

COPY

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

**AFFIDAVIT OF SARAH A.
MCCORMACK 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)

SARAH A. McCORMACK, 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, obtained from the online records of the Idaho Department of Water Resources (the "Department").

3. Attached hereto as **Exhibit B** is a true and correct copy of the Amended Notice of Claim to a Water Right Acquired Under State Law for water right claim no 91-7102, filled out by Claimants and signed by Deanne Hawks, obtained from the online records of the Department.

4. Attached hereto as **Exhibit C** is a true and correct copy of the Department's Director's Report for water right claim no. 91-7102, obtained from the online records of the Department.

5. Attached hereto as **Exhibit D** is a true and correct copy of a plat map for Castillo's Tracts, obtained from the public records of Benewah County.

6. 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, obtained from the public records of Benewah County.

7. Attached hereto as **Exhibit F** 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, obtained from the public records of Benewah County.

8. Attached hereto as **Exhibit G** 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.

9. Attached hereto as **Exhibit H** 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.

10. Attached hereto as **Exhibit I** is a true and correct copy of a bathymetric map of the Coeur d'Alene Lake, obtained from the records of the U.S. Department of the Interior.

11. Attached hereto as **Exhibit J** is a true and correct copy of the Affidavit of Scott Rasor, with exhibits, filed by Objector Coeur d'Alene Tribe on July 20, 2016.

12. Attached hereto as **Exhibit K** is a true and correct copy of *Claimants Steve and Deanne Hawks' Amended Responses to Objector's First Requests for Discovery*, filed by Claimants on March 3, 2016.

13. Attached hereto as **Exhibit L** is a true and correct copy of *Claimants Steve and Deanne Hawks' Second Amended and Supplemental Responses to Objector's First Requests for Discovery*, filed by Claimants on May 16, 2016.

14. Attached hereto as **Exhibit M** is a true and correct copy of pages 118-120 of the transcript of the deposition of Steve Hawks performed by Kinzo Mihara, attorney for

Objector Coeur d'Alene Tribe, on May 2, 2016. In this excerpt, Norman Semanko, attorney for Claimants, is questioning Steve Hawks.

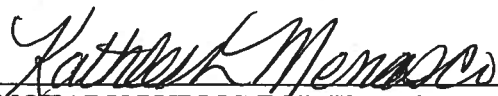
Further your affiant sayeth naught.

DATED this 9th day of August, 2016.



Sarah A. McCormack

SUBSCRIBED AND SWORN to before me this 9th day of August, 2016.



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August, 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



Sarah A. McCormack

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:

<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
BENEAH 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 ~~home garden~~

RECEIVED

JUL 30 1990

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.

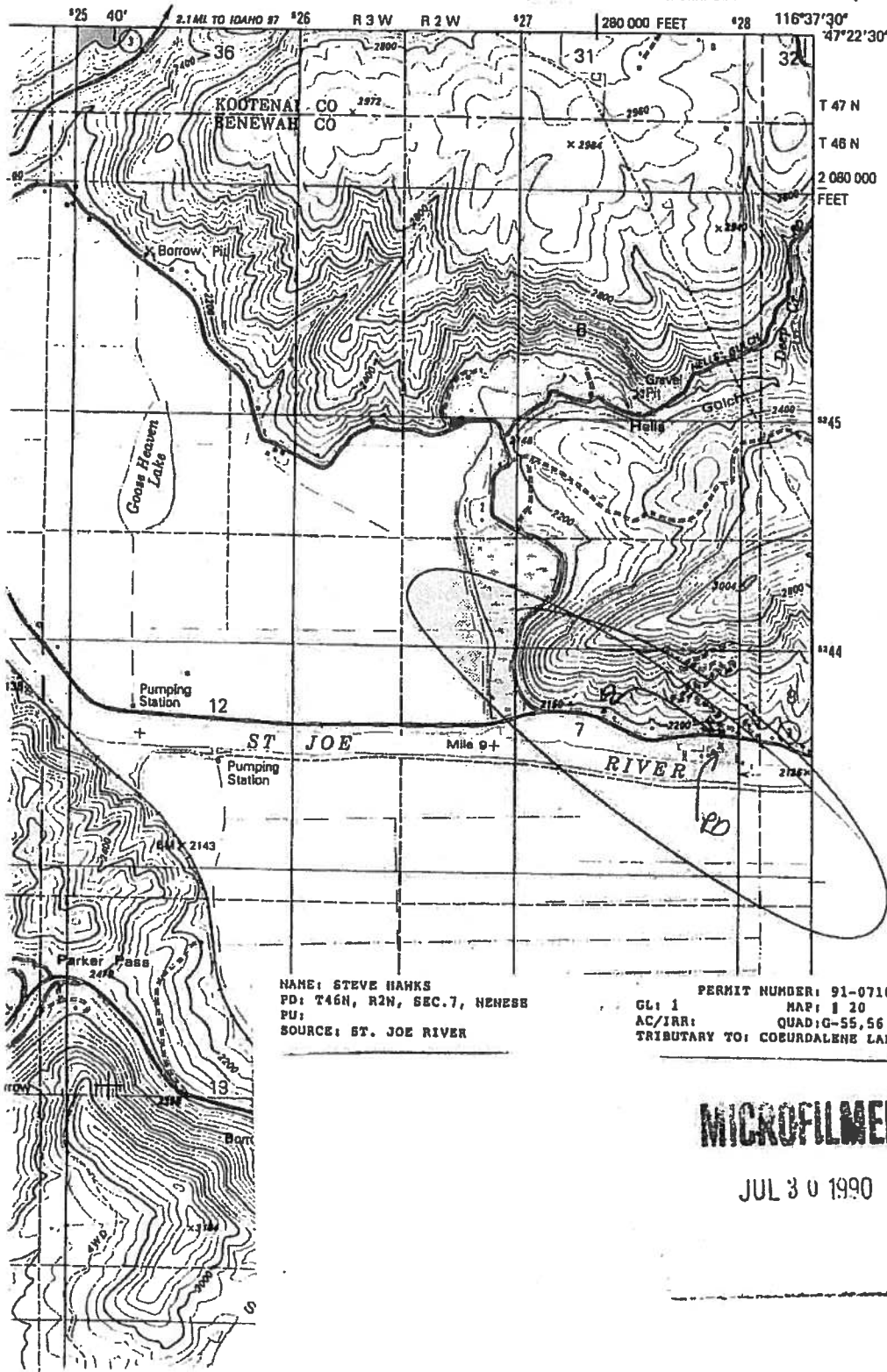
Acting for R. Keith Higginson, Director

RECORDED

JUL 30 1990

BENEWAH LAKE QUADRANGLE
IDAHO
7.5 MINUTE SERIES (TOPOGRAPHIC)
SW/4 ST. MARIES 15' QUADRANGLE

2000' (MEGAMONT)



NAME: STEVE HAWKS
PD: T46N, R2N, SEC.7, HENESS
PU:
SOURCE: ST. JOE RIVER

PERMIT NUMBER: 91-07102
GL: 1 HAP: 1 20
AC/IRR: QUAD: G-55,56
TRIBUTARY TO: COEURD'ALENE LAKE

MICROFILMED

JUL 30 1990

RECEIVED
OCT 15 2014

IDWR/NORTHERN

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

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

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

STEVE HAWKS Phone: 208-245-2403

89231 HWY 3N
SAINT MARIES ID USA 83861

DEANNE HAWKS Phone: (208)245-2403

89231 HIGHWAY 3 N
ST MARIES ID USA 83861

2. Date of Priority: 07/22/1988

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

4. Point of Diversion:

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

5. Description of diverting works:

PUMP AND PIPELINE

6. Water is used for the following purposes:

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

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

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

11. Place of use in counties: BENEWAH

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

13. Other Water Rights Used:

14. Remarks:

Domestic use is for irrigation of lawn & garden.

15. Basis of Claim: License

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Deanne Hawk Date: 10-15-14

Date:

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

02/24/2015

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
QUANTITY: 0.020 CFS
0.60 APY
PRIORITY DATE: 07/22/1988
POINT OF
DIVERSION: T46N R02W S7 NESE Lot 7 Within BENEWAH County
PURPOSE AND
PERIOD OF USE:

TRIBUTARY: COEUR D ALENE LAKE

PURPOSE OF USE

DOMESTIC

PERIOD OF USE

03/15 11/15

QUANTITY

0.020 CFS

0.60 APY

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. RP005300200061A for point of diversion.

Parcel No. RP00530010009AA and RP005300100095A for place of use.

CASTILLOS TRACTS

**MAP OF
CASTLE'S TRACTS**

531
Summons all of the SE 1/4 of the NE 1/4
and Lots 1 and 7 of Sec. 7 T. 48 N. R. 2
E. B. M.

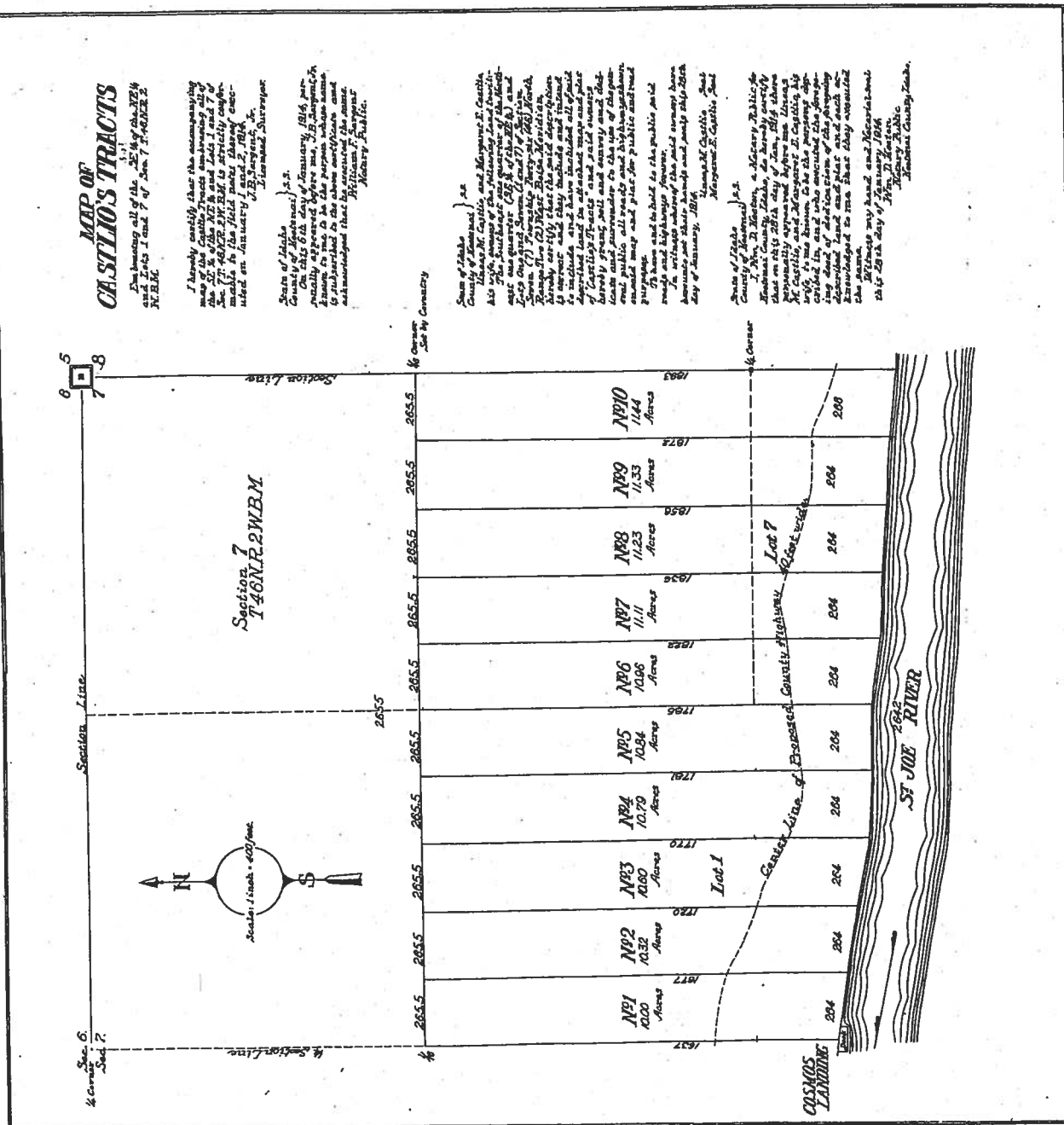
I hereby certify that the accompanying survey of the Castle Tracts embracing all of the SW 1/4 of the NE 1/4 and Lots 1 and 7 of Sec. 7, T. 48 N., R. 2 W., E. 1 M. is strictly conformable to the field notes thereto incorporated on January 1 and 2, 1914.

J. H. Jorgensen, Jr.
Surveyor.

State of Idaho }
County of Blaine } s. s.
On this 6th day of January, 1914, per-
sonally appeared before me, J. B. Sargent,
knowing me to be the person whose name
is subscribed to the above certificate and
acknowledged that he executed the same.
J. B. Sargent
Notary Public.

[illegible]

State of Nevada
County of Washoe, ss.
I, Wm. C. Weston, a Notary Public for
said County, do hereby certify
that on the 28th day of Jan, 1864 there
personally appeared before me Lincoln
W. C. Castle, and Margaret E. Castling, his
wife, it was known to me the said ap-
pearing Lin, and who executed the foregoing
and of intention of this foregoing
instrument, and made and acknowledged to me that they executed
the same.
Witness my hand and Notar Seal
the 28th day of January, 1864
Wm. C. Weston,
Notary Public
for said County.



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, parties of the first part, and C. C. Chase and Vardie Chase, his wife

of Benewah County, State of Idaho, parties of the second part.

WITNESSETH, That said parties 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 parties of the second part, the receipt whereof is hereby acknowledged, and the said parties 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 parties 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:

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

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 parties 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 parties of the second part, their heirs and assigns forever.

And that the said parties of the first part, for themselves and their heirs, executors and administrators do covenant, grant, bargain, and agree to and with the said parties of the second part their heirs and assigns, that at the time of enrolling 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 parties 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 parties of the first part shall and will warrant and defend.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand and seal 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 ~~IDAHO~~
County of ~~Benewah~~
Benton } ss.

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 persons whose names 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.

(NOTARIAL SEAL AFFIXED)

Irene L. Rook

Notary Public for Oregon

My commission expires 9-20-67

STATE OF IDAHO } ss.
County of Benewah,

Filed for record at the request of Ray A. Bowen Agency on the 2 day of Oct., 19 64, at 1:36 o'clock P. M., and recorded in book 0-2 of Deeds on page 322.

Alice Weigand

County Recorder.

Fees, \$ 2.00

By Enilda Leonard

Deputy.

THIS INDENTURE, Made the _____ day of _____ April ¹⁹⁶⁴ 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 1st 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 1st 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 1st 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 1st of the second part, his heirs and assigns forever.

And that the said part 1st of the first part, for themselves, their heirs, executors and administrators do covenant, grant, bargain, and agree to and with the said part 1st of the second part his heirs and assigns, that at the time of ensuing 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 1st of the first part shall and will warrant and defend.

IN WITNESS WHEREOF, The said part 1st 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:

Arthur E. Reichelt (SEAL)
Elsie A. Reichelt (SEAL)
(SEAL)
(SEAL)

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

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-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.

(NOTARIAL SEAL AFFIXED)

Richard L. McFadden
Notary Public in and for Idaho
RES. & P.O. Addr: St. Maries, Idaho
St. Maries, Idaho

STATE OF IDAHO)
County of Benewah,) ss.

Filed for record at the request of McFadden & Park on the 1 day of May, 1964, at 3:09 o'clock P. M., and recorded in book O-2 of Deeds on page 243.

Fees, \$ 2.00

Alice Weigand
County Recorder.
By Frieda Leonard
Deputy.

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 ELISE A. REICHELT, husband and wife
of Benewah County, State of Idaho, part 1st of the first part, and
C. C. CHASE and VERDIE CHASE, husband and wife
of Benewah County, State of Idaho, part 1st of the second part.

WITNESSETH, That said parties _____ of the first part, for and in consideration of the sum of _____ Dollars Ten and no/100 (\$10.00) and other valuable consideration _____ Dollars in hand paid by the said parties _____ of the second part, the receipt whereof is hereby acknowledged, and the said parties _____ 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 parties _____ 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 Castillo'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 Castillo'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 1,188.41 feet to the intersection of said line with the North boundary of Castillo's Tracts; thence N 87°37' E along the North line of Castillo'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 therunto 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 parties _____ 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 parties _____ of the second part, their heirs and assigns forever.

And that the said parties _____ of the first part, for themselves and their heirs, executors and administrators do covenant, grant, bargain, and agree to and with the said parties _____ of the second part their heirs and assigns, that at the time of enrolling delivery of these presents _____, well seized of the premises above conveyed as of good, sure, perfect, absolute and indefeasible estate of inheritance in law and fee simple, and having 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 parties _____ 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 parties _____ of the first part shall and will warrant and defend.

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

Signed, Sealed and Delivered in the Presence of:
Arthur E. Reichelt _____ (SEAL)
Elise A. Reichelt _____ (SEAL)

_____ (SEAL)

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 ELISE A. REICHELT
his wife, personally known to me as the real persons _____ whose name _____ are subscribed to the foregoing Deed appeared before me in person, and acknowledged that _____ 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 _____

(Notarial Seal Affixed)

Jerrold E. Park
Notary Public in and for Idaho
Commission expires: 5-25-69
Rt. 2, P.O. Add. 1 St. Maries, Idaho

STATE OF IDAHO } ss.
County of Benewah

Filed for record at the request of McEdden & Park _____ on the 26 day of June 1968, at 12:40 o'clock P. M., and recorded in book Q-2 of Deeds on page 399

Fees, \$ 2.00

By Marian Mottern _____
County Recorder.
Deputy.

[illegible]

Hawks 3010

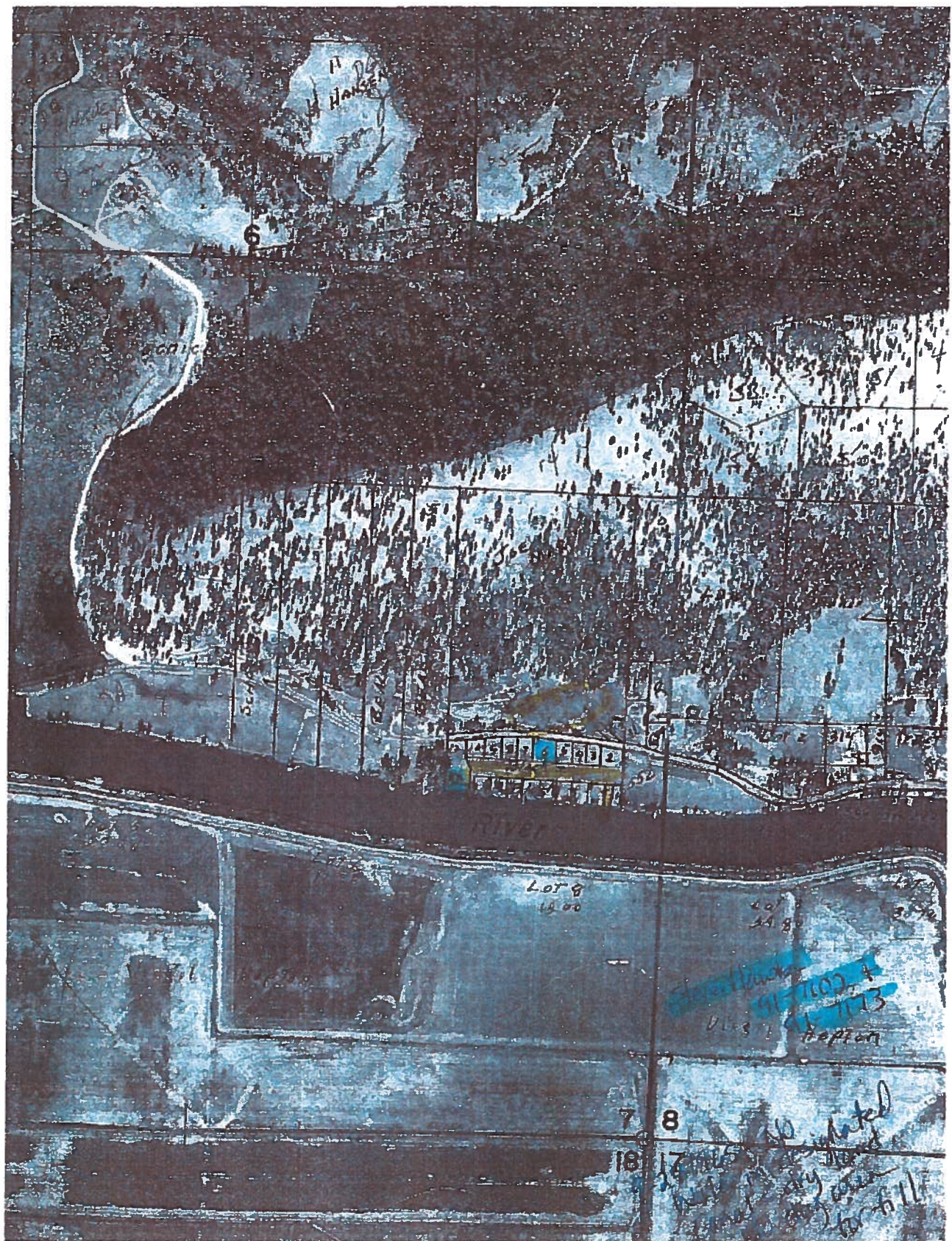


EXHIBIT H



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

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

In re CSRBA

Subcase Nos.: 91-7102; 91-7173

Case No. 49576

Steve and Deanne Hawks,

Claimant(s),

v.

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

Objector.

AFFIDAVIT OF SCOTT RASOR

AFFIDAVIT OF SCOTT RASOR - 1

EXHIBIT J

State of Idaho)
) ss.
County of Kootenai)

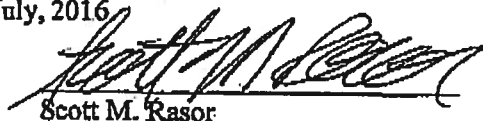
COMES NOW, Scott Rasor, after being duly sworn before an officer authorized to administer oaths, swears and declares as follows:

- (1) My name is Scott Rasor. I am a PLS surveyor, duly authorized in the State of Idaho. I am over the age of 18 and am competent to testify to matters herein. I have personal knowledge of the matters contained herein.
- (2) I have been licensed as a PLS surveyor since 1990. I have engaged in hundreds, if not thousands of surveys in the northern Idaho region, to include, but not necessarily limited to, Kootenai, Benewah, Shoshone, and Bonner counties. I am familiar with the professional standards to conduct such surveys in such locations.
- (3) On June 16, 2016, I, along with staff under my supervision, caused a survey to be completed of Lots 6 and 13 of Block 2 of the Sylvia's Haven Subdivision in or near St. Maries, Idaho. The work done in this paragraph comported with the professional standards for surveying in the above-noted location.
- (4) Attached hereto as Exhibit 1 is a true, accurate, and correct copy of an exhibit my office prepared and I have reviewed of Lot 6, and adjacent properties, based on the survey work completed in paragraph 3 above. After my review, I have placed my official stamp on this exhibit. This exhibit shows the boundaries of Lot 6 along with where the end of the water diversionary works ("foot valve") is located in relation to Lot 6, along with adjacent properties. The exhibit also shows the elevation of the lagoon bed underlying the foot valve, along with the elevation of the foot valve itself.

- (5) Attached hereto as Exhibit 2 is a true, accurate, and correct copy of an exhibit my office prepared and I have reviewed of Lot 13, and adjacent properties, based on the survey work completed in paragraph 3 above. After my review, I have placed my official stamp on this exhibit. This exhibit shows the boundaries of Lot 13 along with where the end of the water diversionary works ("foot valve") is located in relation to Lot 13, along with adjacent properties. The exhibit also shows the elevation of the river bed underlying the foot valve, along with the elevation of the foot valve itself.
- (6) Based on my training, education, experience, and physical inspection and investigation of Lots 6 and 13, along with the water diversionary works located thereon, it is my professional opinion that the end points of such diversionary works, e.g., where the water is diverted from its natural source, are located on property outside of the boundaries of Lots 6 and 13 as noted on, and consistent with, Exhibits 1 and 2 attached hereto.
- (7) My opinion is held to a reasonable degree of probability and certainty in my respective field of expertise and licensure.

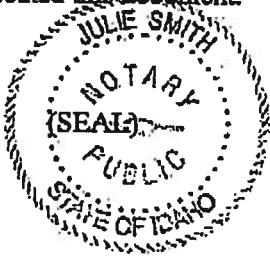
Further you affiant sayeth naught.

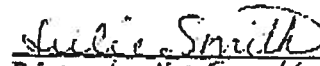
Respectfully submitted this 20th day of July, 2016


Scott M. Rasor

NOTARIAL ATTESTATION

That on the 20th day of July, 2016, and after being duly sworn, Scott M. Rasor, personally known to me and/or upon showing sufficient identification, appeared before me and executed this document.




Print: Julie Smith, Notary Public
Residing at: Post Falls, Idaho
My commission expires: 7/15/2020

Certificate of Service

I hereby certify that on the 20th day of July, 2016, a copy of the foregoing Affidavit was served on the following counsel of record and other entities via the method indicated below:

Norman Semanko

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

P.O. Box 829

Boise, Idaho 83701-0829

☐ First Class Mail, Postage Prepaid

☒ Facsimile @ (208) 385-5384

☐ Hand-delivery

Counsel for Claimant(s) and Respondent NIWRA members

Clive Strong

Steven Strack

Office of the Attorney General

State of Idaho

P.O. Box 83720

Boise, Idaho 83720-0010

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☒ Facsimile @ (208) ~~334-8672~~ 854-8072

☐ Hand-delivery

Counsel for Respondent State of Idaho

U.S. Department of Justice

Environment & Nat'l Resources

550 W. Fort St., MSC 033

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Idaho Department of Water Resources

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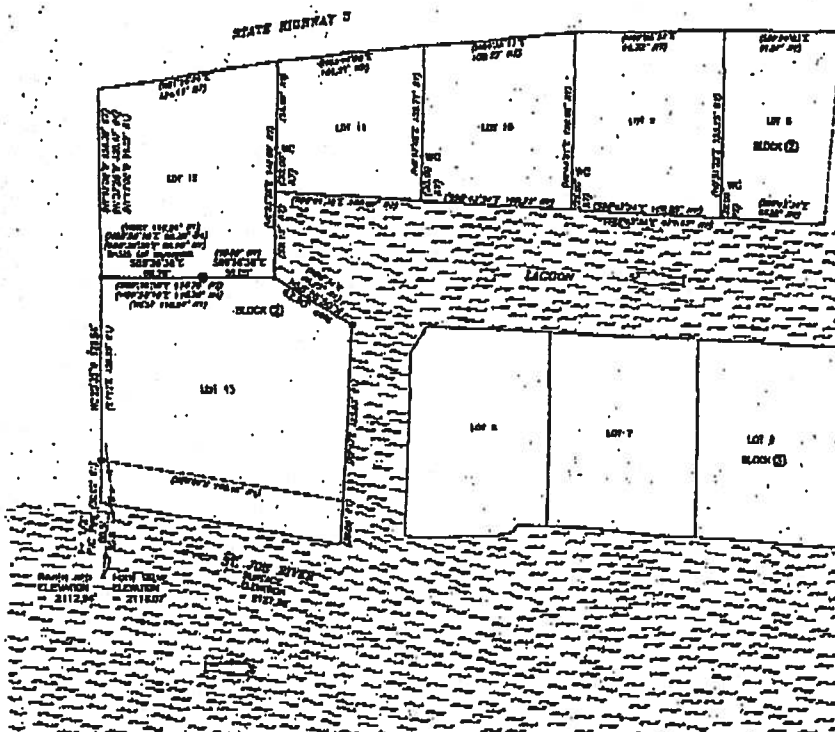
☐ Hand-delivery


By: Marcella J. Harrison

EXHIBIT 1

EXHIBIT 2

WATER SYSTEM INTAKE EXHIBIT
LOT 13, BLOCK 2, SYLVIA'S HAVEN IN GOVERNMENT LOTS 1 & 7,
SECTION 7, T.46N., R.2W., B.M., BENEWAH COUNTY, IDAHO



BASES OF BEARING
 The bearings shown on this exhibit, except those bearing station, are determined by the true meridian and magnetic meridian shown on Lot 13, which is the only lot shown on this exhibit. The bearings on Lot 13 are determined by the true meridian and magnetic meridian shown on Lot 13, which is the only lot shown on this exhibit.

LEGEND

- ① FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ② FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ③ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ④ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ⑤ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ⑥ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ⑦ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ⑧ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ⑨ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50
- ⑩ FOUND IN 1988 AND 1/2 INCH BOREHOLE WITH AN ELEVATION OF 2112.50

FROM SURVEY/RECORDS OF RECORD

DATE	BY	RECORD
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2

PURPOSE OF SURVEY
 THE SURVEY WAS CONDUCTED TO SHOW THE LOCATION AND EXTENT OF THE WATER SYSTEM INTAKE EXHIBIT AND TO SHOW THE LOCATION AND EXTENT OF THE WATER SYSTEM INTAKE EXHIBIT.

SURVEYOR'S NOTES
 THE SURVEY WAS CONDUCTED BY THE SURVEYOR AND THE RESULTS OF THE SURVEY ARE SHOWN ON THIS EXHIBIT. THE SURVEY WAS CONDUCTED BY THE SURVEYOR AND THE RESULTS OF THE SURVEY ARE SHOWN ON THIS EXHIBIT.

ELEVATION DATUM
 THE ELEVATION DATUM IS THE MEAN SEA LEVEL DATUM.



SURVEYOR'S CERTIFICATE
 I, the undersigned, a duly licensed Professional Engineer in the State of Idaho, do hereby certify that the above is a true and correct copy of the original survey and that the same is in accordance with the provisions of the laws of the State of Idaho.

THIS SURVEY WAS CONDUCTED BY THE SURVEYOR AND THE RESULTS OF THE SURVEY ARE SHOWN ON THIS EXHIBIT. THE SURVEY WAS CONDUCTED BY THE SURVEYOR AND THE RESULTS OF THE SURVEY ARE SHOWN ON THIS EXHIBIT.

DATE	BY	RECORD
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2
1988	1/2	1/2

WATER SYSTEM INTAKE EXHIBIT
 LOT 13, BLOCK 2, SYLVIA'S HAVEN IN GOVERNMENT LOTS 1 & 7, SECTION 7, T.46N., R.2W., B.M., BENEWAH COUNTY, IDAHO

Norman M. Semanko, ISB No. 4761
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
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nms@moffatt.com
26002.0001

Attorneys for Claimants Steve and Deanne Hawks

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

In re CSRBA

Case No. 49576

Subcase No. 91-7102

**CLAIMANTS STEVE AND DEANNE
HAWKS' AMENDED RESPONSES TO
OBJECTOR'S FIRST REQUESTS FOR
DISCOVERY**

Steve and Deanne Hawks,

Claimants,

vs.

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

Objector.

**CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED
RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY - 1**

Client:4106095.1

EXHIBIT K

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

REQUESTS FOR ADMISSION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d'Alene v. Mackin (In re Ownership of Sanders Beach), the court stated the following: “[t]he current OHWM of the Lake is 2128 feet” and “the OHWM of Lake Coeur d’Alene has been 2128 feet since 1907.” 143 Idaho 443, 447, 147 P.3d 75, 79 (2006) (citing *Erickson v. State*, 132 Idaho 208, 211, 970 P.2d 1, 4 (1998)); *Id.* at 451, 83. However, Claimants deny that the historic OHWM or the natural high water mark for Coeur d’Alene Lake and the St. Joe River is or has always been 2128 feet and further deny that the point of diversion and/or some or all of the diversion works at issue in this claim are below the applicable natural or ordinary high water mark.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INTERROGATORIES

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

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

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

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

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

Notwithstanding the objection, the response to the Tribe's objection speaks for itself.

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

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

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

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

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

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

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

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

- (a) State the subject matter on which the expert is expected to testify;
- (b) Provide a complete statement of all opinions to be expressed and the basis and reasons therefore;

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

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

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

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

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

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

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

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

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

REQUESTS FOR PRODUCTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

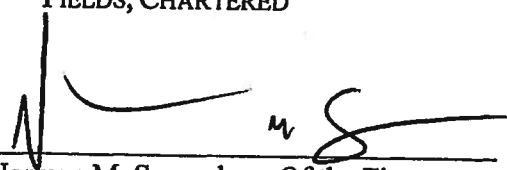
RESPONSE TO REQUEST FOR PRODUCTION NO. 12: Objection is made to Request for Production No. 12 on the grounds that the information requested is equally available to the Tribe as to the Claimants. Notwithstanding the objection, documents requested in Request for Production No. 12 are available in the Claimants'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

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

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

DATED this 25th day of March, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

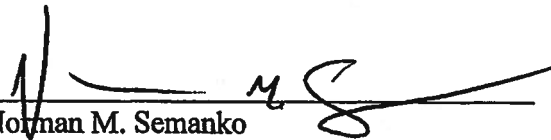
By 

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

STATE OF IDAHO)
) ss.
County of Ada)

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

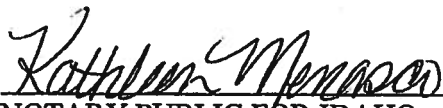
He is the attorney for the Claimants Steve and Deanne Hawks in the above-entitled cause and makes this verification for and on behalf of said Claimants; that he has read the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY**, knows the contents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



Norman M. Semanko

SUBSCRIBED AND SWORN to before me this ²⁸25th day of March, 2016.





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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ²⁴~~25~~ day of March, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' AMENDED RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

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

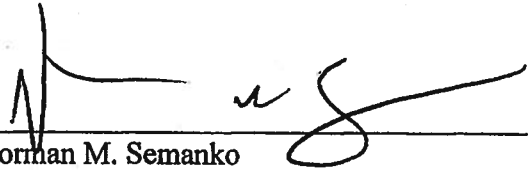
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile

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

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

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

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



Norman M. Semanko

EXHIBIT A

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

Instrument # 269173

BENEAH COUNTY

7/30/2014 13:36:15 No. of Pages: 2

Recorded for MORRIS AND WOLFF, P.A.

DEANNA BRADSHAW

Fee: 22.00

Ex Officio Reporter Deputy

Index: DEEDS, OTHER

91-7102
Lot 4

(Space Above For Recorder's Use)

DEED OF DISTRIBUTION SUBJECT TO A LIFE ESTATE

THIS DEED is made and executed by Deanne Hawke, as Personal Representative of the Estate of JIM LOHME PERKINS, hereinafter referred to as the ("Grantor"), to BRANDON PERKINS, a married man dealing in his sole and separate property, with an address of 151 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 2013-511 in Benewah County, Idaho;

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

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

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

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

And:

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

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

And

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

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

And

That part of LOT 9, BLOCK 1, SYLVIA'S HAVEN, according to the plat on file, as Instrument No. 144646, recorded December 9, 1968, records of Benewah County, Idaho, situated in the SE 1/4, 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 $18^{\circ}14'51''$ East, 41.32 feet (of record as South $1^{\circ}12'00''$ East and South $1^{\circ}12'00''$ 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 $82^{\circ}47'58''$ East, 152.45 feet (of record as South $85^{\circ}14'00''$ East, 152.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South $0^{\circ}49'26''$ East, 45.95 feet (of record as South $1^{\circ}12'00''$ East, 47.00 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

thence South $85^{\circ}45'10''$ East, 123.93 feet (of record as South $86^{\circ}11'15''$ 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 $0^{\circ}47'17''$ East, 96.71 feet (of record as South $0^{\circ}12'00''$ 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 $84^{\circ}08'16''$ East, 161.55 feet (of record as 161.55 feet) along said northerly right-of-way line to a drill steel;

thence South $82^{\circ}00'29''$ East, 40.46 feet (of record as South $52^{\circ}33'00''$ 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. 129187, 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 $45^{\circ}38'42''$ West, 160.12 feet (of record as North $45^{\circ}18'$ 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 $85^{\circ}45'10''$ West, 87.60 feet, and leaving said centerline, to the POINT OF BEGINNING.

And

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

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

thence North 0°03'18" West, 187.29 feet (of record as North 1°06" West, 187.29 feet and North 4°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, 80.96 feet (of record as West, 80.96 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, 89.96 feet (of record as South 1°06" East, 89.76 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 6768;

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°41'15" 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, 162.04 feet) to a point on the West line of said LOT 9, said point monumented with an iron rod, 1/2 inch diameter, with a plastic cap marked PLS 703;

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

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

thence traversing said centerline, as follows:

North 70°29'36" 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°32'35" East, 130.68 feet (of record as North 40°03' 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, 180.00 feet (of record as North 73°43' East, 180.42 feet) to a point on the westerly extension of the North line of said LOT 8, said point monumented with an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 6766;

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

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

thence North 33°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, 78.31 feet (of record as South 1°06' East and South 1°06'00" East) continuing along said East line, to the POINT OF BEGINNING.

SUBJECT TO A LIFE ESTATE GRANTED TO JEANNE HAWKS AND STEVE HAWKS, HUSBAND AND WIFE, WHOSE ADDRESS IS 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 Hawkes PR
Deanne Hawkes, Personal Representative

STATE OF IDAHO)
) ss.
County of Benewah)

On this 21 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. Charles
My Commission Expires 7/1/2011

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

Steve and Deanne Hawks,

Claimants,

vs.

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

Objector.

Subcase Nos. 91-7102

**CLAIMANTS STEVE AND DEANNE
HAWKS' SECOND AMENDED AND
SUPPLEMENTAL RESPONSES TO
OBJECTOR'S FIRST REQUESTS FOR
DISCOVERY**

**CLAIMANTS STEVE AND DEANNE HAWKS' SECOND
AMENDED AND SUPPLEMENTAL RESPONSES TO OBJECTOR'S
FIRST REQUESTS FOR DISCOVERY - 1**

Client:4157344.1

EXHIBIT L

COME NOW Claimants Steve and Deanne Hawks, by and through undersigned counsel of record, pursuant to the direction received from the Special Master at the Hearings on Objector's Motion to Compel and Motion to Determine Sufficiency of Objections and Deem Certain Matters Admitted on May 11, 2016, and provide second amended and supplemental responses to Objector's First Requests for Discovery, which replace Claimants' previous Responses to Request for Admission Nos. 10 and 11 and supplement Claimants' previous Answer to Interrogatory No. 7 and previous Response to Request for Production No. 13 as follows:

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

RESPONSE TO REQUEST FOR ADMISSION NO. 10: The term "permission" is defined as "the act of permitting" or "a license or liberty to do something; authorization." BLACK'S LAW DICTIONARY 1176 (8th ed. 2004). Pursuant to this definition, Claimants admit that they did not have permission from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversion works may have been constructed and further deny that any such permission was needed.

REQUEST FOR ADMISSION NO. 11: Please admit that since the time Claimant(s) began diverting water from the St. Joe River he/she has never received permission to

encroach upon the submerged lands of the St. Joe River from either the United States or the Coeur d'Alene Tribe for Claimant(s)['] diversionary works.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: The term "permission" is defined as "the act of permitting" or "a license or liberty to do something; authorization." BLACK'S LAW DICTIONARY 1176 (8th ed. 2004). Pursuant to this definition, Claimants admit that they have never received permission from either the United States or the Coeur d'Alene Tribe to encroach upon the submerged lands of the St. Joe River at the time the diversion works were constructed for this claim. However, Claimants deny that the United States or the Coeur d'Alene Tribe owns the land upon which the diversion works may have been constructed and further deny that any such permission was ever needed.

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

ANSWER NO. 7: Consistent with the licensing file, water is diverted from a private lagoon off the St. Joe River through a 1 1/2 inch pvc pipe to a 1/2 HP pump on Claimants' property. The water then travels through more pipe under the road to the place of use on Claimants' property through hoses and sprinklers. The lowest part of the diversion works within the private lagoon is a few feet in depth. However, the diversion works are not located underwater at all times of the year. The diversion works are only located underwater from

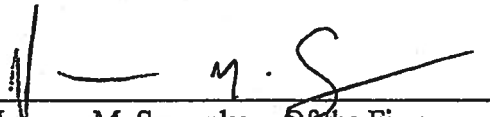
March 15 through November 15 for the irrigation of Claimants' lawn and garden. The diversion rate is 0.02 cfs and the volume is 0.6 acre feet.

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 13: See supplemental documents produced herein. Documents produced, bates number Hawks 2880 – 2908, are from Claimants' files, as mentioned during the deposition on May 2, 2016.

DATED this 17th day of May, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 2016, I caused a true and correct copy of the foregoing **CLAIMANTS STEVE AND DEANNE HAWKS' SECOND AMENDED AND SUPPLEMENTAL RESPONSES TO OBJECTOR'S FIRST REQUESTS FOR DISCOVERY** to be served by the method indicated below, and addressed to the following:

Howard A. Funke
Kinzo H. Mihara
Dylan Hedden-Nicely
HOWARD FUNKE & ASSOCIATES, P.C.
424 Sherman Avenue, Suite 308
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kmihara@indian-law.org
dhedden@indian-law.org

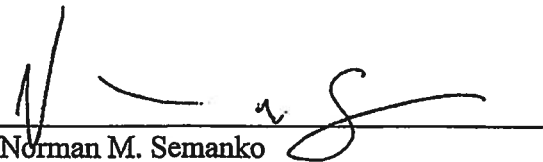
☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ E-Mail

Chief, Natural Resources Division
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Norman M. Semanko

**CLAIMANTS STEVE AND DEANNE HAWKS' SECOND
AMENDED AND SUPPLEMENTAL RESPONSES TO OBJECTOR'S
FIRST REQUESTS FOR DISCOVERY - 5**

Client:4157344.1



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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

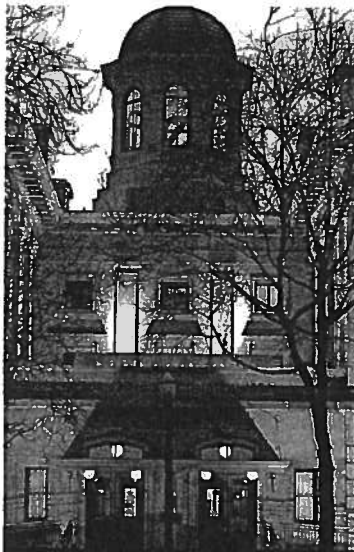


STEVE AND DEANNE
HAWKS,

Claimants, SUBCASE NOS. 91-7102; 91-7173

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

Objector.



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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

EXHIBIT M

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ALSO PRESENT:

DEANNE HAWKS

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

3 A. Yes.

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

7 A. Yes, that's right.

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

13 A. No.

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

16 A. No.

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

19 A. No.

20 Q. For either of the water right
21 applications?

22 A. No.

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

24 A. No.

25 Q. And the tribe didn't?

1 A. I just did what the state told me.

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

5 A. No.

6 Q. -- from the tribe?

7 A. No.

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

13 A. Uh-huh.

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

16 A. Yes.

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

18 A. No.

19 Q. Okay. How about the land at the point of
20 diversion for that water right?

21 A. No.

22 Q. Is it owned by the tribe?

23 A. No.

24 Q. Okay. Anywhere in between the point of
25 diversion and the place of use, does the tribe own

1 any of the land there?

2 A. No.

3 Q. Is that what you meant by there's no

4 Indian land involved in this application?

5 A. Uh-huh.

6 Q. Is that a "Yes"?

7 A. Yes. I'm sorry.

8 Q. Do you have any kind of permit from the
9 tribe to travel in your boat on the St. Joe?

10 A. No.

11 Q. To park your boat?

12 A. No.

13 Q. To fish?

14 A. Nope.

15 Q. For your water use?

16 A. No.

17 Q. For your water diversion?

18 A. No.

19 Q. Have you ever been asked by the tribe to
20 get a permit for any of those activities?

21 A. No.

22 Q. In the lagoon, is the pool the same level
23 when water's let out of the Post Falls dam?

24 A. Yes. As the river?

25 Q. No, as it is in the summer.