

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG, ISB No. 2207
Deputy Attorney General
Chief, Natural Resources Division

STEVEN W. STRACK, ISB. No. 3906
Deputy Attorney General
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Boise, Idaho 83720-0010
(208) 334-2400
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Attorneys for the State of Idaho

RECEIVED
AUG 17 2016

DEPT. OF WATER RESOURCES

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

In re CSRBA	)	Subcase Nos. 91-7102; 91-07173
	)	
Case No. 49576	)	
	)	
_____	)	AFFIDAVIT OF STEVEN W. STRACK
	)	
Steve and Deanne Hawks,	)	
	)	
Claimants,	)	
	)	
v.	)	
	)	
Coeur d'Alene Tribe, a federally-recognized	)	
Indian Tribe,	)	
	)	
Objector.	)	
_____	)	

State of Idaho)
) S.S.
County of Ada)

STEVEN W. STRACK, under oath, deposes and states as follows:

1. That I am over eighteen years of age and employed as a Deputy Attorney General for the State of Idaho, and I represent the State of Idaho in in this matter.
2. That I have caused to be gathered true and correct copies of the following documents from the sources identified below:

Exhibit 1: Affidavit of Publication for water right permit application 91-7102, dated August 26, 1988, obtained from the water right backfile for water right 91-7102, available online at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/8h_901_.PDF.

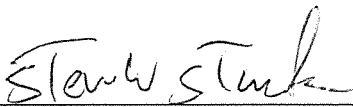
Exhibit 2: Affidavit of Publication for water right permit application 91-7173, dated July 9, 2008, obtained from the water right backfile for water right 91-7173, available online at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/chg901_.pdf.

Exhibit 3: Application for Permit, Water Right 91-7102, submitted by Steve Hawks. This document was introduced by the Coeur d'Alene Tribe as Exhibit 7 to the Deposition of Deanne Hawks.

Exhibit 4: Page 2 of Application for Permit, Water Right 91-7173, submitted by Steve Hawks. This document was introduced by the Coeur d'Alene Tribe as Exhibit 25 to the Deposition of Deanne Hawks.

Further your affiant sayeth naught.

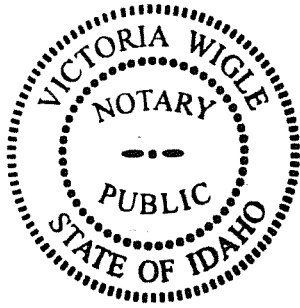
Dated this 16th day of August 2016.



STEVEN W. STRACK

Subscribed and sworn to before me this 11th day of August 2016.

S
E
A
L



Victoria Wigle
Notary Public
Residing at Boise, Idaho
My Commission Expires on 6/22/2022

CERTIFICATE OF SERVICE

I certify that on the 16th day of August, 2016 I caused to be served a true and correct copy of the foregoing AFFIDAVIT OF STEVEN W. STRACK upon the following parties by the method listed below:

HOWARD A. FUNKE
KINZO H. MILHARA
DYLAN HEDDEN-NICELY
HOWARD FUNKE & ASSOCIATES
424 SHERMAN AVENUE STE 308
PO BOX 969
COEUR D'ALENE ID 83816-0969

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☒ Federal Express
- ☐ Email:
- ☐ Facsimile: 208-667-4695

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

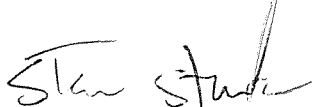
- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Email:
- ☐ Facsimile:

US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL'
RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Email:
- ☐ Facsimile:

NORMAN SEMANKO
MOFFATT THOMAS
PO BOX 829
BOISE ID 83701-0829

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Email:
- ☐ Facsimile: 208-385-5384



STEVEN W. STRACK

Affidavit of Steven W. Strack

Exhibit 1

Affidavit of Publication

STATE OF IDAHO
County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah county, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of the notice of advertisement hereon.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of 2 issues, the first publication being on the 17th day of Aug, 19 88 and the last on the 24th day of Aug, 19 88.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 26th day of Aug, 19 88

Cynthia Ann Hammes

STATE OF IDAHO }
COUNTY OF BENEWAH }

On this 26th day of Aug in the year 19 88
before me, a Notary Public, personally appeared Cynthia Ann Hammes known or identified to me to be the person whose name subscribed to the within instrument, and acknowledged to me that she executed the same.

Sharon D. Blackburn

Notary Public
Residing at St. Maries, Idaho

**Application for water
right filed by Hawks**

**NOTICE OF APPLICATION
FOR WATER RIGHT**

The Following application(s)
have been filed to appropriate the
public waters of the State of Idaho:
91-07102

Hawks, Steve
Rt 2 Box 86
St. Maries, ID 83861
Source: St. Joe River
Tributary: Coeur d'Alene Lake
Diversion Pt: Lot 1 (NENESE) Sec
7 T 46N R 02W
Use: Domestic (.020 CFS)
Date Filed: 7/22/1988
In: T46N R02W S07 Lot 1 (NESE)
The permit(s) will be subject to
all prior water rights. Protests
must be filed with the Director,
Dept. of Water Resources, North-
ern Region, Government Way Suite
9, Coeur d'Alene, Idaho 83814 on
or before September 6, 1988.
R. Keith Higginson, Director
No. 549 --- Aug. 17-24.

OK
8/29/88

Affidavit of Steven W. Strack

Exhibit 2

Affidavit of Publication

STATE OF IDAHO

County of Benewah, ss.

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That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of two issues, the first publication being on the 2nd day of July, 2008 and the last on the 9th day of July, 2008.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 9th day of July, 2008

Cynthia Ann Hammes

STATE OF IDAHO)

COUNTY OF BENEWAH)

On this 9th day of July, in the year of 2008
before me, a Notary Public, personally appeared Cynthia Ann Hammes, known or identified to me to be the person whose name subscribed to within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

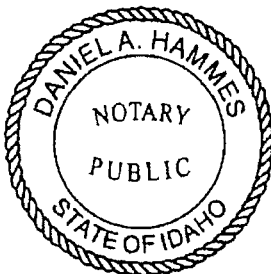
Daniel A. Hammes

Notary Public for Idaho

Residing at St. Maries, Idaho

My commission expires:

07-13-2013



RECEIVED
JUL 11 2008
IDWR/North

Water use application

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

91-7173

STEVE HAWKS

89231 HWY 3N

ST. MARIES ID 83861

Point of Diversion L7(NESE) S7 T46N R02W BENEWAH CO

Source ST JOE RIVER tributary To COEUR D'ALENE LAKE

Use: DOMESTIC 01/01 To 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 06/16/2008

Place Of Use: DOMESTIC

T46N R02W S7 NESE Lot 7

Remark: Domestic use is for recreational use at camp site.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 07/21/2008. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

#7042 July 2-July 9

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

91-7173

STEVE HAWKS

89231 HWY 3N

ST MARIES ID 83861

Point of Diversion L7(NESE) S7 T46N R02W BENEWAH CO

Source ST JOE RIVER tributary To COEUR D ALENE LAKE

Use: DOMESTIC 01/01 To 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 06/16/2008

Place Of Use: DOMESTIC

T46N R02W S7 NESE Lot 7

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DAVID R. TUTHILL, JR., Director

Published 7/2 & 9/2008

Affidavit of Steven W. Strack

Exhibit 3

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant Steve Hawks Phone 245-2403
Post office address Rt. 2 Box 86 St. maries, Id. 83861
2. Source of water supply ST JOE RIVER which is a tributary of DEERDALENS LAKE
3. Location of point of diversion is NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot 1
Sec. 7 Township 46N Range 2W B.M. Benewah County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
DOMESTIC
Amount 0.02 for garden watering purposes from 1 MAR to 1 Dec (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.02 cubic feet per second and/or (b) _____ acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. 1 1/4" pipe through culvert to canal
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years (minimum 1 year).

MICROFILMED

DEC 27 1988

EXHIBIT	
7	
DEPONENT NAME:	DATE:
D. HAWKS	5/21/86

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
46N	2W	7													D				35

Total number of acres to be irrigated 35

10. Describe any other water rights used for the same purposes as described above. Drinking water from well. I am 1/4 partner

11. a. Who owns the property at the point of diversion? Cyril Chase

b. Who owns the land to be irrigated or place of use? Steve Hawks

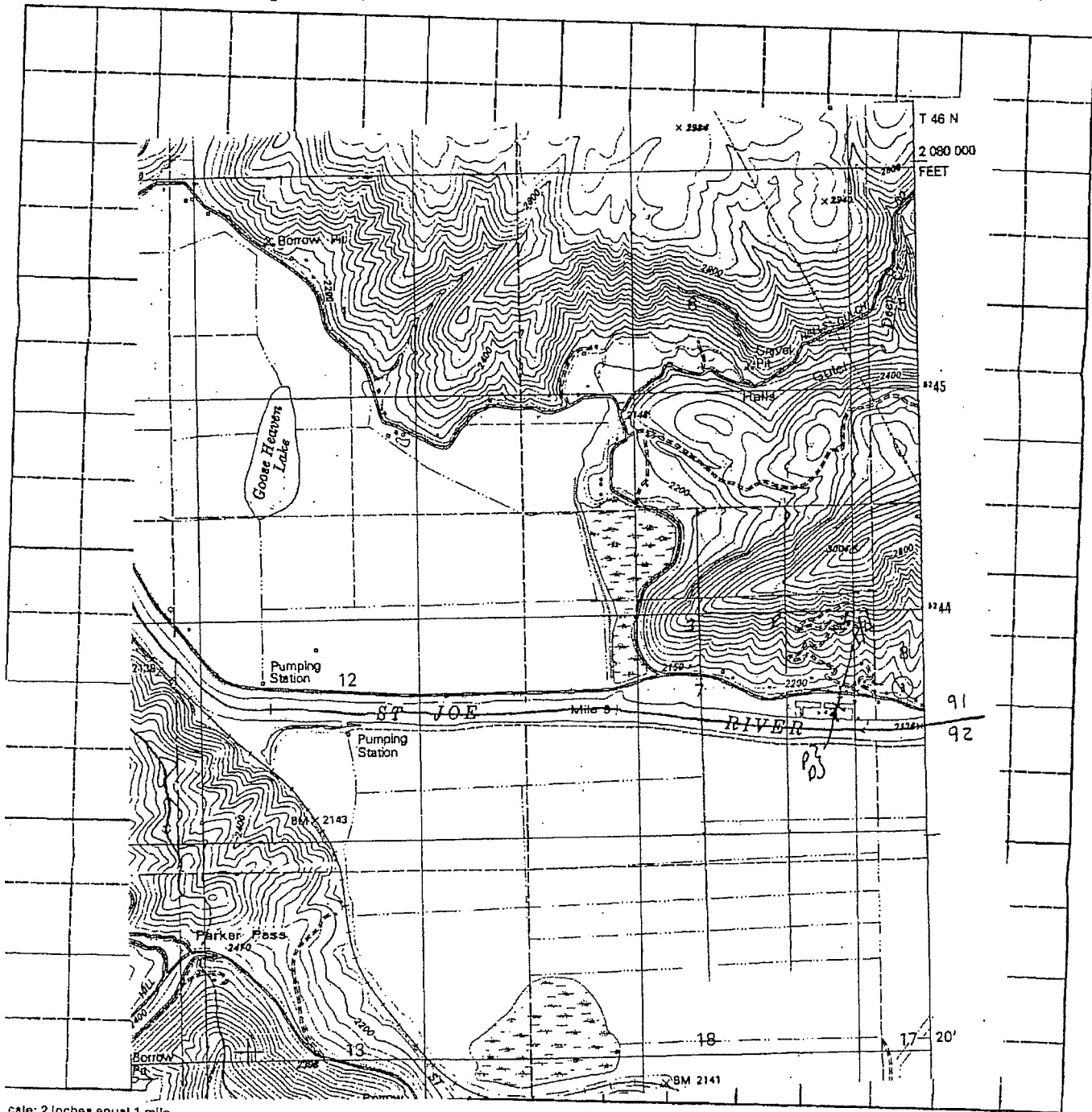
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: _____

MICROFILMED

DEC 21 1988

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



BE IT KNOWN that the undersigned, **MICROFILMED**, do hereby certify that the undersigned is duly qualified to appropriate the public waters of the State of Idaho as herein set forth.

DEC 27 1988

Steve Hawks
(Applicant)

Received by KK Date 7/22/88 Time 1:00 PM Preliminary check by JK Processed Priority 7/22/88
Fee \$ 30.00 Received by JK # N 741 Date 7/26/88
Publication prepared by [Signature] Date 8/16/88 Published in St. Paul Register
Publication approved [Signature] Date 8/24/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 91-7102, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 19 89.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other: The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Witness my hand this 6th day of October, 1988.

[Signature]
for Director

MICROFILMED

DEC 27 1988

Affidavit of Steven W. Strack

Exhibit 4

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

8.

PLACE OF USE: DOMESTIC

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

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

APPLICANT

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

APPLICANT

10. Remarks:

SUMMER RECREATIONAL USE

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

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

Steve Hawke

Applicant

Received by Dianne Date 6/16/08 Time 10:45 Preliminary check by St. Maries Gazette
 Publication prepared by St. Maries Gazette Date 6/25/08 Published in St. Maries Gazette 7/29/08
 Publication approved St. Maries Gazette Date 7/14/08

Receipt No. N019318

Date: 6/16/08Received by: Dianne

EXHIBIT

25

DEPONENT NAME:

D. HAWKS

DATE:

5/21/16