

RECEIVED

JUL 27 2016

DEPARTMENT OF
WATER RESOURCES

COPY

Norman M. Semanko, ISB No. 4761
Sarah A. McCormack, ISB No. 9683
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
nms@moffatt.com
sam@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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

In re CSRBA

Case No. 49576

Subcase Nos. 91-7102; 91-7173

**AFFIDAVIT OF NORMAN M.
SEMANKO IN SUPPORT OF
CLAIMANTS STEVE AND DEANNE
HAWKS' MEMORANDUM IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

Steve and Deanne Hawks,

Claimants,

vs.

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

Objector.

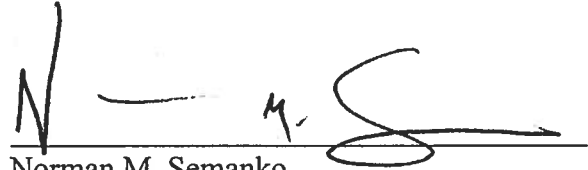
STATE OF IDAHO)
) ss.
County of Ada)

Norman M. Semanko, having been duly sworn upon oath, deposes and states as follows:

1. I am over eighteen years of age and am an attorney with the law firm Moffatt, Thomas, Barrett, Rock & Fields, Chartered, counsel of record for the above-named Claimants Steve and Deanna Hawks. I make this affidavit upon my own personal knowledge and I am competent to testify regarding the matters contained herein.
2. Attached hereto as Exhibit A is a true and correct copy of Water Right License No. 91-7102, owned by Steve Hawks.
3. Attached hereto as Exhibit B is a true and correct copy of Water Right License No. 91-7173, owned by Steve Hawks.
4. Attached hereto as Exhibit C and D are true and correct copies of plat maps for Castillo's Tracts, obtained from the public records of Benewah County.
5. Attached hereto as Exhibit E is a true and correct copy of a deed from Ray and Mary Jean Korb to Cy Chase for Lots 8 and 9 of Castillo's Tracts, dated September 15, 1964 and obtained from the public records of Benewah County.
6. Attached hereto as Exhibit F and G are true and correct copies of two deeds from Arthur and Elsie Reichelt to Cy Chase for Lots 6 and 7 of Castillo's Tracts, dated April 30, 1964 and September 1964 and obtained from the public records of Benewah County.
7. Attached hereto as Exhibit H is a true and correct copy of a map of the development plans for Sylvia's Haven, including plans for a "dockage lagoon," and obtained from the public records of Benewah County.

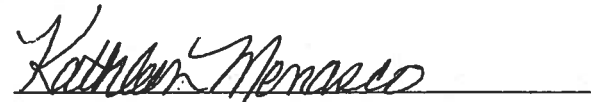
8. Attached hereto as Exhibit I is a true and correct copy of an aerial picture of Sylvia's Haven in 1965, before the outlet moorage was built. The aerial picture was provided by the Benewah County Assessor's Office and was drawn on by hand to show the lots designations in Sylvia's Haven and area owned by the Claimants Steve and Deanne Hawks.

Further your affiant sayeth naught.


Norman M. Semanko

SUBSCRIBED AND SWORN to before me this 26th day of July, 2016.




NOTARY PUBLIC FOR IDAHO
Residing at Meridian, Idaho
My Commission Expires Oct. 9, 2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of July, 2016, I caused a true and correct copy of the foregoing **AFFIDAVIT OF NORMAN M. SEMANKO IN SUPPORT OF CLAIMANTS STEVE AND DEANNE HAWKS' MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** to be served by the method indicated below, and addressed to the following:

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

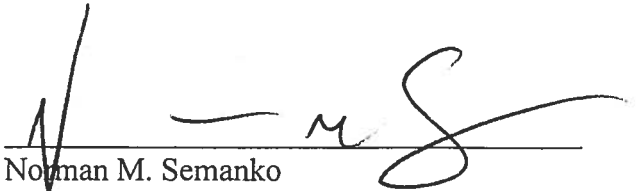
☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☒ Overnight Mail
☐ Facsimile
☐ E-Mail

Chief, Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
700 W. State St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0010
Facsimile (208) 854-8072

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☒ Overnight Mail
☐ Facsimile
☐ E-Mail

Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098
Facsimile (208) 287-6700
gary.spackman@idwr.idaho.gov

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☒ Overnight Mail
☐ Facsimile
☐ E-Mail


Norman M. Semanko

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE
WATER RIGHT NO. 91-07102

Priority: July 22, 1988

Maximum Diversion Rate:
Maximum Diversion Volume:¹

0.02 CFS
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:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
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 ~~fruit garden~~

JUL 30 1990

EXHIBIT A

PAGE 2

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*
R. Keith Higginson, Director

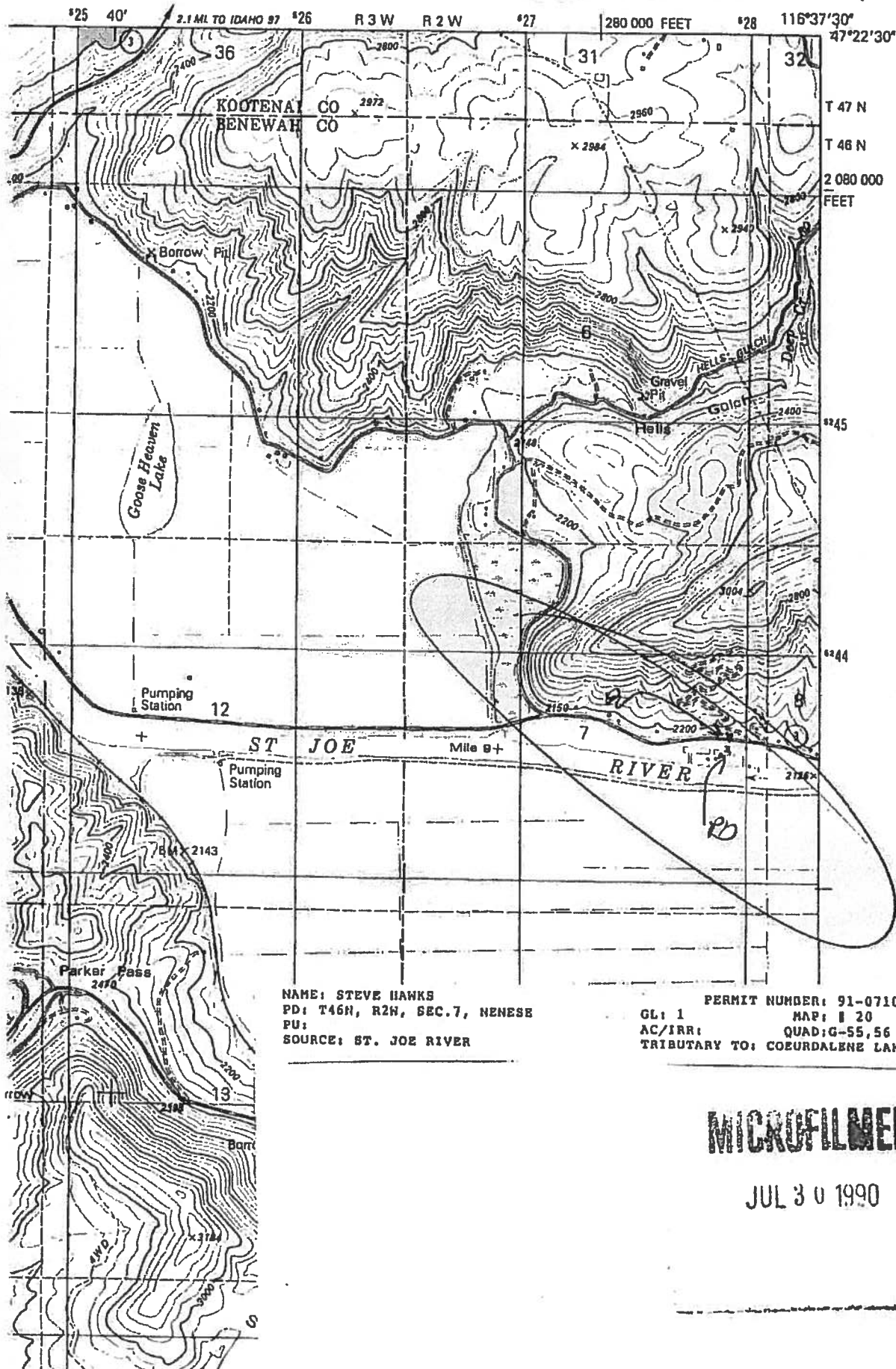
RECORDED

JUL 30 1990

BENEWAH LAKE QUADRANGLE
IDAHO
7.5 MINUTE SERIES (TOPOGRAPHIC)

SW/4 ST. MARIES 15' QUADRANGLE

2870 F.EE
(MEDMONT)



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:

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

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER L7 (NE $\frac{1}{4}$ SE $\frac{1}{4}$) Sec. 7, Twp 46N, Rge 02W, B.M. BENEWAH County

PLACE OF USE: DOMESTIC

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

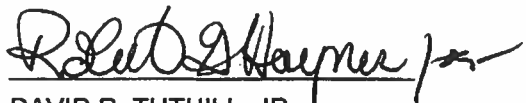

DAVID R. TUTHILL, JR.
Director

EXHIBIT B

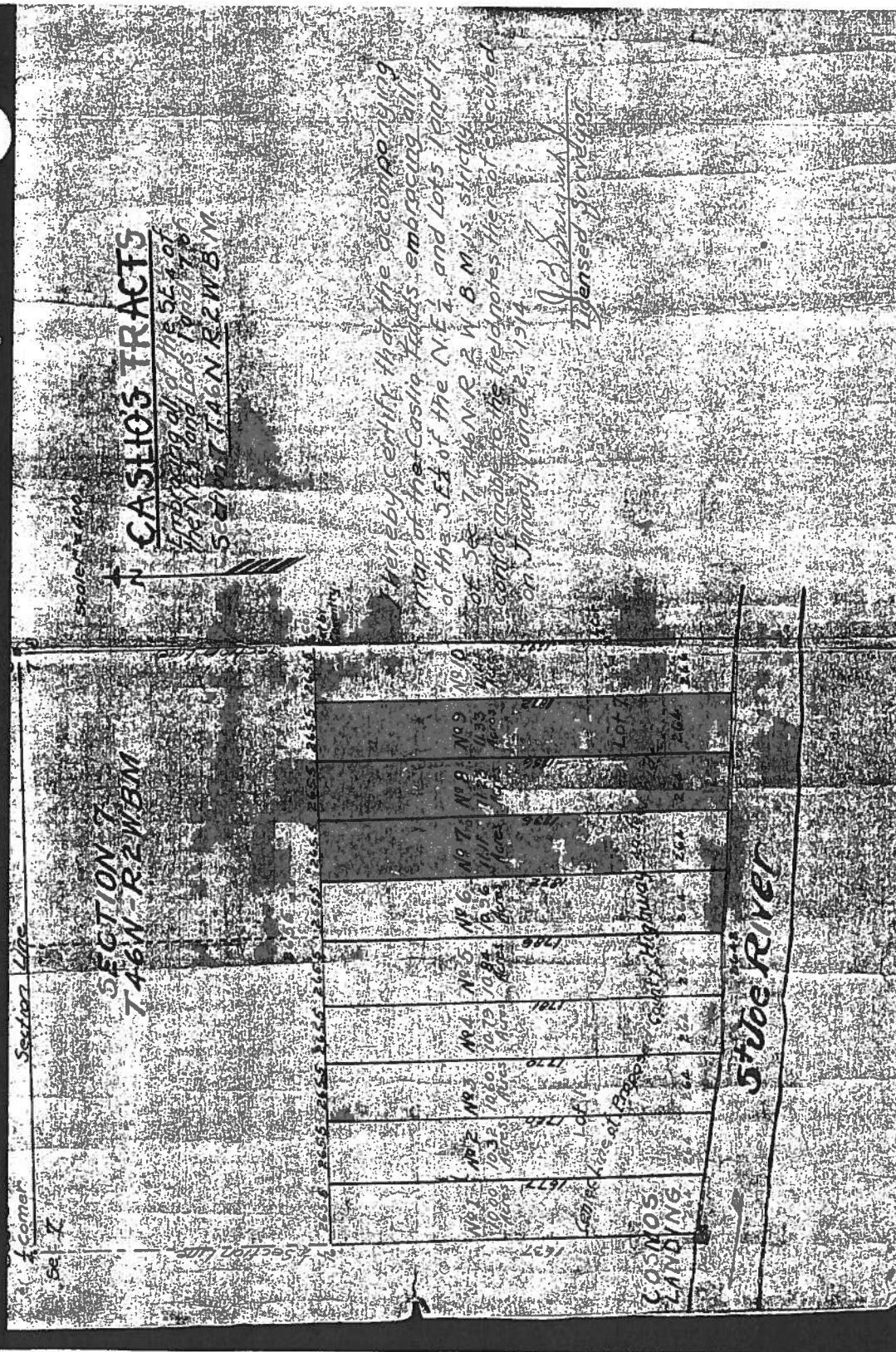
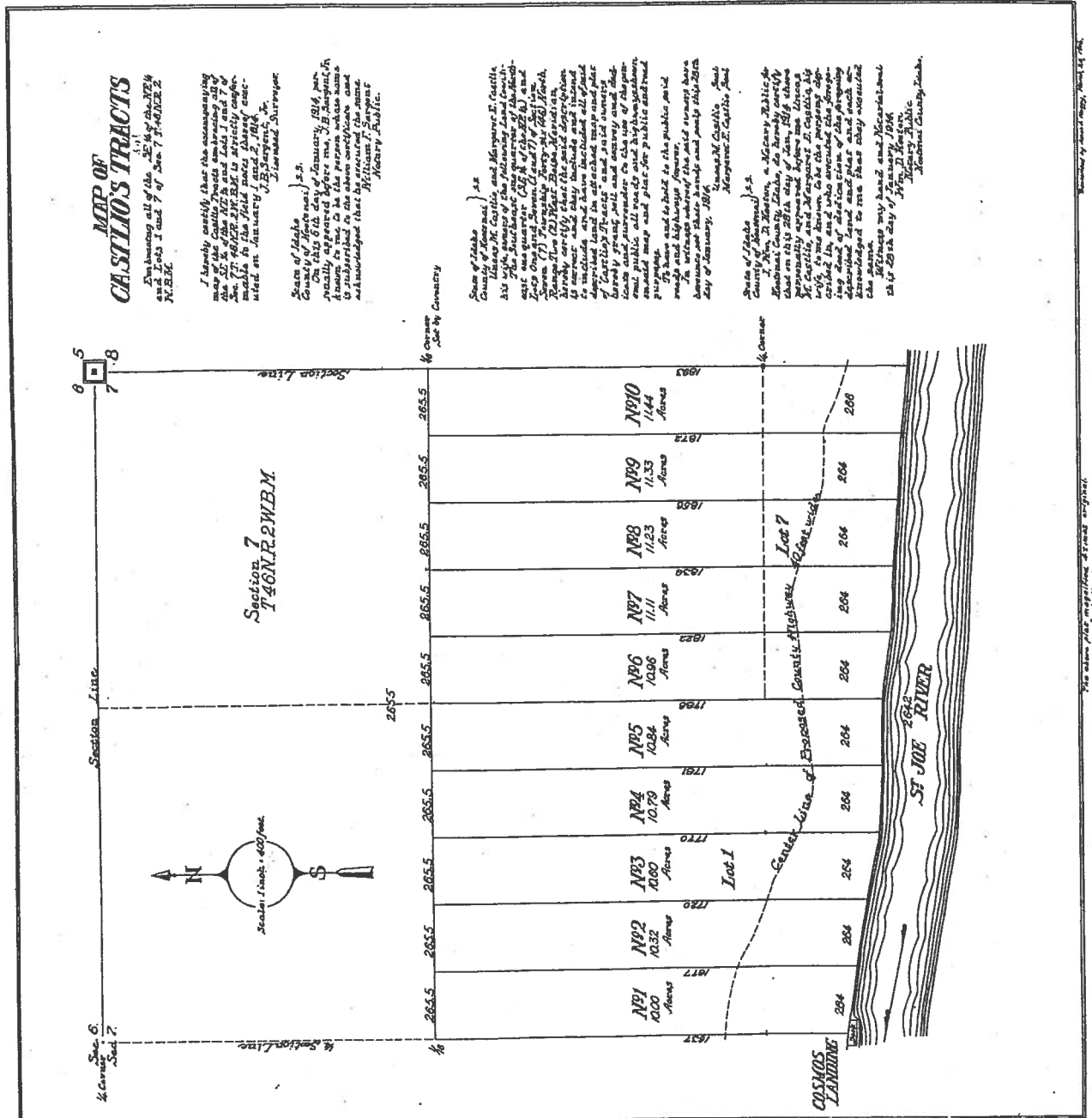


EXHIBIT C

EXHIBIT D



THIS INDENTURE, Made the 15th day of September in the year of our Lord one thousand nine hundred and Sixty Four, between Ray E. Korb AKA Ray Korb, and Mary Jean Korb, his wife

of Benton County, State of Oregon, part ies of the first part, and C. C. Chasa and Verdie Chasa, his wife of Benevah County, State of Idaho, part ies of the second part.

WITNESSETH, That said part ies of the first part, for and in consideration of the sum of TEN AND NO/100 - - (\$10.00) - - Dollars in hand paid by the said part ies of the second part, the receipt whereof is hereby acknowledged, and the said part ies of the second part forever released and discharged therefrom have granted, bargained, sold, remised, released, alienated and confirmed and by these presents do grant, bargain, sell, release, alienate and confirm unto the said part ies of the second part, and to their heirs and assigns forever all the following described lot, piece, or parcel of land situated in the County of Benevah and State of Idaho, and known and described as follows, to-wit:

Tracts 8 and 9 Castlios Tracts, in Section 7 Township 46 North Range 2 WEM

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof and all the estate, right, title, interest, claim or demand whatsoever of the said part ies of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances, to have and to hold the said premises above bargained and described, with the appurtenances unto the said part ies of the second part, their heirs and assigns forever.

And that the said part ies of the first part, for themselves and their heirs, executors and administrators do covenant, grant, bargain, and agree to and with the said part ies of the second part their heirs and assigns, that at the time of ensealing delivery of these presents they are well seized of the premises above conveyed as of good, sure, perfect, absolute and indefeasible estate of inheritance in law and fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid; and that the same are free and clear of all former or other grants, bargains, sales, liens, taxes, assessments and incumbrances of what kind or nature whatsoever:

and the above bargained premises in the quiet and peaceable possession of said part ies of the second part their heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part ies of the first part shall and will warrant and defend.

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

Signed, Sealed and Delivered in the Presence of:

(\$15.40 I.R. Stamps attached and canceled 10-2-64)

Ray E. Korb (SEAL)
Mary Jean Korb (SEAL)
(SEAL)
(SEAL)

OREGON
STATE OF OREGON } ss.
County of Benevah
Benton

I, the undersigned Notary Public, in and for said County, in the State aforesaid, do hereby certify that Ray E. Korb AKA Ray Korb, and Mary Jean Korb,

his wife, personally known to me as the real person s whose name s are subscribed to the foregoing Deed appeared before me in person, and acknowledged that they executed and delivered the said Deed as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial seal this 15th day of September in the year of our Lord, one thousand nine hundred and Sixty Four

Irene L. Rook

EXHIBIT E

THIS INDENTURE, Made the _____ day of April ^{by b & L} in the year of our Lord one thousand nine hundred and Sixty-four, between Arthur E. Reichelt and Elsie A. Reichelt of Benewah County, State of Idaho, part ies of the first part, and C. C. Chase, a married man whose wife's name is Verdie Chase of Benewah County, State of Idaho, part ies of the second part.

WITNESSETH, That said parties of the first part, for and in consideration of the sum of Ten and no/100 and other valuable consideration Dollars in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, and the said party of the second part forever released and discharged therefrom have granted, bargained, sold, remised, released, alienated and confirmed and by these presents do grant, bargain, sell, release, alienate and confirm unto the said party of the second part, and to his heirs and assigns forever all the following described lot s, piece s, or parcel s of land situated in the County of Benewah and State of Idaho, and known and described as follows, to-wit:

All that portion of Lots Six (6) and Seven (7) of Castlio Tracts, which lie South of Highway #95A, situate in Section Seven (7), Township Forty-six (46) North, Range Two (2) West Boise Meridian, Benewah County, Idaho.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof and all the estate, right, title, interest, claim or demand whatsoever of the said part ies of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances, to have and to hold the said premises above bargained and described, with the appurtenances unto the said part ies of the second part, his heirs and assigns forever.

And that the said part ies of the first part, for themselves, their heirs, executors and administrators do covenant, grant, bargain, and agree to and with the said parties of the second part his heirs and assigns, that at the time of ensembling delivery of these presents they are well seized of the premises above conveyed as of good, sure, perfect, absolute and indefeasible estate of inheritance in law and fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid; and that the same are free and clear of all former or other grants, bargains, sales, liens, taxes, assessments and incumbrances of what kind or nature whatsoever:

and the above bargained premises in the quiet and peaceable possession of said party of the second part his heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part ies of the first part shall and will warrant and defend.

IN WITNESS WHEREOF, The said part ies of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of:

_____	}	<u>Arthur E. Reichelt</u> (SEAL)
_____		<u>Elsie A. Reichelt</u> (SEAL)
_____		(SEAL)
_____		(SEAL)

(\$4.95 I.R. Stamps attached and cancelled 5-1-64)

STATE OF IDAHO } ss.
County of Benewah,

I, the undersigned Notary Public _____, in and for said County, in the State aforesaid, do hereby certify that Arthur E. Reichelt and Elsie A. Reichelt

his wife, personally known to me as the real person s whose name s are _____ subscribed to the foregoing Deed appeared before me in person, and acknowledged that they executed and delivered the said Deed as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 30th day of April in the year of our Lord, one thousand nine hundred and Sixty-four.

Richard L. McFadden

EXHIBIT F

5277

THIS INDENTURE, Made the _____ day of September in the year of our Lord one thousand nine hundred and sixty-seven, between
ARTHUR E. REICHELT and ELSIE A. REICHELT, husband and wife
 of Benewah County, State of Idaho, part ies of the first part, and
C. C. CHASE and VERDIE CHASE, husband and wife
 of Benewah County, State of Idaho, part ies of the second part.

WITNESSETH, That said part ies of the first part, for and in consideration of the sum of Ten and no/100 (\$10.00) and other valuable consideration Dollars in hand paid by the said part ies of the second part, the receipt whereof is hereby acknowledged, and the said part ies of the second part forever released and discharged therefrom ha. ve granted, bargained, sold, remised, released, alienated and confirmed and by these presents do grant, bargain, sell, release, alienate and confirm unto the said part ies of the second part, and to their heirs and assigns forever all the following described lot, piece, or parcel of land situated in the County of Benewah and State of Idaho, and known and described as follows, to-wit:
 A portion of tracts #6 and #7 of Castlio's Tracts, a recorded subdivision of a part of Section 7, Township 46 North, Range 2 West, Boise Meridian, Benewah County, Idaho, more particularly described as follows: Beginning at the North 1/16 corner between sections 7 and 8, Township 46 North, Range 2 West, which corner is N 1°03' W a distance of 1,329.86 feet from the 1/4 corner common to said Sections 7 and 8; thence S 87°37' W along the North line of said Castlio's Tracts a distance of 796.50 feet to the corner common to tracts 7 and 8, the true point of beginning; thence S 1°12' E along the line between tracts 7 and 8 a distance of 1,036.73 feet; thence S 79°31' W a distance of 535.68 feet to the point on the line between tracts 5 and 6; thence N 1°17' W along the line between tracts 5 and 6 a distance of 1,108.41 feet to the intersection of said line with the North boundary of Castlio's Tracts; thence N 87°37' E along the North line of Castlio's Tracts a distance of 531.0 feet to the true point of beginning, enclosing an area of 13.1 acres more or less.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof and all the estate, right, title, interest, claim or demand whatsoever of the said part ies of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances, to have and to hold the said premises above bargained and described, with the appurtenances unto the said part ies of the second part, their heirs and assigns forever.

And that the said part ies of the first part, for themselves and their heirs, executors and administrators do covenant, grant, bargain, and agree to and with the said part ies of the second part their heirs and assigns, that at the time of enrolling delivery of these presents are well seized of the premises above conveyed as of good, sure, perfect, absolute and indefeasible estate of inheritance in law and fee simple, and ha. ve good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid; and that the same are free and clear of all former or other grants, bargains, sales, liens, taxes, assessments and incumbrances of what kind or nature soever: except taxes for the year 1967

and the above bargained premises in the quiet and peaceable possession of said part ies of the second part their heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part ies of the first part shall and will warrant and defend.

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

Signed, Sealed and Delivered in the Presence of:

Arthur E. Reichelt
Elsie A. Reichelt

(SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF IDAHO
 County of Benewah } ss.

I, the undersigned Notary Public, in and for said County, in the State aforesaid, do hereby certify that

ARTHUR E. REICHELT and ELSIE A. REICHELT

his wife, personally known to me as the real person s whose name are subscribed to the foregoing Deed appeared before me in person, and acknowledged that the y executed and delivered the said Deed as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of September in the year of our Lord, one thousand nine hundred and sixty-seven.

Jerrold R. Park

EXHIBIT G

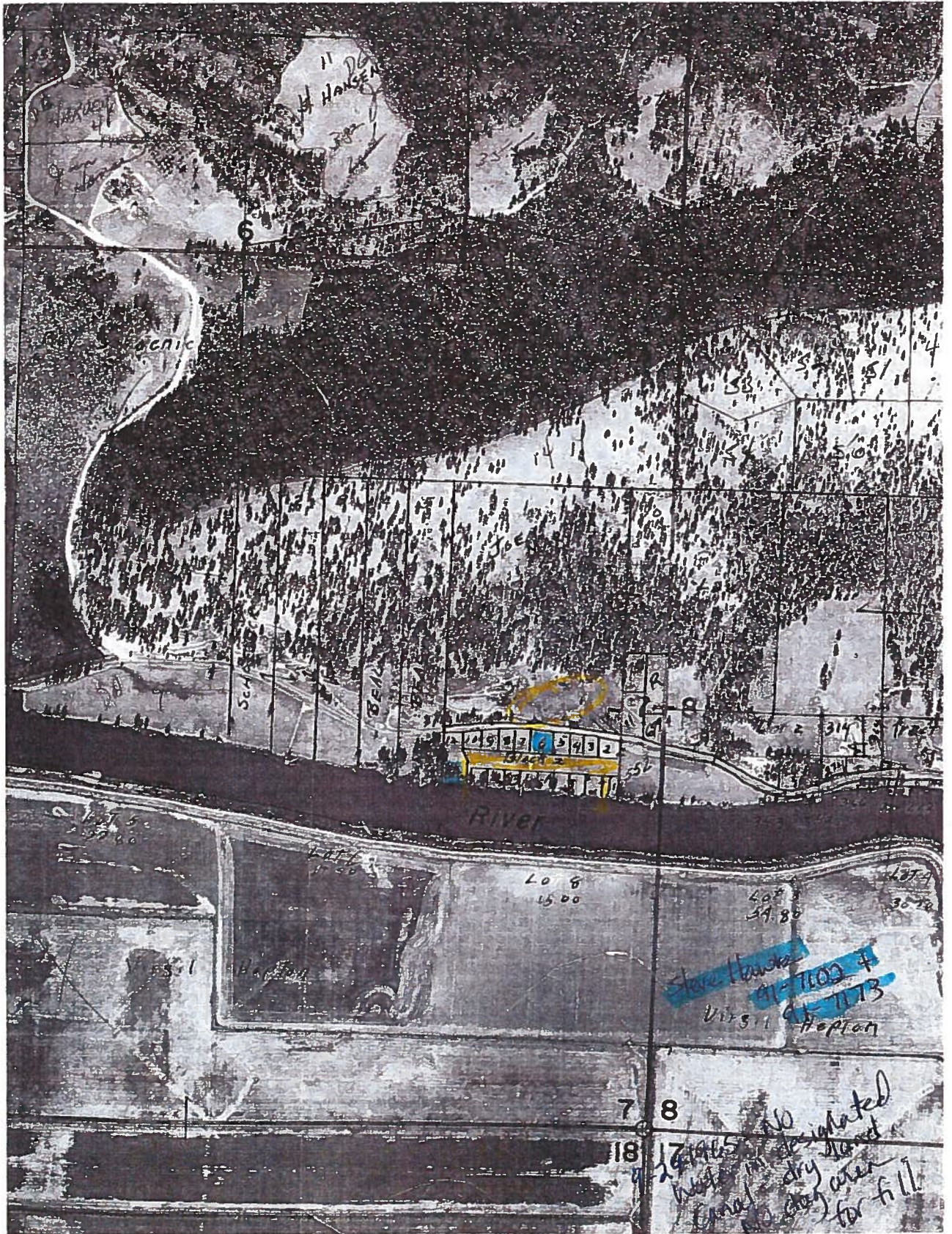


EXHIBIT I