

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 COEUR D' ALENE-SPOKANE RIVER
BASIN WATER SYSTEM

CIVIL CASE NUMBER: 49576
Ident. Number 95-11948
Date Received: 7/7/9
Receipt No: NO 81170
Received By: 1/1

NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Carl & Wendy Costello / Black Diamond Group Phone (208) 683-9200
Managing members LLC
Mailing Address P.O. Box 332 Bayview Id ZIP 83803
Street or Box City State
2. Date of Priority (Only one (1) per claim) Early 1940's See Attachment
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water ☒ or Other () (a) _____
which is tributary to (b) Coeur d' Alene - Spokane River Basin

4. a. Location of Point of Diversion is: Township S3N, Range 03W, Section 28,
SW, 1/4 of SE, 1/4 Govt. Lot _____, BM., County of Kootenai

Parcel (PIN) no. S3N03W288950

Additional points of diversion if any: unk

If available, GPS Coordinates unk

b. If instream flow, beginning point of claimed instream flow is:

Township —, Range —, Section —, —, 1/4 of —, 1/4

Govt. Lot —, BM., County of —

ending point is: Township —, Range —, Section —, —, 1/4 of —, 1/4

Govt. Lot —, BM., County of —

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. See Attachment

SCANNED

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6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For See Attachment purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For Domestic Use purposes from 01-01 to 12-31 amount 0.04 CFS or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) _____ (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use: See Attachment

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>S2N</u>	<u>3W</u>	<u>28</u>	<u>SW</u>	<u>SE</u>															

Parcel (PIN) no(s). _____

Total number of acres irrigated 1.76

10. In which county (ies) are lands listed above as place of use located? Kootenai

11. Do you own the property listed above as place of use? Yes ☒ No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

unk or None ()

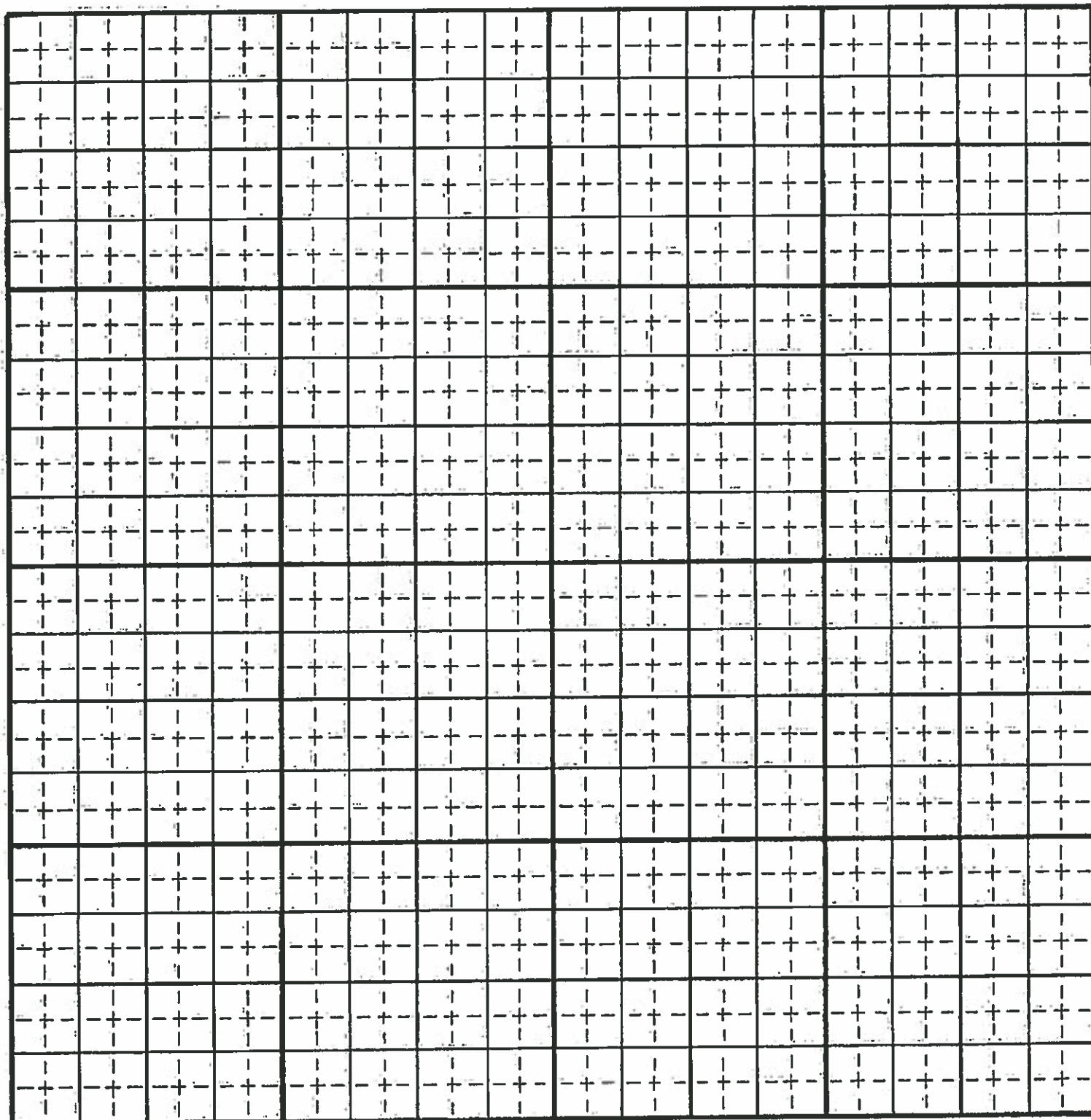
13. Remarks: _____

Last Name Costello Identification No. _____

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Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 inches equals 1 mile



Last Name _____ Identification No. _____

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14. Basis of Claim (Check One) Beneficial Use ☒ Posted Notice () License () Permit () Decree ()

Court See Attached. Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Coeur d'Alene-Spokane 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: 2 Pages

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Wendy Collette Date: 7/7/09

Wendy Collette Managing Member Date: 7-7-09

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, _____, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address _____

Last Name _____ Identification No. _____

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We have plumbed the entire property first and foremost to service the property for the current needs of the commercial businesses that are currently operating on the property which are a daycare facility and in a separate building is a drive thru coffee hut. Additionally, we have plumbed the entire property for future development of the remaining vacant-undeveloped land (rear acre behind the existing structures). We have many designs drawn up for the utilization of the undeveloped portion of our property ranging from storage structures to a strip mall to a car wash. We have also considered a grocery store and or hotel. We have been waiting to see how Silverwood Theme Park and the old Rickel Ranch develop. We are also waiting to see how the Highway 95 project affects our property. We will develop the rear property as soon as we get a feel for how our neighbors grow and develop. At this time we are keeping any and all options open for commercial and residential uses of this entire property.

According to county records and dozens of signed affidavits from long time local residents of the area this property has been commercial with an operating bar/restaurant operating on this property since 1943. Additionally, there was a single family detached home on this property around that same time.

Because the property was being utilized as both commercial and residential from the early 1940's, this property and its use predate the existence and foundation of most monitoring and or governmental agencies.

Since records are scarce and or non existent one can only speculate as to what the source(s) of water was to this property over the last 60 plus years. Obviously water was used to operate a bar/restaurant and also make a house habitable. We know that the current well that is our **Public Water System # 1280115** was drilled in 1999. We also know that this well was drilled next to an abandoned well and we have not been able to determine the date of when that well was drilled-again mostly due to records that are scarce and or non existent from that era. Additionally there may be other abandoned wells on the property-locations unknown.

We know that this property had a bar/restaurant and house on it 20 plus years before Silverwood Theme Park was ever built and the bar/restaurant and house all needed and used local water.

Currently our **Public Water System # 1280115** utilizes a Jacuzzi Brand 5 hp pump with two 119 gallon pressure tanks. The four hour commercial well test confirmed that our well, with the 5 hp pump, produces in excess of 25 gallons a minute. According to the company that installed/topped off the well, if we desire more gallons per minute we simply have to install a larger pump. We abide by all required testing requirement per the health department and DEQ for the operation and use of a Public Water System. We have never missed a test and we have never had a dirty test. In fact, DEQ is and has been utilizing our property as a water quality testing location to see if and how the new septic system Silverwood installed is affecting water quality in our area.