst. No. 188034
4)	J. HOWE	PLS 832	JULY 1999	Inst. No. 218915
5)	C. RENALDO	PLS 6766	MAR. 2000	Inst. No. 219580
6)	C. RENALDO	PLS 6766	MAY 2000	Inst. No. 220127

SURVEYOR'S CERTIFICATE

I, CHRISTOPHER J. RENALDO, PROFESSIONAL LAND SURVEYOR No. 6766 IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE BY ME OR UNDER MY SUPERVISION IN COMPLIANCE WITH IDAHO CODE FOR ALL PERSONS AND FOR WATERFORD PARK HOMES, LLC, AT THE REQUEST OF BOB HOLLAND.

PROFESSIONAL LAND SURVEYOR — REGISTERED — 6766 — STATE OF IDAHO — CHRISTOPHER J. RENALDO

9 January 2006

SHEET 1 OF 2

SCALE: NONE	DATE: JAN. 7, 2006	
JOB No.: CASSELL.x	DRAWN BY: J.V. WICKS	
DWG FILE: WFH01.x	CHECKED: CJR	

RENALDO LAND SURVEYING
SURVEYING AND PLANNING
711 CENTER AVE., ST. MARIES, IDAHO Ph. 245-5819

RECORD OF SURVEY
LOTS 1-12, BLOCK 2 AND LOTS 1-8, BLOCK 3, SYLVIA'S HAVEN, IN THE SE1/4, SEC. 7, T.46N., R.2W., B.M., BENEWAH COUNTY, IDAHO

Book 5 Page 62 2 of 2



EXHIBIT
4
DEPONENT NAME: S. HAWKS
DATE: 5/21/16

CDAT OBJ-7102 0038

CDAT OBJ-7173 0564

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 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.

EXHIBIT 5
DEPONENT NAME: S. HAWKS DATE: 5/2/16

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.

CDAT OBJ-7102 0002

CDAT OBJ-7173 0566

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;

CDAT OBJ-7102 0003

CDAT OBJ-7173 0567

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

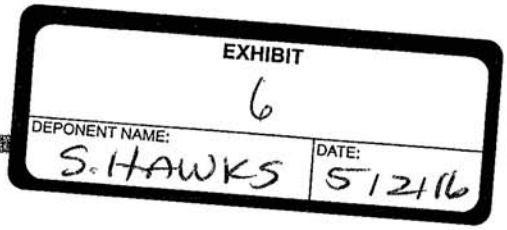
WATER AGREEMENT AND EASEMENT

THIS AGREEMENT made and entered into this 29th day of April, 1982, by and between DANIEL L. DAVENPORT and PATRICIA A. DAVENPORT, husband and wife, of P.O. Box 190, City of St. Maries, County of Benewah, State of Idaho, hereinafter referred to as Grantors, and DONALD J. HARVEY, JR. and SONJA G. HARVEY, husband and wife, of Route 2, Box 82, City of St. Maries, County of Benewah, State of Idaho, and C.C. CHASE and VERDIE CHASE, husband and wife, of 305 Lincoln Avenue, City of St. Maries, County of Benewah, State of Idaho, hereinafter referred to as Grantees.

WHEREAS, Grantors are the owners, or beneficial owners under escrow sale agreement, of a tract of land situated in Benewah County, State of Idaho, described as follows, to-wit:

> A portion of Lot Eight (8), Block One (1), Sylvia's Haven, a record subdivision in Benewah County, Idaho; the boundary of said portion is described as follows:
>
> Beginning at the Southeast corner of said Lot Eight (8), said corner also being the intersect of the northerly right-of-way boundary of Highway 95A, the northeasterly edge of a dedicated roadway and the east boundary of Lot Eight (8), running thence North 1°06' West, along said east boundary of Lot Eight (8), a distance of 187.29 feet; thence West a distance of 90.95 feet; thence South 1°06' East and parallel to said east boundary, a distance of 98.76 feet; thence South 46°18' East along the northeasterly edge of said dedicated roadway, a distance of 128.12 feet to the point of beginning, enclosing an area of 0.30 acres;

WHEREAS, Grantees are the owners of the following tracts of land situated in Benewah County, State of Idaho, described as follows, to-wit:



HARVEYS' TRACT:

Lots One (1), Two (2), Three (3) and Four (4), Block Two (2), Sylvia's Haven, a record subdivision of Benewah County, Idaho.

CHASES' TRACT:

Lots Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11) and Twelve (12), Block Two (2), and Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8), Block Three (3), Sylvia's Haven, a record subdivision of Benewah County, Idaho;

WHEREAS, there is on the above-described tract of Grantors a water well, together with a pump, casing, water lines and fittings, which were installed at the expense of Grantors and Grantees; and

WHEREAS, Grantors, their heirs and assigns, and Grantees, their heirs and assigns desire to use water from such well for domestic purposes on the said tract of Grantors and the above-described tracts of Grantees;

NOW, THEREFORE, in consideration of Ten and no/100 Dollars ($10.00) and the mutual covenants herein contained, Grantors do hereby grant, bargain, sell and convey unto Grantees and their heirs and assigns forever, the right to use water from said well as Grantees shall reasonably require for domestic purposes for those residences, houses, mobile homes, cabins and outbuildings in existence on the said tracts of Grantees as of the date hereof, or replacements thereof; SUBJECT, HOWEVER, to the right of Grantors, their heirs and assigns to use so much water from such well as Grantors shall reasonably require for domestic purposes for those residences, houses, mobile homes, cabins and outbuildings in existence on the said tract of Grantors as of the date hereof, or replacements thereof. Neither Grantors nor

CDAT OBJ-7102 0150

CDAT OBJ-7173 0571

Grantees, as between Grantors and Grantees or as between themselves, shall have any prior or superior right to use the water from such well.

For the same consideration, Grantors do hereby grant, bargain, sell and convey unto Grantees and their heirs and assigns forever, a perpetual, non-exclusive easement for the purpose of conveyance of water, maintenance, repair and replacement of the said well, pump, casing, water lines and fittings, on, in, over and across the above-described tract of Grantors, said easement being ten (10) feet in width, the centerline of which is described as: Beginning at a point on the East line of said tract, from which point the Northeast corner bears N 01°06' W a distance of 10.00 feet; running thence N 84°35' W a distance of 57.15 feet to the center of said well. Said easement shall also include, to the extent not already included above, a radius of five (5) feet measured from the center of said well and running around the same.

Grantors hereby agree to pay for the cost of the electricity to operate the pump for said well; however, Grantees, Harveys and Chases, shall reimburse Grantors in the sum of Twenty-four and no/100 Dollars ($24.00) and Twelve and no/100 Dollars ($12.00) respectively each year therefor. Each party shall be responsible for maintenance, repair and replacement of their own lines running from said well, and each party agrees to perform such maintenance, repair and replacement of their lines as shall be reasonably necessary and in a good and workmanlike manner, with minimum interference with the water rights of the other party and minimum disturbance of the said tract of Grantors, returning the same as closely as reasonably possible to its condition immediately prior to such disturbance. The parties shall bear all other costs and expenses of maintenance, repair and replacement of said

CDAT OBJ-7102 0151

CDAT OBJ-7173 0572

well, pump, water lines and fittings pro rata according to the amount of water used by each up to the time of such maintenance, repair and replacement. Meters shall be utilized by each party for such purpose, which meters shall also be maintained, repaired and replaced as reasonably necessary with costs and expenses of such maintenance, repair and replacement to be borne by the parties pro rata according to their water usage.

This agreement and the rights granted and conveyed hereunder shall run with and serve the Grantees' said tracts and shall bind and inure to the benfit of Grantors and Grantees and their respective heirs, personal representatives and assigns, forever.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

Daniel L. Davenport

Patricia A. Davenport

Grantors

Donald J. Harvey, Jr.

Sonja G. Harvey

C. C. Chase

CDAT OBJ-7102 0152

CDAT OBJ-7173 0573

Verdie Chase

Verdie Chase

Grantees

STATE OF IDAHO)
: ss.
County of Benewah)

On this 26th day of April, 1982, before me, the undersigned, a Notary Public in and for the said State, personally appeared DANIEL L. DAVENPORT and PATRICIA A. DAVENPORT, husband and wife, known to me to be the persons whose names are subscribed to the above and foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

Karen Schoeber

Notary Public, State of Idaho
Residing at: Harrison
Commission expires: Life Term

edged

CDAT OBJ-7102 0153

CDAT OBJ-7173 0574

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 water to the proposed beneficial use is 1 years (*minimum 1 year*).

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DEC 27 1988

EXHIBIT 7
DEPONENT NAME: S. HAWKS
DATE: 5/2/16

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

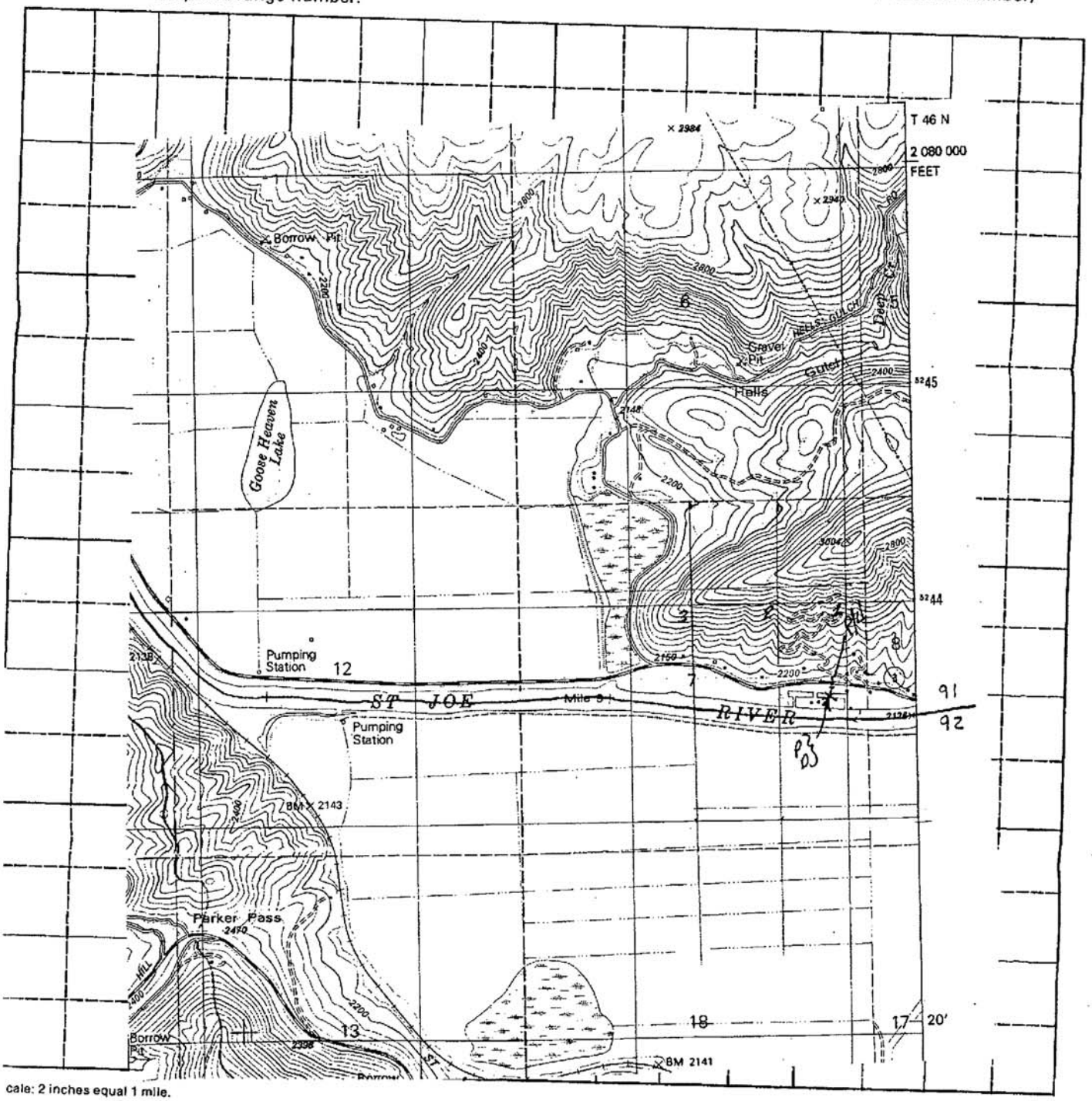
    b. Who owns the land to be irrigated or place of use? Steve Hawks

    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 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.

BE IT KNOWN that the undersign[illegible] cation for permit to appropriate the public waters of the State of Idaho as herein set forth.

MICROFILMED

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 8/12/88 Published in St. Maries Gazette 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. Allen Sayton
Director

MICROFILMED
DEC 27 1988

CDAT OBJ-7102 0016

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 } ss.
COUNTY OF BENEWAH }

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

EXHIBIT
8
DEPONENT NAME: S. HAWKS
DATE: 5/21/16

CDAT OBJ-7102 0018

RECEIVED
JUN27 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 _____ Date 8/19/89

EXHIBIT
9
DEPONENT NAME: S. HAWKS
DATE: 5/2/16

CDAT OBJ-7102 0020

CDAT OBJ-7173 0580

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.

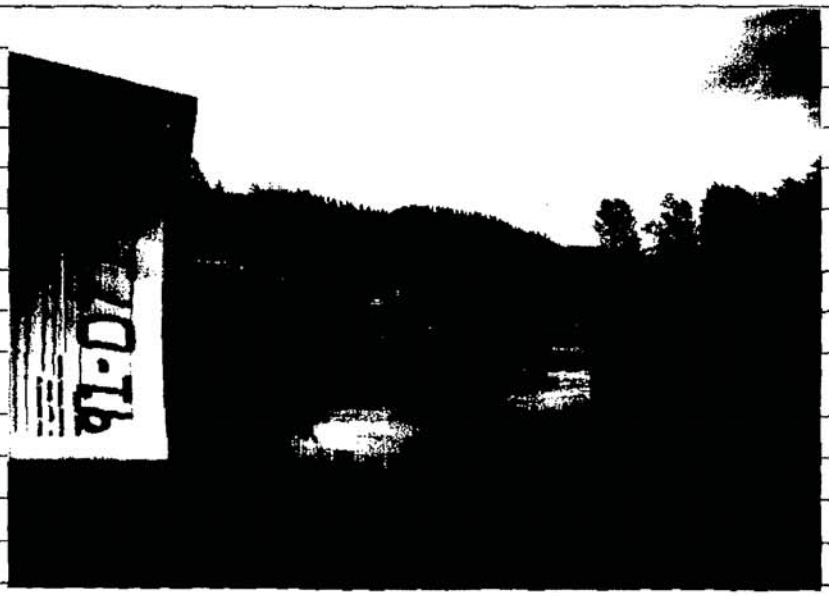
(✓)Field Report (✓)Quad Sheet (✓)Gov. Lot Plat (✓)Rules Check list

( )Aerial Photo ( )Photo PD/PU ( )Well Log

Number of Diagrams Attached _____ Number of Calculation Sheets Attached _____

( ) Correspondence (Date) _____

( ) Other (List) _____



Contacts:

Remarks: The PD

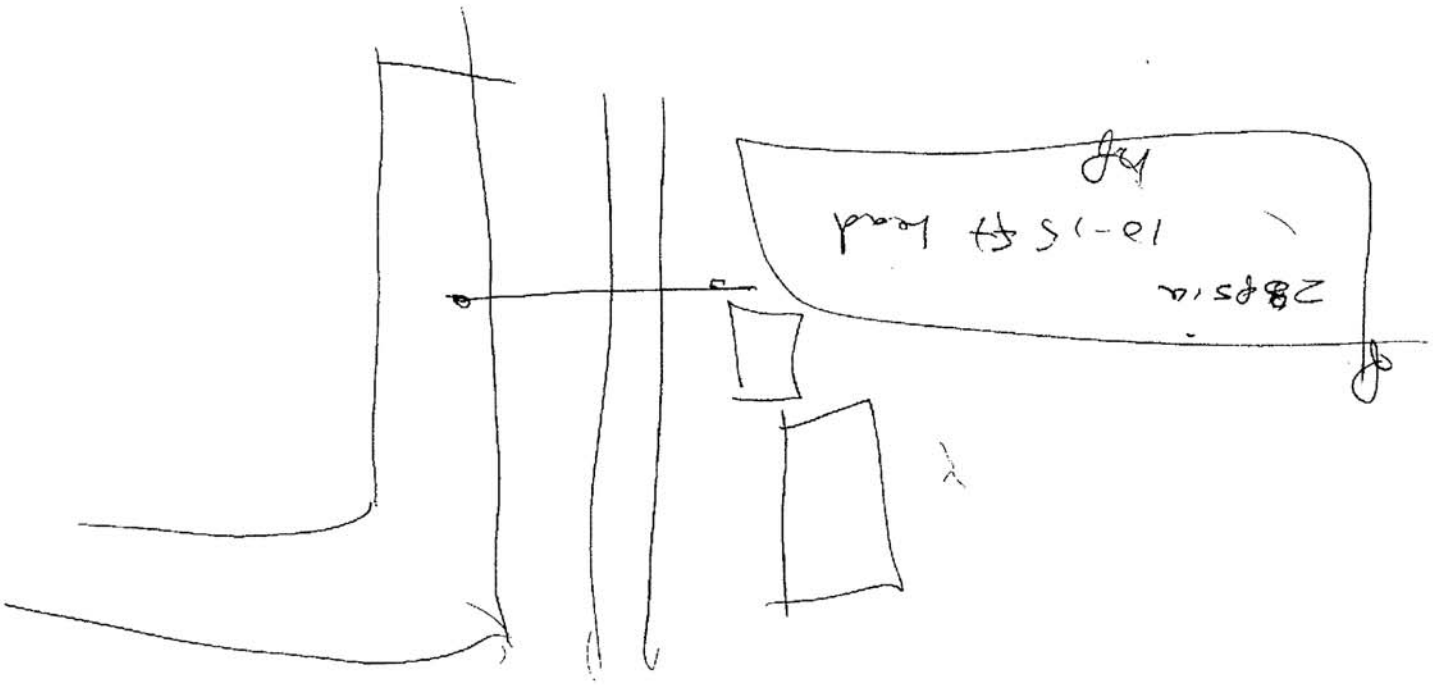
Exam Completed By _____ Date 8/8/89

Sr. Agent Review _____ Date _____

Regional Manager Review _____ Date _____

PERMIT NUMBER

91-07102



CDAT OBJ-7102 0022

Form 219
6/86

RECEIVED
JUN 27 1990
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 91-7102

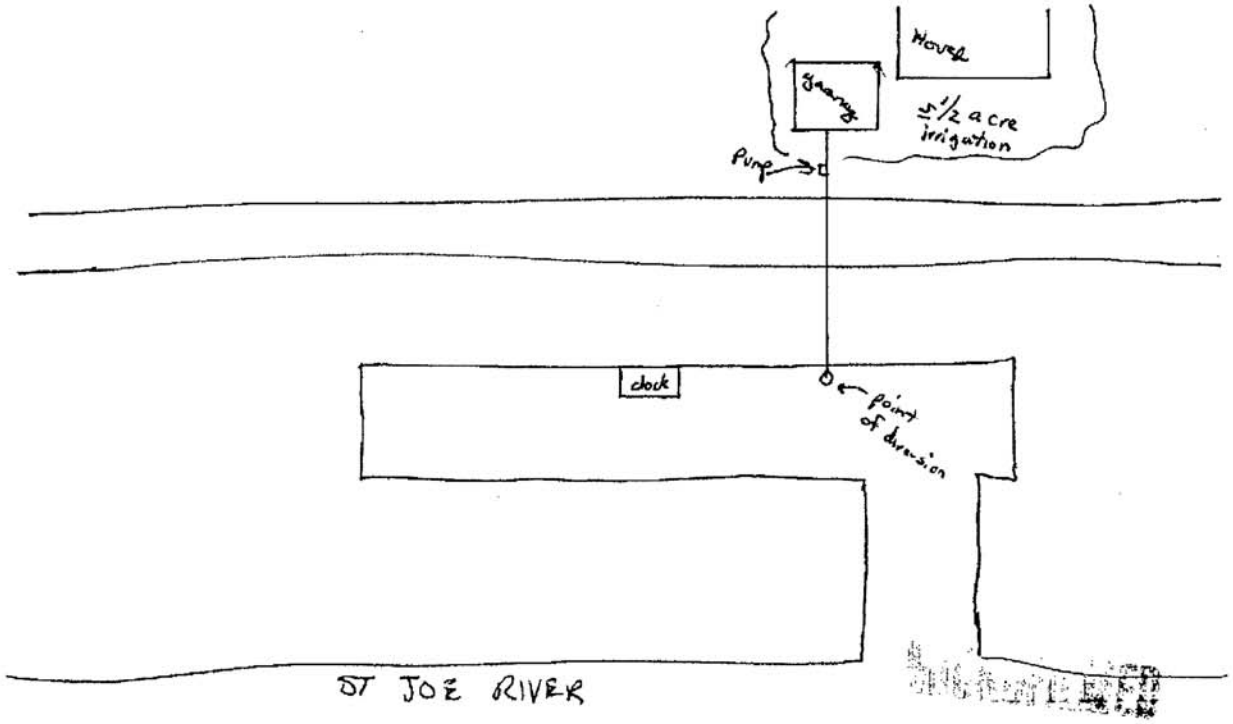
1. Owner: Steve Hawks Phone No. 245-2403
   Current Address: Rt 2 Box 86 St. Maries, Id 83861
2. Accompanied by: Mrs. Hawks EXAM. DATE: 7/26/89
   Address: Same Phone No. Same
   Relationship to Permit Holder: wife
3. Source: St. Joe River tributary to Coeurd'Alene Lk.

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.

JUL 20 1990

CDAT OBJ-7102 0023

CDAT OBJ-7173 0583

CDAT OBJ-7173 0584

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	3 1/2	?	?	1"

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

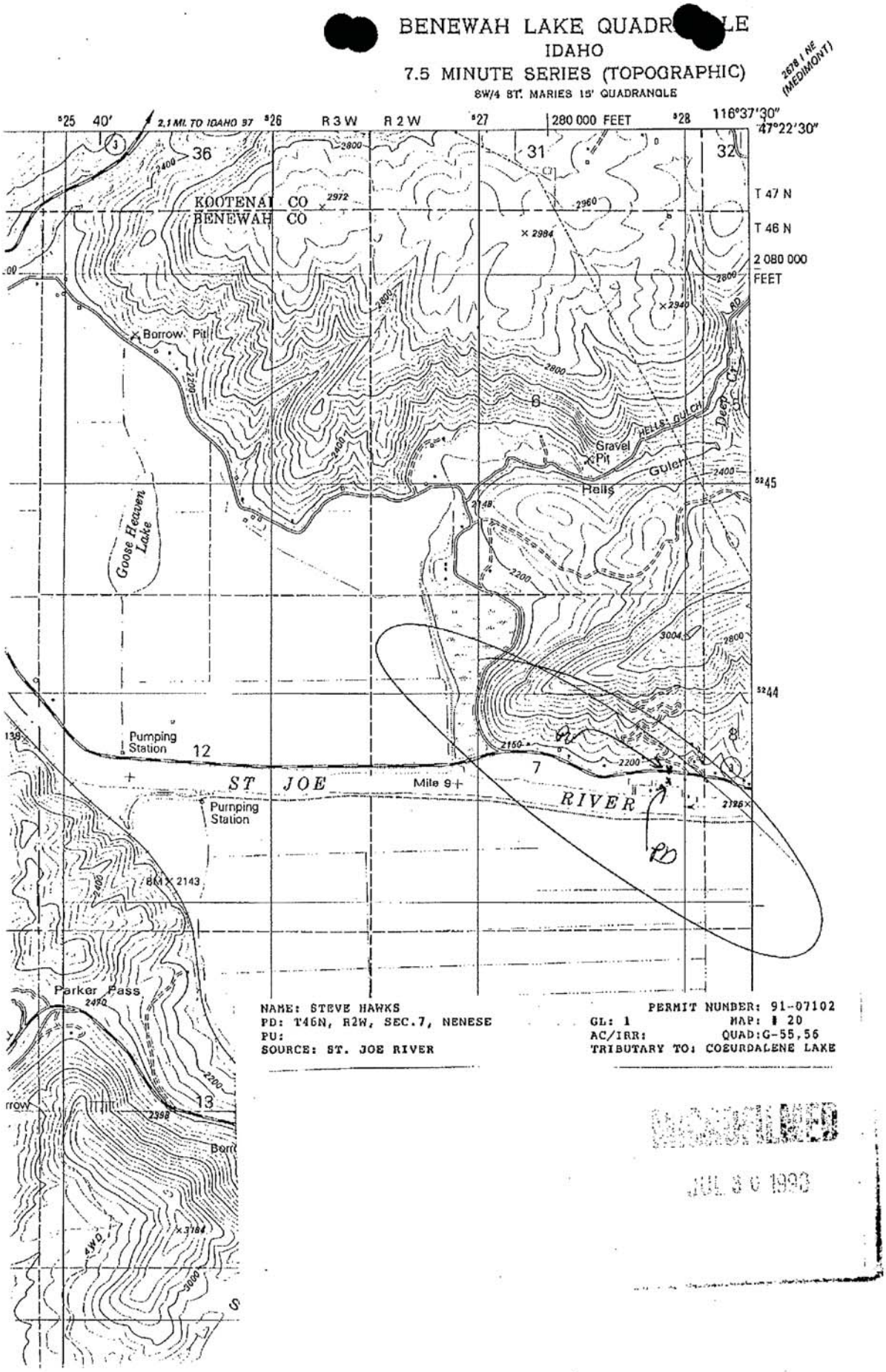
5. **Point(s) of Diversion:**

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

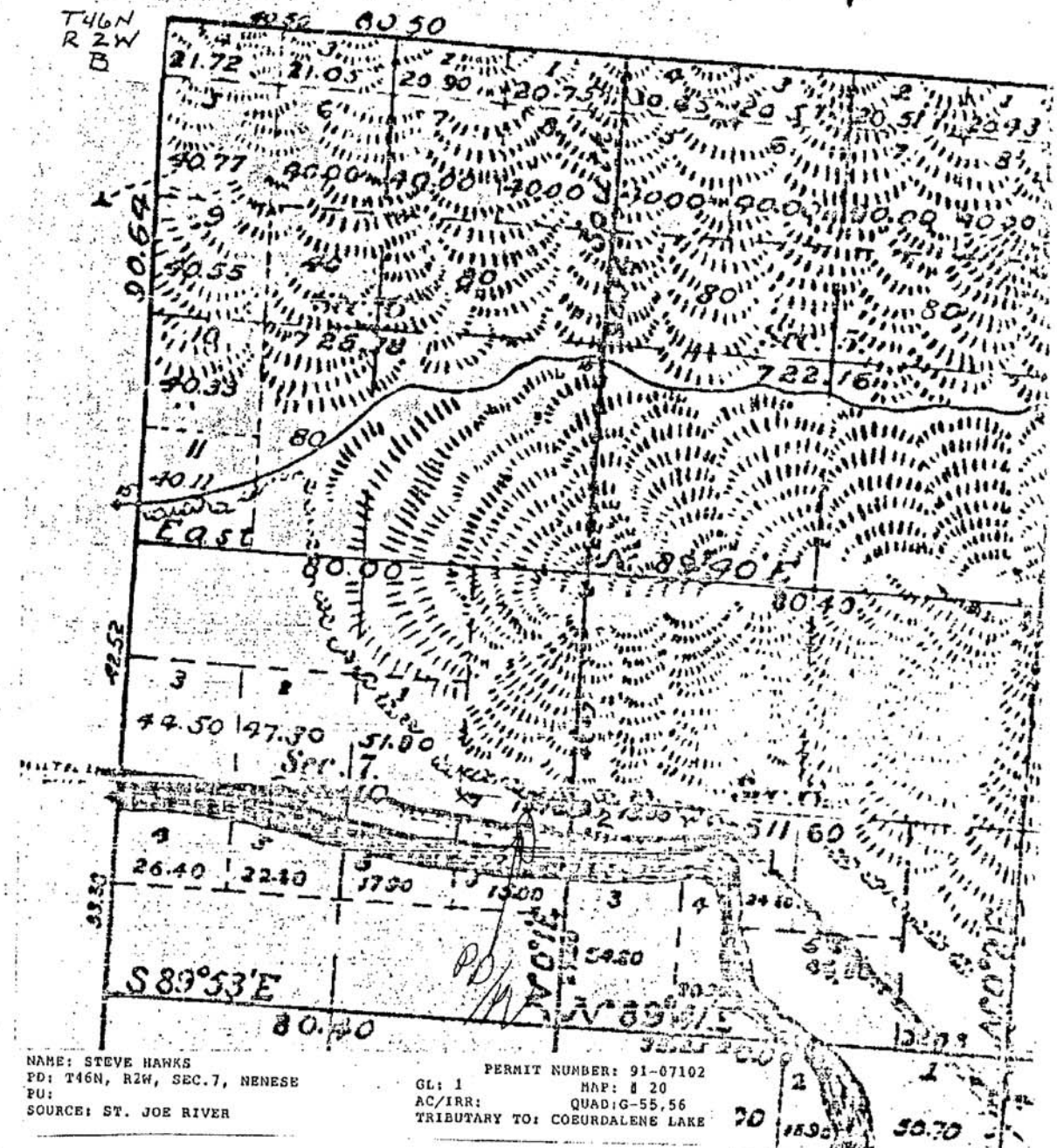
6. **Place(s) of Use:** Indicate Method of Determination Map

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



CDAT OBJ-7102 0025



CDAT OBJ-7102 0026

CDAT OBJ-7173 0586

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 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)
1 Home

CDAT OBJ-7173 0588

CDAT OBJ-7102 0028

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 Sukovaty

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

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

EXHIBIT 10
DEPONENT NAME: S. HAWKS
DATE: 5/2/16

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

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 91-7102

NAME AND ADDRESS: DEANNE HAWKS
89231 HWY 3 N
ST MARIES ID 83861

STEVE HAWKS
89231 HWY 3 N
ST MARIES ID 83861

SOURCE: ST JOE RIVER TRIBUTARY: COEUR D ALENE LAKE

QUANTITY: 0.020 CFS
0.60 AFY

PRIORITY DATE: 07/22/1988

POINT OF DIVERSION: T46N R02W S7 NESE Lot 7 Within BENEWAH County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	03/15 11/15	0.020 CFS 0.60 AFY

Domestic use is for irrigation of lawn and garden.

PLACE OF USE: DOMESTIC in BENEWAH County

T46N R02W S07 Lot 7 NESE

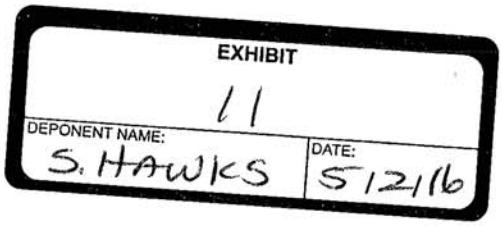
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Parcel No. RP00S300200061A for point of diversion.

Parcel No. RP00S30010009AA and RP00S300100095A for place of use.



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.

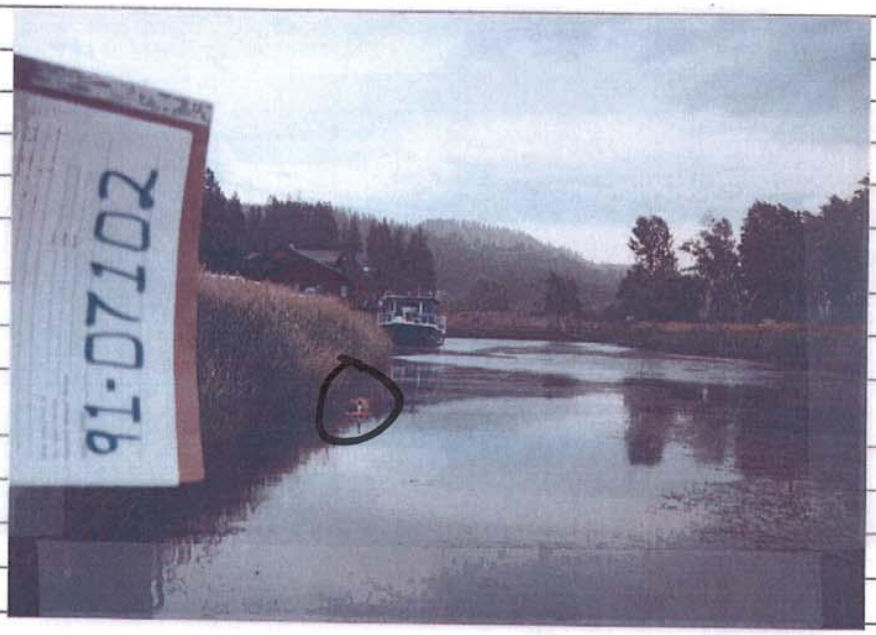
(✓)Field Report (✓)Quad Sheet (✓)Gov. Lot Plat ( )Rules Check list

( )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 Sutton Date 8/8/89

Sr. Agent Review _____ Date _____

Regional Manager Review _____ Date _____

MICROFILMED
JUL 30 1990

PERMIT NUMBER 91-07102

EXHIBIT
12
DEPONENT NAME: S. HAWKS
DATE: 5/12/16



Location 5: Jill Perkins
LRP005300200061A



EXHIBIT
13
DEPONENT NAME: S. HAWKS
DATE: 5/2/16

CORRECTION DEED

THIS INDENTURE, Made and entered into this 22th day of November, 1990, by and between EUPHEMIA PENNEY, a widow, and RAY A. SWANSON and MINA L. SWANSON, husband and wife, Parties of the First Part and STEVE W. HAWKS and DEANNE A. HAWKS, husband and wife, whose address is HC-02, Box 86, St. Maries, ID 83861, the Parties of the Second Part.

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) to them in hand paid by the said Parties of the Second Part, the receipt thereof is hereby acknowledged, does hereby grant, sell and convey to the Parties of the Second Part and their heirs, devisees and assigns forever the following described real property situated in the County of Benewah, State of Idaho to-wit:

An undivided one-half interest in and to 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 lagoon as shown on said plat adjacent and appurtenant to the southerly forty (40) feet of the shore line of Lot Twelve (12), Block Two (2), Sylvia's Haven Subdivision, County of Benewah.

THIS INSTRUMENT is intended as a Correction Warranty Deed to correct an error in the description in that certain Warranty Deed between the parties hereto recorded in the office of the Benewah County Recorder on the 3rd day of August, 1990 as Instrument No. 184009.

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

EXHIBIT 14
DEPONENT NAME: S. HAWKS DATE: 5/12/16

and will WARRANT and by these presents forever DEFEND the premises in the quiet and peaceable possession of the Parties of the Second Part, their heirs, devisees and assigns against all and every person or persons 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
EUPHEMIA PENNEY

Ray A. Swanson
RAY A. SWANSON

Mina L. Swanson
MINA L. SWANSON
Parties of the First Part

****

STATE OF IDAHO)
: ss.
County of Bonner)

On this 28th day of November, 1990, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared EUPHEMIA PENNEY, a widow, to me known to be the person whose name is subscribed to the within and 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.

Marilyn J. Russell
Notary Public, State of Idaho
Residing at Sandpoint
My commission expires: 1-1-93

2. CORRECTION DEED

STATE OF IDAHO)
: ss.
County of Shoshone)

On this 28th day of November, 1990, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared RAY A. SWANSON and MINA L. SWANSON, husband and wife, to me known to be the persons whose names are subscribed to the within and 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.

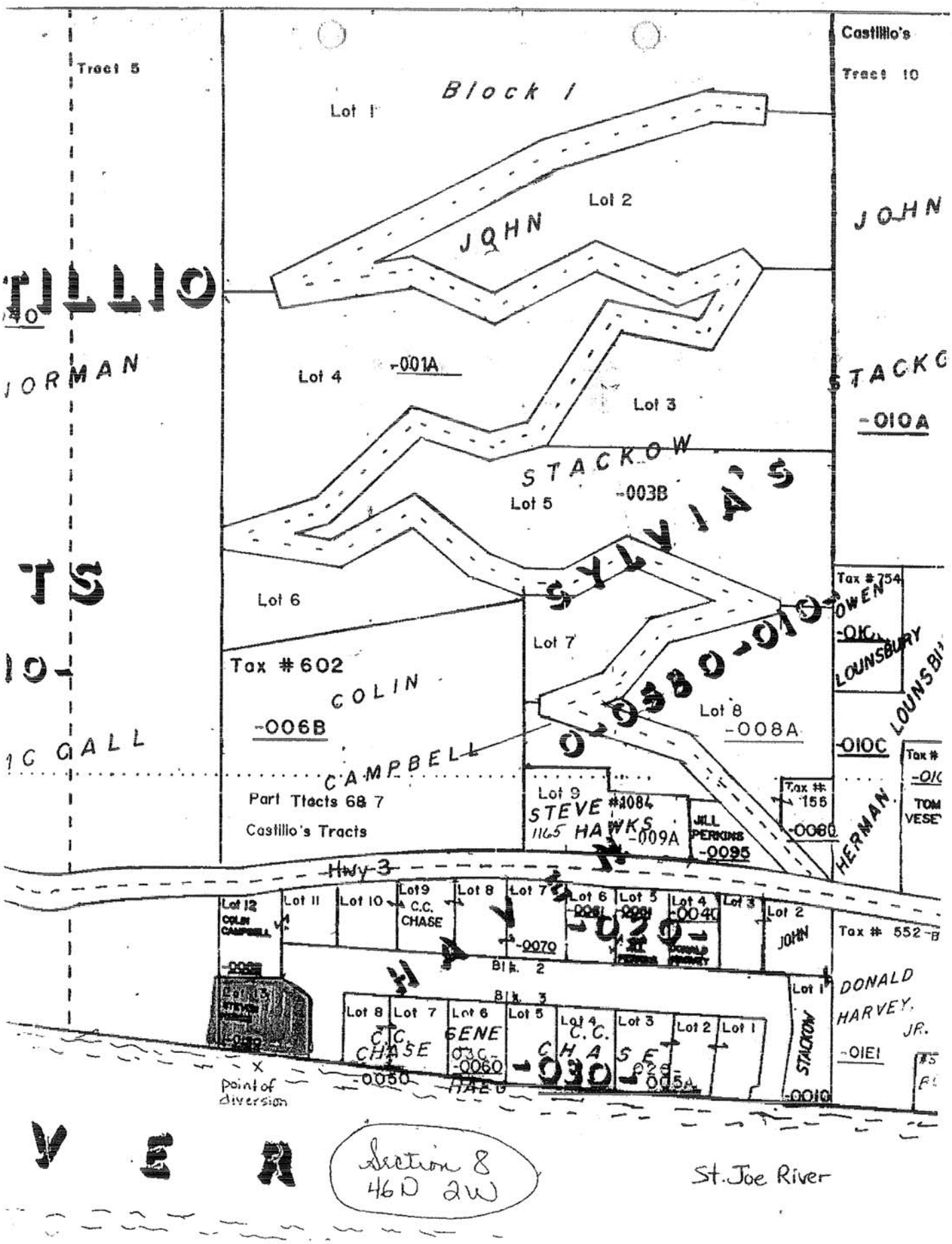
Marilyn Q. Russell
Notary Public, State of Idaho
Residing at Osburn
My commission expires: 1-1-93

184924

DEC 28 P4:56
Bonnie Larson deputy

3. CORRECTION DEED

Dianne Hawks
HC02 Box 86
St Maries, Id 83861 $9.00



CDAT OBJ-7173 0011


EXHIBIT
15
DEPONENT NAME:
S. HAWKS
DATE:
5/12/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

8.

PLACE OF USE: DOMESTIC

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

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

APPLICANT

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

APPLICANT

10. Remarks:
SUMMER RECREATIONAL USE

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

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

Shoz Hawks
6/20/08 Applicant

Received by Dianne/db Date 6/16/08 Time 10:48a Preliminary check by _____
Publication prepared by db Date 6/25/08 Published in St Maries Gazette 7/2&9/08
Publication approved db Date 7/1/08

Receipt No. N019318
Date: 6/16/08
Receipted by: Dianne

EXHIBIT 16
DEPONENT NAME: S. HAWKS DATE: 5/2/16

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 91-07173

Priority: June 16, 2008 Maximum Diversion Rate: 0.04 CFS

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

has applied for a permit to appropriate water from:

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

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

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

LOCATION OF POINT(S) OF DIVERSION:

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

PLACE OF USE: DOMESTIC

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

CONDITIONS OF APPROVAL

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

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

Robert G Haynes for
DAVID R. TUTHILL, JR., Director

EXHIBIT 17
DEPONENT NAME: S. HAWKS DATE: 5/21/16

CDAT OBJ-7173 0012

L-95-5-4339

A Pioneer Company
PIONEER TITLE COMPANY
OF KOOTENAI COUNTY

100 Wallace Avenue/ Coeur d Alene, Idaho 83814 / (208) 664-8254

Encroachment/Dock Permit Inquiry

Department of Lands

ATTN: Carl Washburn

FAX: 769-1597

Current Owner: L. Eric Christen

Property address: NNA St. Maries Id.

Lot 12 Block 2

Subdivision Sylvia's Haven

Legal Description: Same

Tax No. RP00530020005CA B/N:

To be completed by IDL:

PERMIT NO. L-95-5-4339

No dock permit found ☐

PLEASE RETURN BY FAX TO 208-664-9479
Heidi Simon

EXHIBIT 18
DEPONENT NAME: S. HAWKS
DATE: 5/12/16

Oct. 2. 2008 10:23AM PIONEER TITLE No.0391 P. 1

IDAHO DEPARTMENT OF LANDS

MICA SUPERVISORY AREA
3706 INDUSTRIAL AVENUE SOUTH
COEUR D ALENE ID 83815-8918
PHONE (208) 769-1577 FAX (208) 769-1597

GEORGE BACON - DIRECTOR

FAX TRANSMITTAL COVER SHEET

TO	FROM:	DATE:
Heidi Simon	Jarrad Kunsh IDL	10-3-08
		No. of Pages: 9 including cover sheet

Remarks:

NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this notice is not the intended recipient or the agent responsible for delivery of the message to the intended recipient, you are hereby notified that dissemination, distribution, or copying of this communication is strictly prohibited. If you received this communication in error, please notify us immediately by phone and return these papers to us.

KEEP IDAHO GREEN
PREVENT WILDFIRE

TRANSMISSION VERIFICATION REPORT

TIME : 10/03/2008 14:23
NAME : IDAHO DEPT OF LANDS
FAX : 2087691597
TEL : 2087691577
SER.# : 000D5J886428

DATE,TIME	10/03 14:18
FAX NO./NAME	912086649479
DURATION	00:04:29
PAGE(S)	09
RESULT	OK
MODE	STANDARD ECM

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

August 15, 1997

Steve Hawks
HCR 2 Box 86
St. Maries, ID 83861

Dear Mr. Hawks:

Re: Encroachment Permit L-95-S-4339

Enclosed is subject permit in accordance with the application you filed with this office. Please comply with all special terms and conditions.

You are required to record this original notarized permit with Benewah County. Encroachment permit number 4339 must be displayed upon the most waterward area of your encroachment with metal, plastic or vinyl numerals at least three inches in size.

Thank you for your cooperation.

Sincerely,

Carl Washburn

CARL WASHBURN
Navigable Waters Specialist

mc

enclosures

COPY

c: COE-CDA
Harrison Dock Builders

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

IDAHO DEPARTMENT OF LANDS

1910 NW Blvd., Suite 201
Coeur d'Alene, Idaho 83814-2615
Phone: (208) 769-1535 FAX (208) 769-1557

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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 12, Section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County.

1. All applicable provisions of the Rules for Regulation of Beds, Waters, and Airspace over Navigable Lakes and Streams in the State of Idaho are incorporated herein by reference and made a part hereof.

2. Construction will follow details and specifications shown on the approved drawings and data provided by the applicant. Should such information and data prove to be materially false, incomplete and/or inaccurate, this authorization may be modified, suspended, or revoked in accordance with the Administrative Procedures Act, Idaho Code title 67, chapter 52.

3. This permit does not convey the State's title to or jurisdiction or management of lands lying below the natural or ordinary high water mark.

4. Acceptance of this permit constitutes permission by the Permittee for representatives of the Department of Lands to come upon Permittee's lands at all reasonable times to inspect the encroachment authorized by this permit.

5. The Permittee assumes all liability for damages which may result from the exercise of this permit.

6. This permit does not relieve the Permittee from obtaining additional local or federal permits as required.

7. This permit is not valid until the identification number is displayed on the outermost area of the encroachment.

8. If the activity authorized herein is not completed on or before the 15th day of August, 2000 (three years from the date of issuance), this permit shall automatically expire unless it was previously revoked or otherwise extended.

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

9. White bead foam flotation shall be completely encased in a manner that will maintain the structural integrity of the foam. The encasement shall be resistant to the entry of rodents.

10. Removal of any pre-existing facilities is a condition of this permit.

11. This permit supersedes and voids any permit previously issued for this property unless otherwise noted.

12. Construction materials shall be natural or pressure treated utilizing only those preservative chemicals registered for the specific uses, such as CCA (Chromated Copper Arsenate), by the U.S. Environmental Protection Agency (EPA). All treated wood materials shall be produced in compliance with "Best Management Practices (BMPs) For the Use of Treated Wood in Aquatic Environments" issued by the Western Wood Preservers Institute (WWPI), July 1996. Treated materials not in contact with the water shall be completely dry before use near navigable waters. **Contact Idaho Department of Health and Welfare, Division of Environmental Quality, at (208)769-1422 with questions regarding treated materials.**

13. All construction material must be stockpiled landward of the ordinary high water mark.

14. Regardless of dock dimensions, the dock may only extend waterward to a water depth of six feet when measured at full pool (elevation 2,128 WWP datum).

15. This permit is issued subject to the established commercial navigational servitude. The permittee places this encroachment at his own peril and specifically waives any claim against commercial log tow operators who may accidentally damage this encroachment.

16. The permittee shall maintain the structure or work authorized herein in a good and safe condition and in accordance with the plans and drawings attached hereto.

17. All construction shall be completed in accordance with descriptions and methods provided unless otherwise specified. Any changes shall be approved in writing by the department prior to construction.

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

FOR THE DIRECTOR

By: Carl Washburn
CARL WASHBURN
Navigable Waters Specialist

STATE OF IDAHO)
) ss
COUNTY OF KOOTENAI)

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



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

ID. Dept. of Lands
1910 NW Blvd. Ste. #201
Coeur D'Alene ID. 83814

JOINT APPLICATION FOR PERMIT
U.S. ARMY CORPS OF ENGINEERS
IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO DEPARTMENT OF LANDS

SEPARATE PERMIT DECISIONS MUST BE RECEIVED FROM BOTH THE STATE OF IDAHO AND THE CORPS OF ENGINEERS PRIOR TO START OF WORK

The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. These law require permits authorizing structures and work in or affecting navigable waters of the United States and the discharge of dredged or fill material into waters of the United States, including their adjacent wetlands. State permits are required under the State of Idaho. Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code and the Idaho Lake Protection Act. Section 58-142 et. seq, Idaho Code. This application will meet the requirements of the above agencies.

1. Corps of Engineers # _____
Date Received _____

2. State of Idaho # L-95-S-4339
Date Received _____
$20 Rec'd By: _____ Receipt # _____

PLEASE TYPE OR PRINT

3. Applicant STEVE HAWLES
Mailing Address HCR 2 BOX 86
ST. MARIES ID 83861
Work Phone Area (208) 2452403 Home Area ( ) SAME
Fax Number _____

4. Authorized Agent Planned Installer of pilings HARRISON DOCK BUILDERS
Mailing Address HWY 97
HARRISON, ID
Work Phone Area (208) 689 3636 Home Area ( )

5. Location where proposed activity exists or will occur.
Waterway ST. JOE RIVER
ST. MARIES — In/near city or town
BENEWAH — County
ID — State
83861 — Zip Code
COUNTY — Local jurisdiction (city or county)

Tributary of: RP 00530020130 A
Assessor's Desc. (Tax No. or Subdivision, Lot & Block No.)
* Lot 12, Blk 2, Sylvia's Addition *(See instructions)
_____ — 1/4 1/4
7 — Section
46 N — Township
2W — Range or
UTM Coordinate Grid _____ Zone _____ Northing _____ Easting

6. Describe the proposed activity. Provide a general description of the proposed work including all discharges of fill material and any structures such as piers, floats, boat lifts, bulkheads, and cofferdams.

- INSTALL FOUR PILINGS NEXT TO EXISTING PILINGS 1997
- REPLACE EXISTING DOCK 1998

Describe construction methods and equipment:
- PILINGS = PILE DRIVER & BARGE
- DOCK = LOG FLOATS / TREATED TIMBER

List all soil series located at project site, and indicate if any are on the county's hydric soils list:
N/A

Length of project along the stream or extension into lake or reservoir: 30'

Will material be placed waterward of ordinary high water mark? NO If yes, volume: _____ (cubic yards) (BOTH TEMPORARY AND PERMANENT)

Will material be placed in wetlands? NO If yes, total area: _____ (acres)

Type and composition of fill material: N/A (i.e. sand, etc.) Material Source: _____

Will excavation or dredging be required? NO If yes, volume: _____ (cubic yards) Composition _____

Disposal site for excavated material: N/A Method of excavation: _____

Stream gradient: N/A

Method of controlling turbidity and/or sedimentation: N/A

7. Size and flow capacity of proposed bridge or culvert and area of drainage served (sq. miles): (Idaho Department of Water Resources requirement.)

NPW 304
Feb 94 (REV)

IDWR Form 3804-B
Feb 94 (REV)

CDAT OBJ-7173 0048

CDAT OBJ-7173 0608

8. Preparation of drawings. One set of original or good quality reproducible drawings must be attached to this application. NOTE: DRAWINGS NO LARGER THAN 8-1/2 X 11 INCHES IN SIZE. See the instruction pamphlet for instructions and a checklist for completing the drawings. Include photographs of the project site mounted on 8-1/2 x 11 sheets.

9. Purpose and intended use: Commercial _____ Public _____ Private X Other _____ Describe _____

Necessity and justification for project REINFORCE EXISTING PILINGS / Dock Not Safe

10. Proposed Starting Date AUG 97 = PILING Estimated Duration 1 DAY
SPRING 98 = DOCK / 2 WKS.

11. If any portion of the activity is complete, indicate month and year of completion N/A
Indicate the existing work on the drawings.

12. Names, addresses, and telephone numbers of adjoining property owners, lessees, etc., whose property also adjoins the waterway

Bud McCall Fernwood, ID 83830 208-245-2026 / Both Signed (County map to OK project)
Cy Chase 305 Lincoln St. Muries ID 83861 208-245-2057

☐ Check here if the alteration is located on endowment lands administered by the Idaho Department of Lands

13. LEGAL OWNER IF OTHER THAN APPLICANT N/A

Mailing Address _____ City, State, Zip Code _____

Phone Work(Area) _____ Home(Area) _____

14. List other applications, approvals, or certifications from other Federal, interstate, state, or local agencies for any structures, constructions, discharges, deposits, or other activites described in the application.

Issuing Agency	Type of Approval	Identification No.	Date of Application	Date of Approval

15. Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein? Yes _____ No ✓
(If "Yes" explain)

16. Remarks or additional information: _____

17. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to under take the proposed activities. I hereby grant to the agencies to which this application is made, the right to come upon the above-described location to inspect the proposed or completed work.

28 JUL 97 — Date

Steve Hawks — Signature of Applicant (ORIGINAL SIGNATURE REQUIRED)

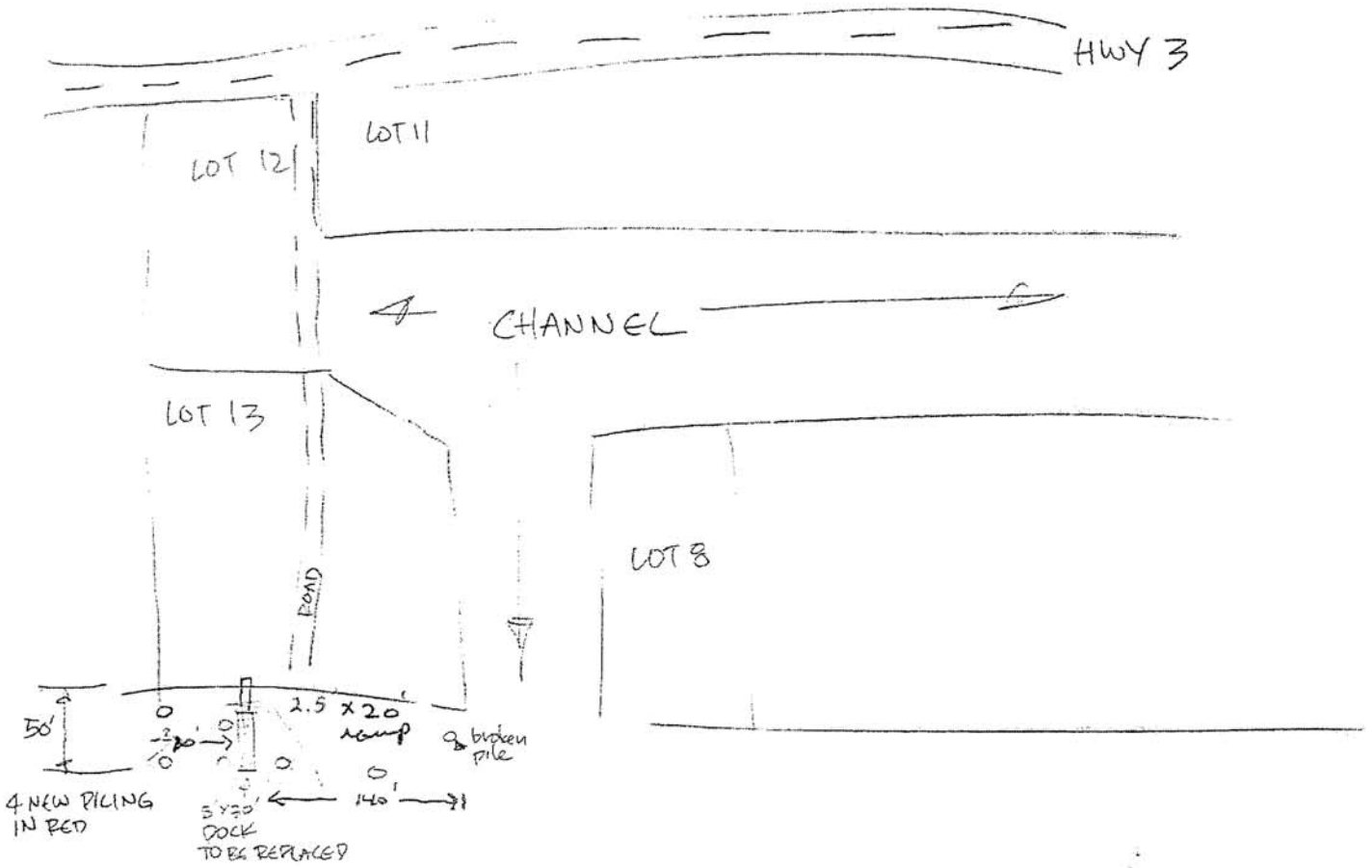
19. If an authorized agent is to be designated, Item 4 and the following information should be completed.

I hereby designate _____ to act as my agent in matters related to this permit application. I understand that if a Federal permit is issued, I must sign the permit.

Date _____ Original Signature of Authorized Agent _____ Original Signature of Applicant _____

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years or both. Do not sent a Federal permit processing fee with this application. The appropriate fee will be assessed when a permit is issued.

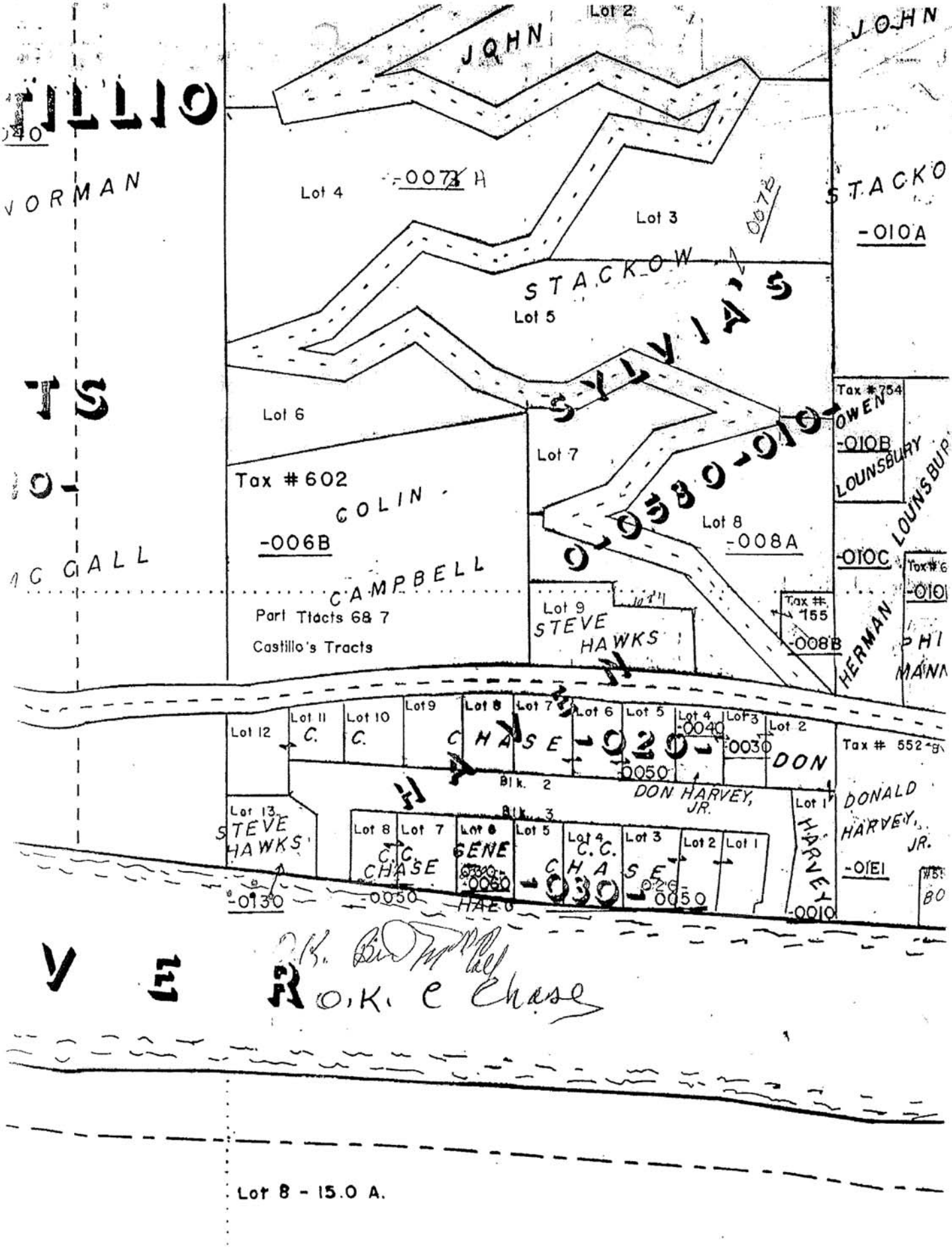
DO NOT SEND FEDERAL PROCESSING FEE WITH APPLICATION



ST. JOE RIVER

CDAT OBJ-7173 0050

CDAT OBJ-7173 0610



CDAT OBJ-7173 0051

CDAT OBJ-7173 0611

8. Preparation of drawings. One set of original or good quality reproducible drawings must be attached to this application. NOTE: DRAWINGS NO LARGER THAN 8-1/2 X 11 INCHES IN SIZE. See the instruction pamphlet for instructions and a checklist for complying the drawings. Include photographs of the project site mounted on 8-1/2 x 11 sheets.

9. Purpose and intended use: Commercial _____ Public _____ Private X Other _____ Describe _____

Necessity and justification for project REINFORCE EXISTING PILINGS / DOCK NOT SAFE

10. Proposed Starting Date AUG 97 = PILING Estimated Duration 1 DAY
SPRING 98 = DOCK / 2 WKS.

11. If any portion of the activity is complete, indicate month and year of completion N/A
Indicate the existing work on the drawings.

12. Names, addresses, and telephone numbers of adjoining property owners, lessees, etc., whose property also adjoins the waterway

Bud McCall Fernwood, ID 83830 208-245-2026 / Both signed (County map to OK project)
Cy Chase 305 Lincoln St. Maries ID 83861 208-245-2057

☐ Check here if the alteration is located on endowment lands administered by the Idaho Department of Lands

13. LEGAL OWNER IF OTHER THAN APPLICANT N/A

Mailing Address _____ City, State, Zip Code _____

Phone Work(Area) _____ Home(Area) _____

14. List other applications, approvals, or certifications from other Federal, interstate, state, or local agencies for any structures, constructions, discharges, deposits, or other activites described in the application.

Issuing Agency	Type of Approval	Identification No.	Date of Application	Date of Approval

15. Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein? Yes _____ No ✓
(If "Yes" explain)

16. Remarks or additional information: _____

17. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to come upon the above-described location to inspect the proposed or completed work.

28 JUL 97 — Date

Steve Hawks — Signature of Applicant (ORIGINAL SIGNATURE REQUIRED)

19. If an authorized agent is to be designated, Item 4 and the following information should be completed.

I hereby designate _____ to act as my agent in matters related to this permit application. I understand that if a Federal permit is issued, I must sign the permit.

Date _____ Original Signature of Authorized Agent _____ Original Signature of Applicant _____

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years or both. Do not sent a Federal permit processing fee with this application. The appropriate fee will be assessed when a permit is issued.

DO NOT SEND FEDERAL PROCESSING FEE WITH APPLICATION

NPW Form 304
Feb 94 (Rev)

IDWR Form 3804-B
Feb 94 (REV)

CDAT OBJ-7173 0049

CDAT OBJ-7173 0050

IDAHO DEPARTMENT OF LANDS
P.O. BOX 670, COEUR D'ALENE, IDAHO 83814

STANLEY F. HAMILTON
DIRECTOR

BOARD OF LAND
COMMISSIONERS
CECIL D. ANDRUS
Governor
PETE T. CENARRUSA
Secretary of State
JIM JONES
Attorney General
JOE R. WILLIAMS
State Auditor
JERRY L. EVANS
Sup't of Public
Instruction

November 30, 1988

Steve Hawks
Route 2, Box 86
St. Maries, ID 83861

Re: 91-07102

~~Dear Mr. Woodhall~~:

Recently the Department of Lands received a copy of the above-referenced diversion application which you submitted to the Department of Water Resources. Since the St. Joe River is a navigable river, a temporary permit and an encroachment permit will be required from the Department of Lands for the pump and waterline.

If the application to Water Resources is for a system installed prior to 1974, please furnish drawings and the $10 temporary permit fee.

If the application is for a new system, please complete the enclosed application as per the instructions on the back of the form. Mail along with your payment in the amount of $60 to this office. The temporary permit fee is $10, runs for five years, and is renewable. There is an encroachment application fee of $25 and an advertising deposit of $25. Please submit a plat and property description showing location of the waterline.

Sincerely,

L. ROBERT SCHNEIDER
Navigable Waters Specialist

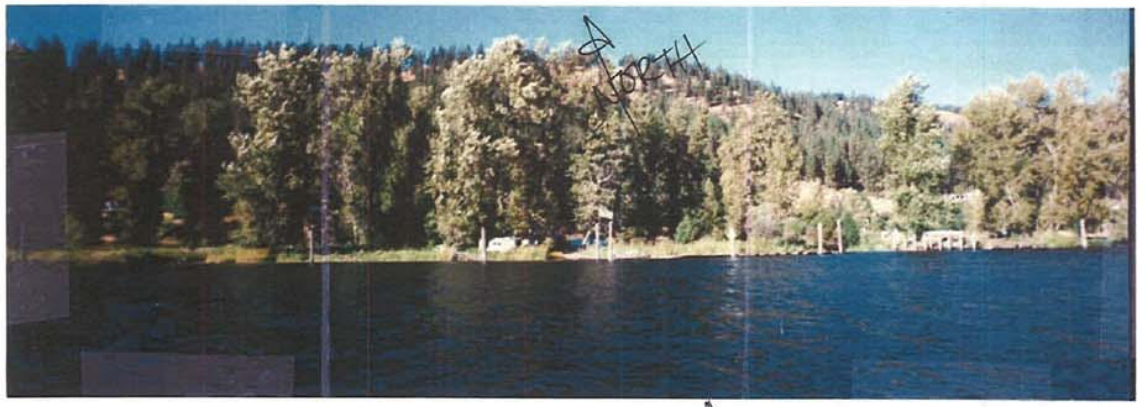
LRS/mc
Enclosures

COPY

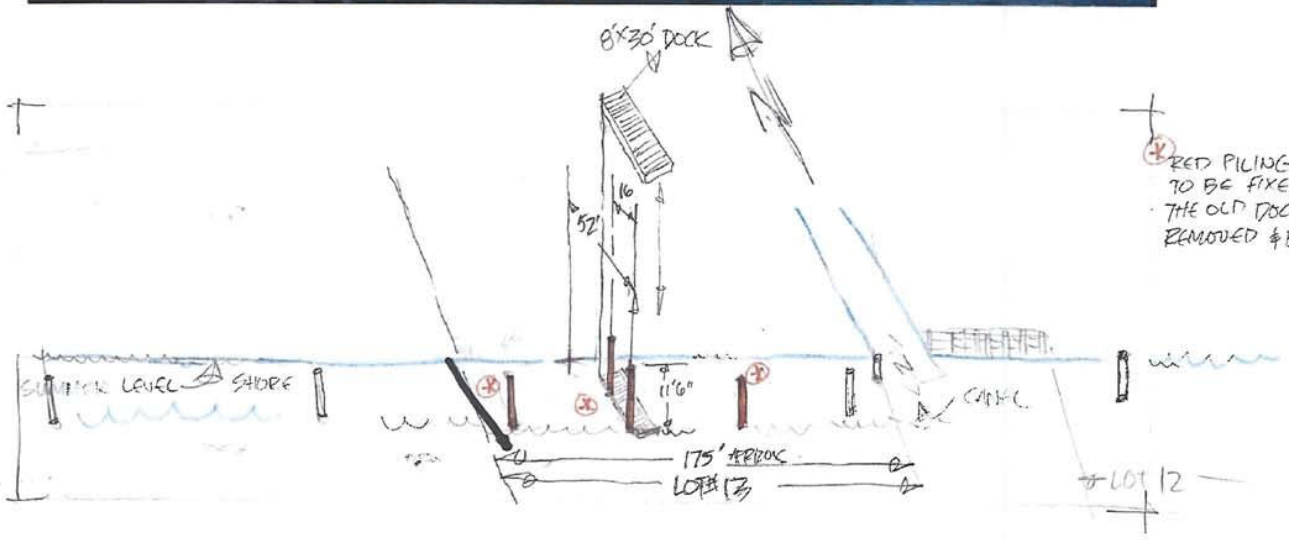
EXHIBIT
19
DEPONENT NAME: S. HAWKS
DATE: 5/12/16

CDAT OBJ-7173 0054

CDAT OBJ-7173 0614



SECTION 7, TOWNSHIP 46 NORTH,
RANGE 2 WEST, BM
BENEWAH COUNTY, ID.



RED PILINGS ARE
TO BE FIXED.
THE OLD DOCK WILL BE
REMOVED & BURNED.

EXHIBIT
20
DEPONENT NAME:
S. HAWKS
DATE:
5/12/16

CDAT OBJ-7173 0615

IDAHO DEPARTMENT OF LANDS
NAVIGABLE WATERS/MINERAL RESOURCES
1910 NW BLVD., STE 201, COEUR D'ALENE, ID 83814

MEMORANDUM DATE: March 3, 1997

TO: Will Pitman, PE, Administrator
Idaho Lake Protection Act

FROM: Jim Brady, Specialist JB
Navigable Waters/Mineral Resources

SUBJECT: ENCROACHMENT PERMIT L-95-S-4172, CHASE - ST. JOE RIVER

An inspection was performed on February 24, 1997, at approximately 11:00 AM. The inspection revealed that the permittee did not comply with at least five and possibly 8 stipulations of the permit issued to Cyril Chase on September 1, 1995.

The permitted application indicated a trench would be excavated outside of wetlands. The dredged materials would be stored in this trench and not be deposited in wetlands between the boat basin and State Highway 3. These wetlands were identified in a site visit that was attended by Cyril Chase; Mike Doherty, COE; Bart North, P.E.; Sam Badgett, contractor; and myself.

A visual inspection could not identify the storage trench and considerable fill was deposited in the above-mentioned wetlands. Nor was the 18-foot CMP observed that was to drain spoils and allow water transfer between the river and the wetlands.

The agent for the project, Bart North, P.E., Welch Comer & Associates, advised the Corps of Engineers and the department, the bridge would not be replaced by a 60-inch CMP, by letter dated August 11, 1995. I observed that the bridge in fact had been replaced by CMP. I did not measure the CMP, but it did not appear to be 60-inch CMP as originally called for in the application.

The application indicates that a temporary cofferdam of straw bales and native clays would be placed across the entrance to the basin. As well, silt curtains--two rows--would be placed riverward of the cofferdam. The plans called for the cofferdam to be one of the last things out before the silt curtains. I did not observe any evidence, on the site, that a cofferdam or silt curtains were utilized.

The turbidity in the basin was somewhat elevated compared to the clarity of the free flowing river, suggesting not much water exchange is taking place between the basin and the river.

Conversation with local personnel puts the dredging activity within the last 30 days.

The specific terms that this project is in noncompliance are as follows:

EXHIBIT
21
DEPONENT NAME: S. HAWKS
DATE: 5/21/16

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

EXHIBIT
22
DEPONENT NAME: S. HAWKS
DATE: 5/2/16

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

August 15, 1997

Steve Hawks
HCR 2 Box 86
St. Maries, ID 83861

Dear Mr. Hawks:

Re: Encroachment Permit L-95-S-4339

Enclosed is subject permit in accordance with the application you filed with this office. Please comply with all special terms and conditions.

You are required to record this original notarized permit with Benewah County. Encroachment permit number 4339 must be displayed upon the most waterward area of your encroachment with metal, plastic or vinyl numerals at least three inches in size.

Thank you for your cooperation.

Sincerely,

Carl Washburn

CARL WASHBURN
Navigable Waters Specialist

mc

enclosures

c: COE-CDA
Harrison Dock Builders

COPY

EXHIBIT
23
DEPONENT NAME: S. HAWKS
DATE: 5/21/16

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

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 12, Section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County.

1. All applicable provisions of the Rules for Regulation of Beds, Waters, and Airspace over Navigable Lakes and Streams in the State of Idaho are incorporated herein by reference and made a part hereof.

2. Construction will follow details and specifications shown on the approved drawings and data provided by the applicant. Should such information and data prove to be materially false, incomplete and/or inaccurate, this authorization may be modified, suspended, or revoked in accordance with the Administrative Procedures Act, Idaho Code title 67, chapter 52.

3. This permit does not convey the State's title to or jurisdiction or management of lands lying below the natural or ordinary high water mark.

4. Acceptance of this permit constitutes permission by the Permittee for representatives of the Department of Lands to come upon Permittee's lands at all reasonable times to inspect the encroachment authorized by this permit.

5. The Permittee assumes all liability for damages which may result from the exercise of this permit.

6. This permit does not relieve the Permittee from obtaining additional local or federal permits as required.

7. This permit is not valid until the identification number is displayed on the outermost area of the encroachment.

8. If the activity authorized herein is not completed on or before the 15th day of August, 2000 (three years from the date of issuance), this permit shall automatically expire unless it was previously revoked or otherwise extended.

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

9. White bead foam flotation shall be completely encased in a manner that will maintain the structural integrity of the foam. The encasement shall be resistant to the entry of rodents.

10. Removal of any pre-existing facilities is a condition of this permit.

11. This permit supersedes and voids any permit previously issued for this property unless otherwise noted.

12. Construction materials shall be natural or pressure treated utilizing only those preservative chemicals registered for the specific uses, such as CCA (Chromated Copper Arsenate), by the U.S. Environmental Protection Agency (EPA). All treated wood materials shall be produced in compliance with "Best Management Practices (BMPs) For the Use of Treated Wood in Aquatic Environments" issued by the Western Wood Preservers Institute (WWPI), July 1996. Treated materials not in contact with the water shall be completely dry before use near navigable waters. **Contact Idaho Department of Health and Welfare, Division of Environmental Quality, at (208)769-1422 with questions regarding treated materials.**

13. All construction material must be stockpiled landward of the ordinary high water mark.

14. Regardless of dock dimensions, the dock may only extend waterward to a water depth of six feet when measured at full pool (elevation 2,128 WWP datum).

15. This permit is issued subject to the established commercial navigational servitude. The permittee places this encroachment at his own peril and specifically waives any claim against commercial log tow operators who may accidentally damage this encroachment.

16. The permittee shall maintain the structure or work authorized herein in a good and safe condition and in accordance with the plans and drawings attached hereto.

17. All construction shall be completed in accordance with descriptions and methods provided unless otherwise specified. Any changes shall be approved in writing by the department prior to construction.

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

FOR THE DIRECTOR

By: Carl Washburn
CARL WASHBURN
Navigable Waters Specialist

STATE OF IDAHO)
) ss
COUNTY OF KOOTENAI)

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



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

REFERENCE:

COEUR D'ALENE TRIBE

850 A STREET
P.O. BOX 408
PLUMMER, IDAHO 83851
(208) 686-1800 • Fax (208) 686-1182

Compliance Order

Issue Date: December 9, 2004 **Issued to:** Steven Hawks
89231 HWY 3 North
St.Maries, ID 83861

Issued By: Coeur d'Alene Tribe Lake Management Department pursuant to Tribal Code Chapter 44 (complete copy enclosed), sections 44-23.01(A)-5 and 44-23.01(B).

Description of Violation: Failure to obtain a permit for an encroachment (dock) on Tribal lands/waters and failure to pay annual encroachment fees in 2003 and 2004 as required by Tribal Code sections 44-8.01(D), 44-9.01(A)-1, and 44-23.01(A)-1,(A)-5.

Conditions of Compliance Order: Under Tribal law, the above named owner of this encroachment must **contact** the **Lake Management Department within TEN (10) DAYS after receipt of this notice and take one of the following actions:**

1. **Apply for an encroachment permit and pay all application and past due lease fees for use of Tribal submerged lands; OR**

2. **File a written appeal in accordance with these procedures:** The appeal must be in writing, include a written explanation of the appeal requested, and the type of relief requested. Appeals must be sent to: Coeur d'Alene Tribe, Lake Management Department, 850 A Street, P.O. Box 408, Plummer ID 83851. If your request for an appeal is timely, you will be promptly notified of a hearing date before the Lake Management Board. Tribal law also permits any aggrieved party to appeal the decision of the Board to the Tribal Court. See Tribal Code section 44-23.01(D). **Failure to act on the appeal process within 10 days will forfeit any appeal** and shall render this order **final** for all purposes.

Failure to satisfy one of the conditions above may require the Tribe to pursue a Tribal court order for removal of your encroachment and for other remedies authorized under Tribal law. See Tribal Code sections 44-23.01(C), (E),(F),$(G).

If you have questions regarding this notice contact Ed Hale at the above address or phone at (208) 686-1118.

E. C. Hale 12/10/04

Edgar Hale, Navigable Water Specialist,
Lake Management Department
On behalf of the Coeur d'Alene Tribe

Date

EXHIBIT
24
DEPONENT NAME: S. HAWKS
DATE: 5/12/16

CDAT OBJ-7173 0145

RECEIVED

20 DEC 04

COEUR D'ALENE TRIBE
850 A STREET
PO. BOX 408
PLUMMER, ID 83851

I PROTEST HAVING TO PAY ANY FEES BEYOND THE PERMITS I PAID THROUGH THE STATE OF IDAHO

Steve Hawks
8231. HWY 3 N
ST. MARIES. ID 83861

CDAT OBJ-7173 0146

RECEIVED

Coeur d'Alene Tribe

20 DEC 04

COEUR D'ALENE TRIBE
850 A STREET
P.O. BOX 408
PLUMMER, ID 83851

I PROTEST HAVING TO PAY ANY FEES BEYOND THE PERMITS I PAID THROUGH THE STATE OF IDAHO.

Stoor Hawks
8923 HWY 3 N
ST. MARIES, ID 83861

CDAT OBJ-7173 0147

REFERENCE:

COEUR D'ALENE TRIBE

850 A STREET
P.O. BOX 408
PLUMMER, IDAHO 83851
(208) 686-1800 • Fax (208) 686-1182

January 10, 2005

Steve Hawks
89231 Hwy 3 N
St. Maries, Id 83861

Dear Mr. Hawks:

I have received your letter of December 20, 2004 stating that you do not wish to pay fees for your dock. The Compliance Order you received provided two options for your consideration. You can comply with the rules for permitting and pay your fees, or you can request an appeal to the Lake Management Board. If you wish to appeal to the Lake Management Board, you must do so in writing and provide an explanation of the appeal requested, the applicable sections of the Tribal Code, and the relief requested.

Please contact me within 10 days of receipt of this letter to clarify your intent. If you decide you would like to contribute to managing Tribal Waters by paying your fees, I will be happy to provide an application. If your intent was to appeal the Compliance Order, I will request that the Board schedule a time for your appeal at its next meeting.

Sincerely

Edgar O. Hale
Navigable Waters Specialist

Cc: Eric VanOrden
Brian Cleary
Robert Matt

REFERENCE:

COEUR D'ALENE TRIBE

850 A STREET
P.O. BOX 408
PLUMMER, IDAHO 83851
(208) 686-1800 • Fax (208) 686-1182

COPY

November 15, 2005

VIA CERTIFIED MAIL
Mr. Steve Hawks
89231 Hwy 3 N
St. Maries, ID 83861

Dear Mr. Hawks

By Tribal Compliance Order dated December 9, 2004, the Coeur d'Alene Tribe notified you that maintenance of your encroachment (dock) on Tribal lands and waters without a Tribal permit and without paying annual encroachment fees in 2003 and 2004 was in violation of Tribal Code Chapter 44 (Encroachments), and that you had the right to file a written appeal of that Order within 10 days of receiving it.

Your written response, dated December 20, 2004, stated that "I protest having to pay any fees beyond the permits I paid through the state of Idaho," but it was unclear to us whether you intended this response to serve as a formal appeal of the Order. By letter dated January 10, 2005, we tried to clarify the matter, and provided you with an additional 10 days to respond. The Tribe has no record that you responded to this inquiry.

The Tribe wants to ensure that you have had an adequate opportunity to clarify the intent of your letter dated December 20, 2004. We are therefore providing you the opportunity to do so within 10 days after receiving this letter. If you respond, please indicate whether your letter dated December 10, 2004, was intended to appeal the Compliance Order, and please express any additional grounds you may have in support of your appeal.

If the Tribe does not receive a response from you within the allotted time, we will nevertheless assume that your letter of December 10, 2004, was intended to appeal the Compliance Order, and that the basis for your appeal is limited to the grounds set forth in that letter. We will then refer the matter to the Tribal Lake/River Board to schedule a hearing date and to issue a Notice of Hearing to you regarding the Compliance Order.

For your reference, we are enclosing a copy of Tribal Code Chapter 44 (Encroachments), which sets forth the specific provisions governing appeals from Compliance Orders, and a copy of the Tribal Lake/River Board Rules and Procedures, which govern appeals brought before the Board.

Please contact me at the above listed telephone number if you have any questions regarding this matter.

Sincerely

Jason P. Brown
Navigable Waters Specialist

cc: Eric Van Orden
Phillip Cernera

Encl. (2) (Ch. 44, & Bd Rules & Proc.)

COEUR D'ALENE TRIBE

850 A STREET
P.O. BOX 408
PLUMMER, IDAHO 83851
(208) 686-1800 • Fax (208) 686-1182

Compliance Order

Issued to: Steven Hawks (Encr. #0506)
89231 Hwy 3 N
St. Maries, ID 83861

Issue Date: August 10, 2006

2nd NOTICE 2003 & 2004
1st NOTICE 2005 & 2006

Issued By: Coeur d'Alene Tribe Lake Management Department pursuant to Tribal Code Chapter 44 (complete copy enclosed), sections 44-24.01(A)-5 and 44-24.01(B).

Description of Violation: Failure to obtain a permit for an encroachment (dock) on Tribal lands/waters and failure to pay annual encroachment fees in 2003, 2004, 2005, and 2006 as required by Tribal Code sections 44-8.01(D), 44-9.01(A)-1, and 44-24.01(A)-1,(A)-5.

Conditions of Compliance Order: Under Tribal law, the above named owner of this encroachment must **contact** the **Lake Management Department within TEN (10) DAYS after receipt of this notice and take one of the following actions:**

1. **Apply for an encroachment permit and pay all application and past due lease fees for use of Tribal submerged lands; OR**

2. **File a written appeal in accordance with these procedures:** The appeal must be in writing, include a written explanation of the appeal requested, and the type of relief requested. Appeals must be sent to: Coeur d'Alene Tribe, Lake Management Department, 850 A Street, P.O. Box 408, Plummer ID 83851. If your request for an appeal is timely, you will be promptly notified of a hearing date before the Coeur d'Alene Tribe Lake/River Board. Tribal law also permits any aggrieved party to appeal the decision of the Board to the Tribal Court. See Tribal Code section 44-24.01(D). **Failure to act on the appeal process within 10 days will forfeit any appeal** and shall render this order **final** for all purposes.

Failure to satisfy one of the conditions above may require the Tribe to pursue a Tribal court order for removal of your encroachment and for other remedies authorized under Tribal law. See Tribal Code sections 44-24.01(C), (E), (F), and (G).

If you have questions regarding this notice contact Jason Brown at the above address or phone at (208) 686-1118.

8/10/06

Jason P. Brown, Navigable Waters Specialist,
Lake Management Department
On behalf of the Coeur d'Alene Tribe

Date

CDAT OBJ-7173 0150

REFERENCE:

COEUR D'ALENE TRIBE

850 A STREET
P.O. BOX 408
PLUMMER, IDAHO 83851
(208) 686-1800 • Fax (208) 686-1182

February 7, 2007

Steven W. Hawks
89231 Highway 3 North
St. Maries, ID 83861

RE: Encroachment #0506

Dear Steven W. Hawks,

You have been identified as maintaining an encroachment in, on or above submerged lands and waters of the St. Joe River within the Coeur d'Alene Indian Reservation. The regulation of use of the submerged lands and waters are an essential governmental function of the Tribe. The Tribal and public health, safety and welfare requires that any allowed use of these waters and submerged lands be regulated to protect water quality and quantity, navigation, fish and wildlife habitat, aquatic life, aesthetic beauty and Tribal cultural values.

To this point the Tribe has not yet received an application for your encroachment, failure to provide such application by June 2, 2003 has resulted in your encroachment designated as an 'unregistered dock' within Tribal Waters. In addition to the absence of the requisite application and filing fee for a Tribal encroachment permit and lease, it appears there has also been a failure to obtain a permit for your encroachment (dock) on Tribal lands/waters and failure to pay annual encroachment lease fees in calendar years 2003 through 2007 as required by Tribal Code sections 44-8.01(D), 44-9.01(A)-1, and 44-24.01(A)-1,(A)-5.

Up to this point the Lake Management Department had been pursuing compliance actions against encroachment owners failing to obtain the required permit and lease necessary to maintain an encroachment within Tribal waters. Certain owners, previously maintaining encroachments on Tribal waters, have unsuccessfully pursued an appeal before the Tribal Lake/River Board as allowed by Tribal Code section 44-24-01. It has also been brought to our attention that private individual docks previously in violation, maintained by owners involved in compliance actions, have been removed from Tribal waters.

The regulation of these uses has not been motivated by monetary benefit and the Tribe is prepared to forego any penalties, monetary or otherwise, for those individuals removing their encroachment currently in violation. ***As per Tribal Code section 44-8-01(D)1., All encroachments on Tribal submerged lands and waters are specifically prohibited and considered an unlawful trespass unless there is a solid permit and lease currently in effect for the encroachment.*** This would provide that any related appurtenances (i.e.

pilings, log booms, etc.), also considered by definition an encroachment on Tribal waters, must also be removed and disposed of appropriately at the owner's expense.

For those owners that may desire to now bring their encroachment into compliance, they would be required to submit the requisite application and pay current and past due lease fees from 2003 through 2007. It has and will be the Tribe's desire for encroachment owners to comply with Tribal laws regulating the use of submerged lands and waters and share in the enjoyment of those waters with the Tribe.

The Tribe is now preparing to move forward with further compliance actions for those remaining owners currently maintaining encroachments in violation of Tribal law. Owners failing to comply may be issued a Tribal Compliance order pursuant to Tribal Law and Order Code Chapter 44.24.01(B) and enter subsequent compliance proceedings.

We would encourage you to contact our office at the earliest stage possible. The Coeur d'Alene Tribe Encroachment Application and Fee Schedules can be downloaded from the Lake Management Department website at the following link http://www.cdatribe-nsn.gov/lake/e_info.shtml or by contacting our office and requesting a copy. Please do not hesitate to call me at (208) 686-1118 if you have any questions regarding this matter.

Sincerely,

Jason P. Brown
Recreation Management Program Manager

DELIVERY SYSTEM



Legend

- Right POD
- Right POU

0 50 100 200 300 400 Feet

N
W E
S

EXHIBIT
25
DEPONENT NAME: S. HAWKS
DATE: 5/2/16

CDAT OBJ-7173 0016



POWER BOX .JPG



PUMP HOUSE.JPG



POU.JPG



POU-.JPG



IMG_1043.JPG



SYSTEM.JPG



PUMP.JPG



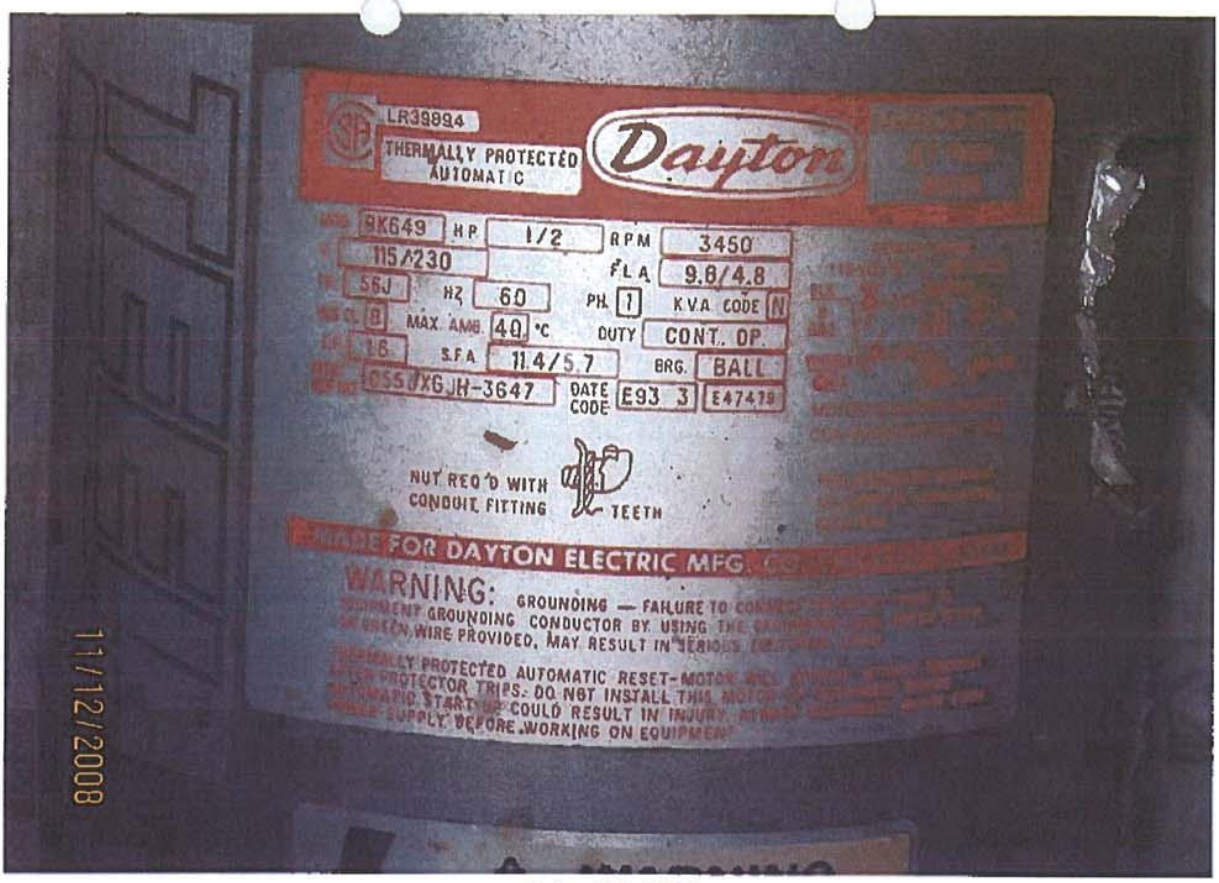
MOTOR.JPG



POD.JPG

91-7173

EXHIBIT
26
DEPONENT NAME: S. HAWKS
DATE: 5/24/16


LR39894
THERMALLY PROTECTED AUTOMATIC
Dayton
9K649
HP 1/2
RPM 3450
115/230
F.L.A. 9.8/4.8
56J
HZ 60
PH 1
K.V.A. CODE N
MAX. AMB. 40 °C
DUTY CONT. OP.
S.F.A. 11.4/5.7
BRG. BALL
DATE CODE E93 3
E47479
NUT REQ'D WITH CONDUIT FITTING
TEETH
FOR DAYTON ELECTRIC MFG.
WARNING:
GROUNDING — FAILURE TO
GROUNDING CONDUCTOR BY USING THE
WIRE PROVIDED, MAY RESULT IN
PROTECTED AUTOMATIC RESET-MOTOR
PROTECTOR TRIPS. DO NOT INSTALL THIS
START UP COULD RESULT IN INJURY.
SUPPLY BEFORE WORKING ON EQUIPMENT
11/12/2008

91-7173


TEEL
SELF-PRIMING
CENTRIFUGAL
PUMP
11/12/2008



91-7173





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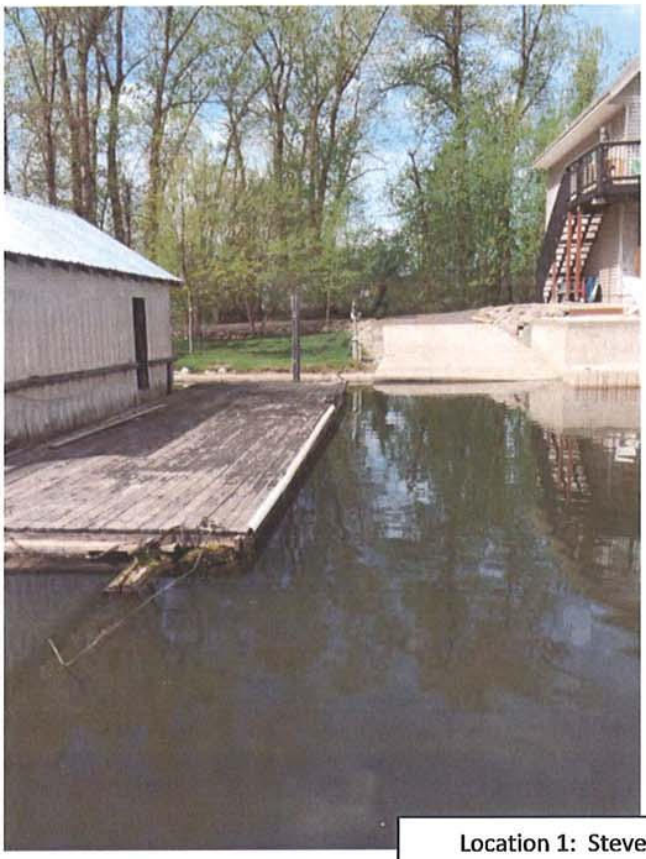
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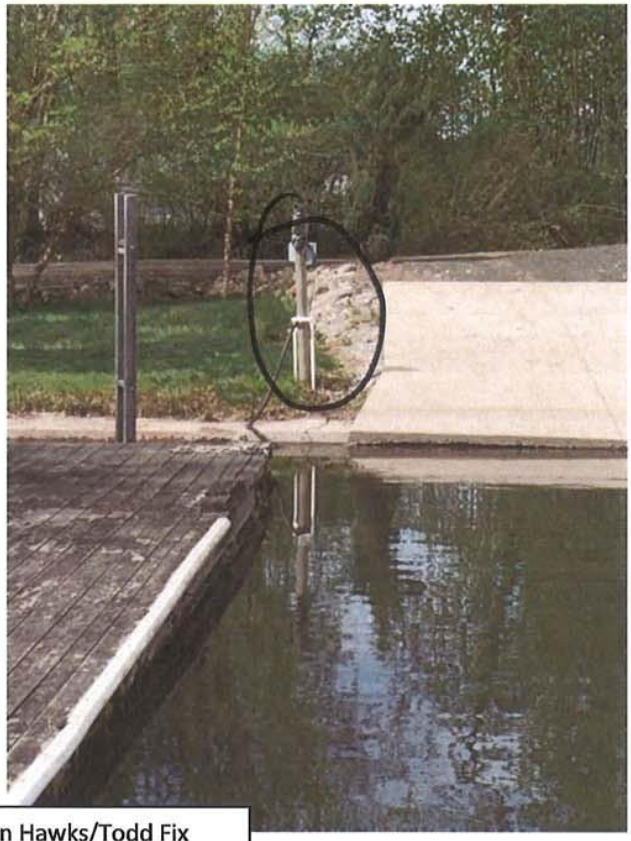


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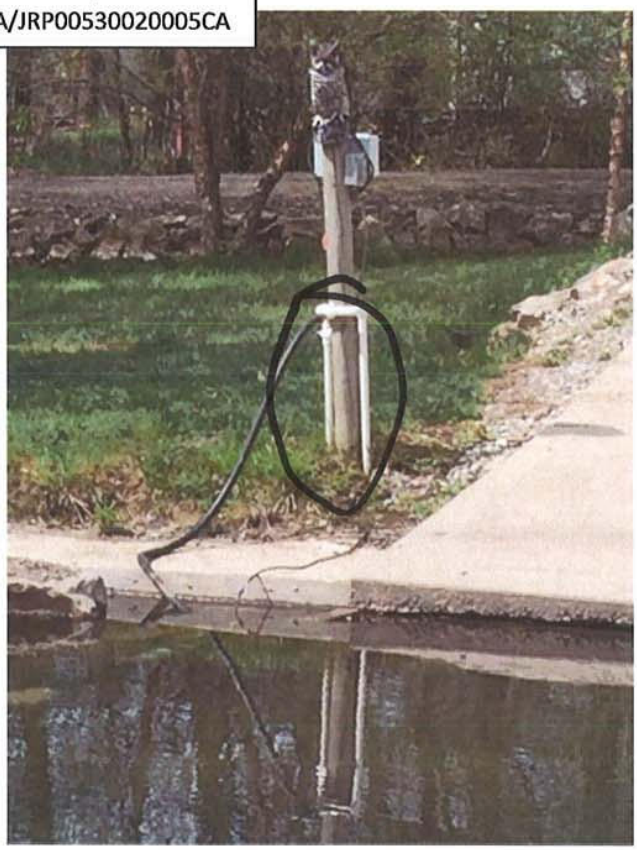
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Location 1: Steven Hawks/Todd Fix
WRP005300200130A/JRP00530020005CA





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