

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 85-15691

WATER RIGHT NUMBER: 85-15691

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	WARREN E BRAUCHER PO BOX 337 CRAIGMONT, ID 83523 (208)924-5639
Original Owner	M LOUISE BRAUCHER PO BOX 337 CRAIGMONT, ID 83523 (208)924-5639
Current Owner	DARLENE D LILLEHAUG PO BOX 1250 MC CALL, ID 83638 (208)634-4566
Current Owner	JOHN A LILLEHAUG PO BOX 1250 MC CALL, ID 83638 (208)634-4566

Priority Date: 12/31/1918

Basis: Beneficial Use

Status: Active

Source

SPRING

Tributary

NORTH FORK WILLOW CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

SPRING	L26 (SE1/4SE1/4)	Sec. 2, Twp 32N, Rge 02W, B.M.
LEWIS County		
SPRING	NW1/4NE1/4	Sec. 11, Twp 32N, Rge 02W, B.M.
LEWIS County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
32N	02W	2		X														X	
				L 11														L 26	

SCANNED

AUG 03 2007

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 85-15691

Conditions of Approval:

1. This right is a split from former right 85-15496 .
2. PLACE OF USE FOR STOCKWATER IS SAME AS ALL POINTS OF DIVERSION.

Remarks:

Comments:

Dates and Other Information:

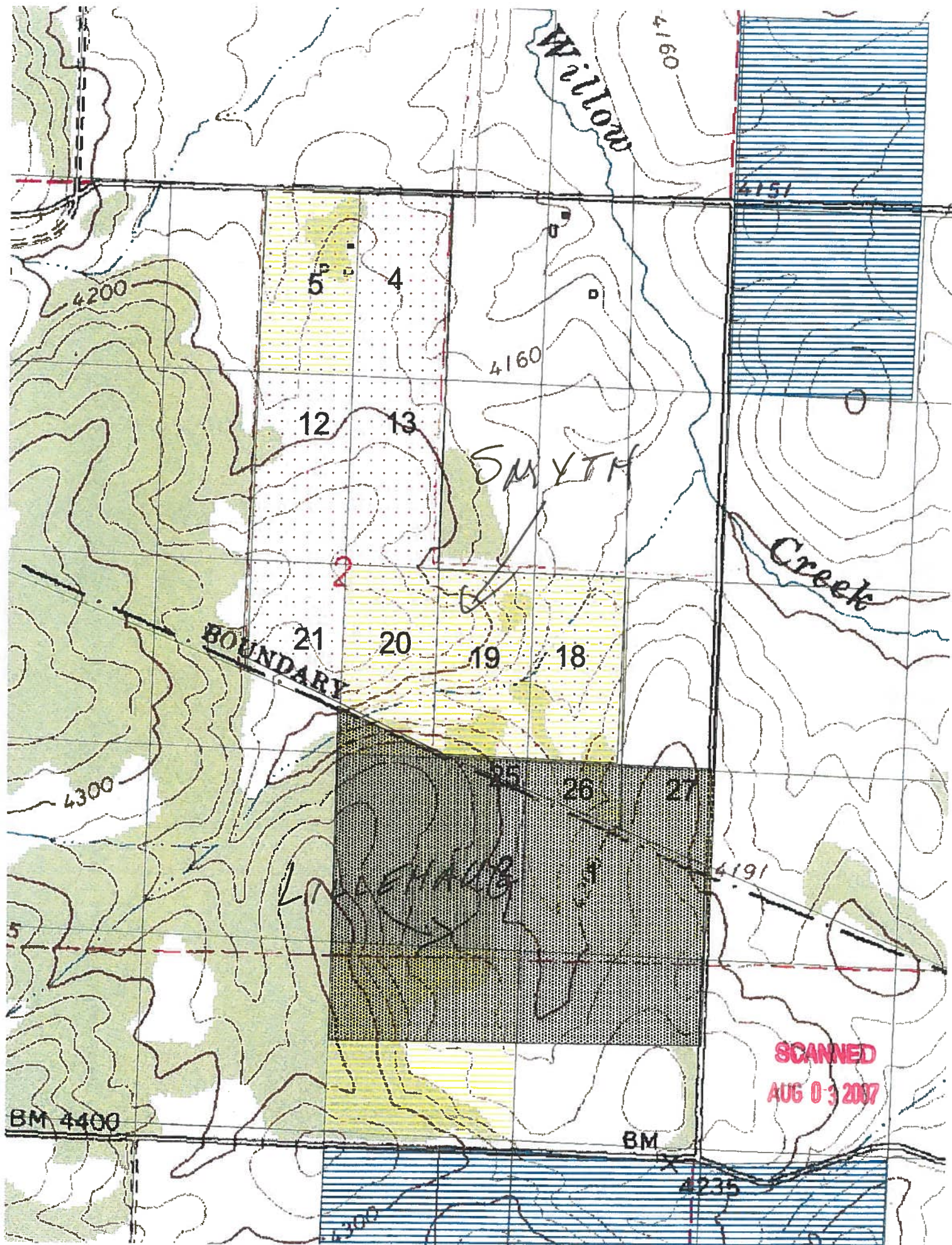
Claim Received Date: 10/18/2004
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector: OR
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

Water Supply Bank:

SCANNED
AUG 03 2007

SCANNED
AUG 03 2007



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 85-15691
Date Received: 10/18/2004
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DARLENE D LILLEHAUG Phone: (208)798-1674

PO BOX 1250
MC CALL ID USA 83638

JOHN A LILLEHAUG Phone:

BOX 1250
MC CALL ID USA 83638

2. Date of Priority: 12/31/1918

3. Source: SPRING , SPRING Trib. to: WILLOW CREEK NORTH FORK, WILLOW CREEK NORTH FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
32N	02W	2	SE SE 26	LEWIS	
32N	02W	11	NW NE	LEWIS	

5. Description of diverting works:

DEVELOPED SPRING PIPED TO TROUGHS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.04	
~~DOMESTIC~~	01/01	12/31	0.04	

0.07

7. Total Quantity Appropriated is:
0.04 C.F.S.

2

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 80 HEAD
Number of homes: 1

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
32N	02W	2	NW	11	STOCKWATER	
			SE	26	STOCKWATER	

11. Place of use in counties: LEWIS

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

13. Other Water Rights Used:

14. Remarks:

PLACE OF USE FOR STOCKWATER IS SAME AS ALL POINTS OF DIVERSION. PLACE OF USE FOR DOMESTIC IS NENW SEC 2 LOT 5.

This right is a split from former right 85-15496 .

15. Basis of Claim: Beneficial Use

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): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this
of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54 (b) FOR
Case No. 39576)
) Water Right 85-15496

NAME AND ADDRESS: M LOUISE BRAUCHER
WARREN E BRAUCHER
PO BOX 337
CRAIGMONT, ID 83523

SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

QUANTITY: 0.04 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 12/31/1918

POINT OF DIVERSION: T32N R02W S02 LOT 5 (SENENW) Within Lewis County

LOT 5 (SENENW)

LOT 19 (NWSE)

LOT 17 (NESE)

LOT 26 (SESE)

S11 NWNE

18
NWSE is lot 19 & 20

NESW is lot 18 & 17

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

Stockwater

01-01 TO 12-31

0.04 CFS

Domestic

01-01 TO 12-31

0.04 CFS

PLACE OF USE:

Stockwater

Within Lewis County

T32N R02W S02 LOT 5 (NENW)

LOT 17 (NESE)

LOT 19 (NWSE)

LOT 26 (SESE)

S11 NWNE

Domestic

Within Lewis County

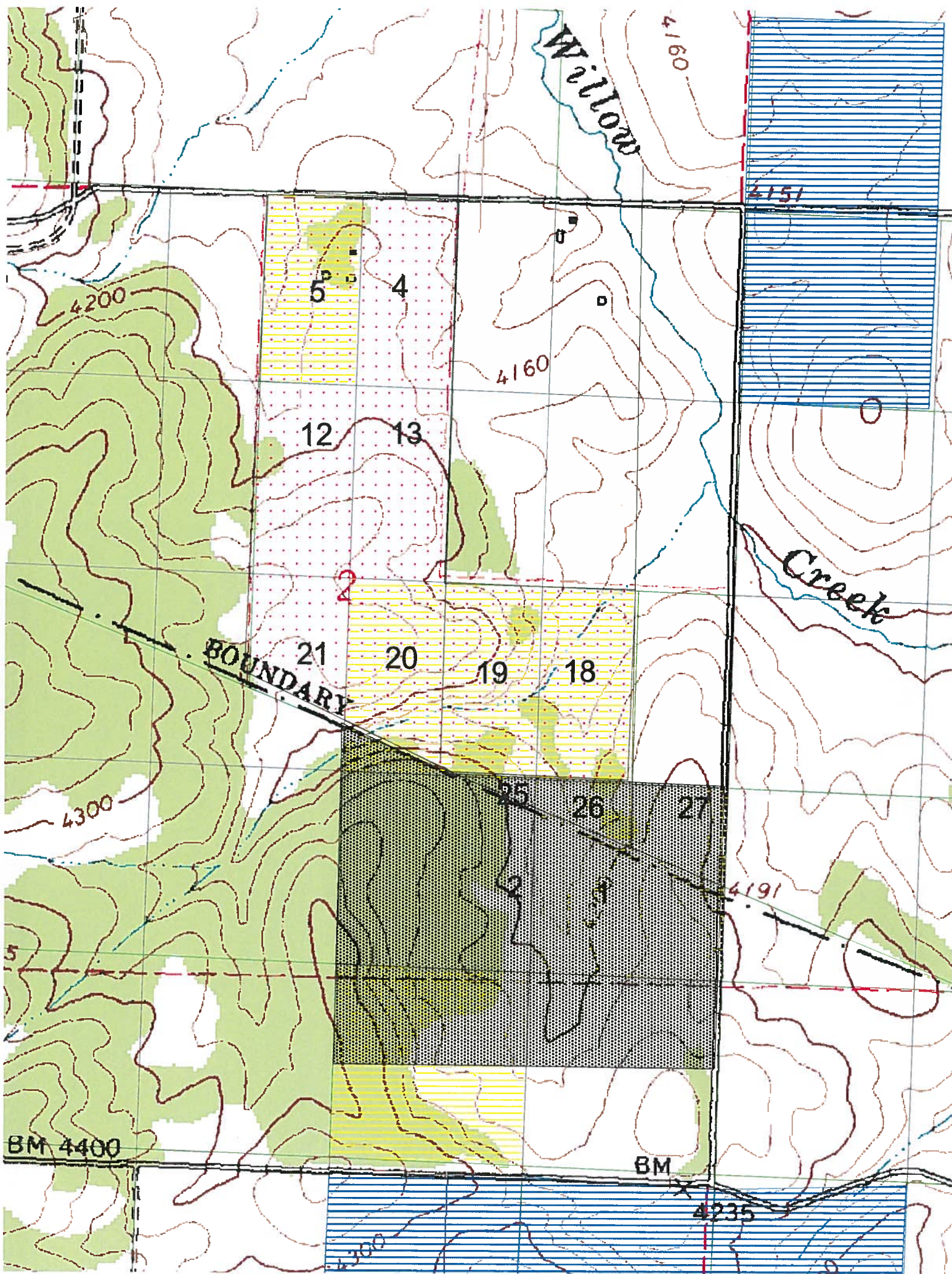
T32N R02W S02 LOT 5 (NENW)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a
determination of historical beneficial use.

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. I.C. SECTION 42-1412(6).

85-15691
85-15692



Knoblock, Ken

From: Harvey, Becky
Sent: Monday, April 30, 2007 1:59 PM
To: Knoblock, Ken
Cc: Bromley, Chris
Subject: 85-15496 - Smyth/Lillehaug

Ken:

Attached please find the letter from Merrily Munther with the *Order Partitioning Real Property* from Lewis County. Could you please prepare a map with the outline of the partially decreed place of use and then spatially determine how the property was divided and indicate that on the map? Chris and I were thinking that if the divisibility is distinct, then maybe we could split the right, correct the clerical error and do changes of ownership/NCAPs and be done with this ??? Perhaps it's wishful thinking on our part. Could you prepare the map when you have a chance and email it to us? The next status conference with the SRBA court is June 12th.

Thanks!

Becky



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8.pdf

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JOHN A. Lillehaug
Darlene
Box 1250
McCall, ND 83638



munther · goodrum · sperry

CHARTERED - ATTORNEYS AT LAW
Innovative solutions for a changing world

RECEIVED

APR 30 2007

DEPARTMENT OF
WATER RESOURCES

April 25, 2007

COPY

Mr. Albert Barker
Barker, Rosholt & Simpson LLP
P. O. Box 2139
Boise, ID 83701-2139

Re: Pat Smyth and Darlene Lillehaug

Dear Al:

I received Chris Bromley's letter suggesting two routes to go with Mrs. Smyth's proposal to add sources of water to those included in the decreed water right appurtenant to the property which has now been partitioned by Judge Bradbury.

My client, Darlene Lillehaug, is not interested in joining in this effort to add water sources for the property. She will be satisfied to receive the water right that is appurtenant to the share of property decreed to her. Although I don't think it's necessary to have her approval for the change of the decree to correct the reference to Lot 17 to Lot 18, Mrs. Lillehaug would not oppose this.

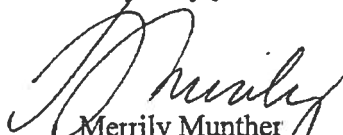
I think we need to file a change of ownership form with the Idaho Department of Water Resources. To that end, I am forwarding you and Chris Bromley a copy of the Order partitioning the parties' property. If Mr. Bromley will direct me in preparing that form, I'll follow up to complete it.

The bottom line is that my client does not wish to be part of any motion to amend or petition for late filing on water rights. She is adamantly opposed to any attempt to vacate or modify the decree other than the typographical error referenced above. We would, therefore, ask that the documents filed with the Snake River Basin Adjudication on behalf of Mrs. Smyth be revised to remove the property which has been decreed to Mrs. Lillehaug from the properties identified as being water sources or places of use of the additional water claimed by Mrs. Smyth.

Mr. Albert Barker
April 25, 2007
Page 2

If you have questions about what we are trying to do, please let me know. I would appreciate receiving a copy of the documents which are revised so that I can confirm that my client and her property have been removed from Mrs. Smyth's efforts.

Very truly yours,



Merrily Munther
mmunther@mgslegal.com

MM/klw
Enclosure
Cc: Chris Bromley
Darlene and John Lillehaug

Thomas W. Callery, ISBN 2292
JONES, BROWER & CALLERY, P L L C.
1304 Idaho Street
P O. Box 854
Lewiston, ID 83501
(208) 743-3591
Facsimile (208) 746-9553
tcallery@lewiston.com

RECEIVED

APR 30 2007
DEPARTMENT OF
WATER RESOURCES

Lewis County District Court
FILED
APR 11 0'CLOCK PM

APR 18 2007

CATHY LARSON
Clerk of District Court

By Nicole Kinzer
Deputy

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEWIS

DARLENE LILLEHAUG,

Plaintiff,

vs

PATRICIA SMYTH

Defendant

CASE NO. CV - 2006 - 71

ORDER PARTITIONING
REAL PROPERTY

The Court having entered its order appointing DON A. KERBY of WESTERN APPRAISALS as the referee in the above-entitled partition action pursuant to Idaho Code § 6-546 as the sole referee, and the Court having received and reviewed the Report of the Referee dated March 14, 2006 which included a stipulation between the plaintiff and defendant as to the partition of the real property, and the Court being fully advised in the premises:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

ORDER PARTITIONING
REAL PROPERTY

I.

The plaintiff and defendant are the owners, as tenants in common, of the following described real property located in Lewis County, State of Idaho:

Township 32 North, Range 2, W.B.M.

Section 2: Lots 1 and 2 South of Reservation line; Lots 4, 5, 12, 13, 18, 19, 20, 21, 25, 26 and 27, all lying North of the Reservation line.

Section 11: The North half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$).

II.

That the real property described in Paragraph I above shall be partitioned between the plaintiff and defendant along a line beginning on the existing Reservation line at its intersection with the west property line; thence following said line Southeasterly to its intersection with the North line of Government Lot 25, thence East along the North line of Government Lots 25, 26, and 27.

III.

The plaintiff, DARLENE LILLEHAUG shall therefore have awarded to her, as her sole and separate property the following real property:

Situate in the County of Lewis, State of Idaho, to-wit:

Government Lots 25, 26 and 27 lying north of the Reservation line and Government Lots 1 And 2 lying south of the Reservation line, all lying in Section 2, Township 32 North, Range 2 W.B.M.; and the North half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$) of Section 11, Township 32 North, Range 2 W.B.M.

IV

The defendant, PATRICIA SMYTH, shall therefore have awarded to her, as her sole and separate property:

Situate in the County of Lewis, State of Idaho, to-wit:

Lots 4, 5, 12, 13, 18, 19, 20 and 21, all lying north of the Reservation line, all lying in Section 2, Township 32 North, Range 2 W B.M.

V

A survey under the direction of the referee to establish the location of the new property line boundary shall be completed. In addition, a fence shall be constructed or relocated along the newly surveyed property line under the direction of the referee. The costs of the survey and fence shall be paid one-half by plaintiff and one-half by defendant.

VI.

Based upon the agreement of the parties and the report of the referee, DON KERBY, the timber identified in Stands One and Two in the map attached hereto shall be logged, which logging shall result in a light shelter wood or seed tree residual stand that will comply with the Idaho Forest Practices Act. Plaintiff and defendant shall share equally in the net timber proceeds. Prior to the timber proceeds being distributed to the parties, all costs, which are to be paid one-half (½) by each party, including but not limited to the following shall be paid:

- a. Survey to establish location of new property boundary;
- b. Cost of new fencing or relocation of fencing along the newly

surveyed property line.

- c. Yield taxes: 3% stumpage tax due Lewis County, Idaho generated from the sale of timber.
- d. Referee expenses incurred after March 15, 2007
- e. Expense of forester and logging cost.

VII

Referee DON KERBY will continue in his role as Court appointed referee and shall supervise and coordinate the hiring of a forester, the logging operation, the survey and construction and/or relocation of the boundary fence. The Referee shall receive all net proceeds from the logging operation and deposit those funds in an interest bearing trust account. The Referee is further authorized to pay from said trust account the expenses listed in paragraph VI (a) through VI (e). After all expenses have been paid, the Referee is then authorized to pay one-half of the net timber proceeds to the plaintiff, DARLENE LILLEHAUG, and one-half to the defendant, PAT SMYTH. If, after final disbursement of the net timber proceeds by the Referee Don Kirby, an expense arises related to the logging, survey or fence installation, or related to the plaintiff's and defendant's ownership of the real property described in Paragraph I above, as tenants-in-common, the plaintiff and defendant shall each pay one-half of said expense.

VIII

There currently is a water trough that straddles the existing reservation line near the west property line. This trough will remain in place until completion of the survey.

If the trough encroaches on the south half hereby awarded to plaintiff DARLENE LILLEHAUG, the defendant PAT SMYTH will move the trough onto the defendant's property at the sole expense of the defendant.

IX.

The plaintiff and defendant shall each pay one-half ($\frac{1}{2}$) of the referee's charges for services rendered through March 15, 2007 upon receipt of an invoice.

X.

This Order will be considered a final order as it relates to the partition of real property; however, the Court shall retain jurisdiction with regard to the logging and sale of the timber and the completion of the survey and fencing.

DONE IN OPEN COURT this 18 day of April, 2007.

JOHN BRADBURY

JUDGE JOHN BRADBURY

CERTIFICATE OF MAILING

IT IS HEREBY CERTIFIED that the undersigned is the (Deputy) Clerk of the above entitled Court; that on the 18th day of April, 2007, the undersigned enclosed a copy of the *ORDER PARTITIONING REAL PROPERTY* to which this Certificate is attached, issued by the above entitled court in the above entitled action, in an envelope addressed to:

DARLENE LILLEHAUG
% MERILEE MUNTHERR
PENLAND, MUNTHERR, GOODRUM CHARTERED
PO BOX 199
BOISE, ID 83701

PATRICIA SMYTH
% THOMAS W. CALLERY
JONES, BROWER & CALLERY PLLC
P O. BOX 854
LEWISTON, ID 83501

DON A. KERBY
WESTERN APPRAISALS
1014 MAIN ST.
LEWISTON, ID 83501

which are the present and last known addresses reported to the undersigned by Jones, Brower & Callery, P.L.L.C.; placed the necessary postage thereon, and deposited the same in the United States Post Office.

DATED this 18th day of April, 2007.

CLERK OF THE DISTRICT COURT

By Nicole Kinzer
Deputy

ORDER PARTITIONING
REAL PROPERTY

TIMBER STANDS



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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 85-15496

NAME AND ADDRESS: M LOUISE BRAUCHER
WARREN E BRAUCHER
PO BOX 337
CRAIGMONT, ID 83523

SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

QUANTITY: 0.04 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 12/31/1918

POINT OF DIVERSION: T32N R02W S02 LOT 5 (SENEENW) Within Lewis County
LOT 5 (SENEENW)
LOT 19 (NWSE)
18 LOT 17 (NESE)
LOT 26 (SESE)
S11 NWNE

NWSE is lot 19 & 20

NESEW is lot 18 & 17

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.04 CFS
	Domestic	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Stockwater Within Lewis County
T32N R02W S02 LOT 5 (NENW) LOT 17 (NESE)
LOT 19 (NWSE) LOT 26 (SESE)
S11 NWNE
Domestic Within Lewis County
T32N R02W S02 LOT 5 (NENW)

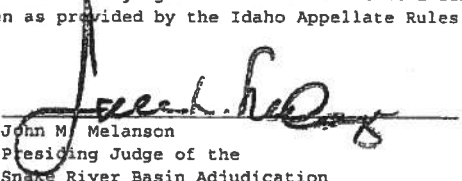
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a
determination of historical beneficial use.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

#2500
RECEIVEDOCT 18 2004
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSDEPARTMENT OF
WATER RESOURCESDEPARTMENT OF
WATER RESOURCESIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Identification No. 85-15496Date Received 10-18-04Receipt Number 0075508NOTICE OF CLAIM
TO A
WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day.

Filing Fee \$25

Please type or print clearly

1 Name of Claimant (s) M. Louise or WARREN E. Braucher Phone (208) 924-5639Mailing Address P.O. Box 337 Craigmont, ID 83501 Zip 2 Date of Priority (Only one per claim) 12/31/1918 Month/Day/Year3 Source of water supply (Check one) () Groundwater or Other () (a) Spring

Name or kind of source

which is tributary to (b) North Fork Willow Creek4 Location of point of diversion is: Township 32N Range 2WSection 2, SE 1/4 of NE 1/4 of NW 1/4, Govt. Lot 5 (x2), BM.County of LewisAdditional points of diversion if any: (NWSE Lot 19 Sec. 2
NESE Lot 17, SESE Lot 26) Sec. 11 NWNE5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. Developed Spring Piped to home and troughs

6 Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Domestic purposes from 11 Month/Day to 12/31 Month/Day amount .04 (cfs)For Stockwater purposes from 11 Month/Day to 12/31 Month/Day amount .04 (cfs)

(Both dates are inclusive)

7 Total quantity claimed .04 (cfs)8 Total consumptive use claimed is de minimus9 Non-irrigation uses Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) Domestic, 1 home; Stockwater, 80 head

10. Place of use is: Township: 32N Range 2W
Section 2, NE 1/4 of NW 1/4, Govt Lot 5, B.M.,

for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any _____

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

12. 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.

13. Describe any other water rights used at the same place and for the same purposes as described above.
() None or _____

14. Remarks: P.O.U. for stockwater is same as all P.Ds P.O.U. for
Domestic is NENE S.2 Lot 5

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number _____

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read and understood 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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct

Signature of Claimant (s) X Warner & Braucher Date X 10-1-04
M. Louise Braucher Date 10-1-04

For Organizations: I do solemnly swear or affirm that I am _____

of _____ Title _____ that I have signed the foregoing
Organization
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 _____

State of Idaho/or _____)

County of New Perce) SS.

NOTARIZATION REQUIRED FOR EACH CLAIM

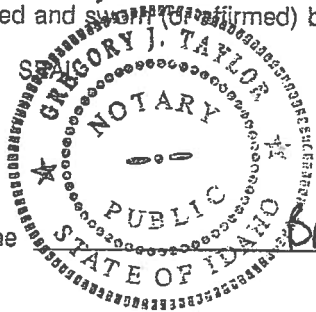
Subscribed and sworn to (affirmed) before me this 1st day of October 2004

Notary Public Gregory J. Taylor

Residing at Lewiston ID

My Commission Expires 4-28-2010

Last Name Braucher Ident No 85-15496
Copies: White-State, Yellow-Claimant



Re: 85-15496

This claim was completed in our Lewiston Office in 2004. The location for the point of diversion for the NESE was listed as government lot 17. That was incorrect it should have been lot 18. Attached is a copy of the Bureau of Land Management plot map showing lots 17 & 18 in the NESE. There is a copy of the USGS quadrangle map showing the property boundary for Louise Braucher that Lewis County provided us.

The reason for the error is that when we identified the point of diversion using the computer program ArcView it returned NESE lot 17. The layer that the program uses to determine the legal description was provided to us by the BLM. The layer does not list anything less than the 40 acre tract. These are Indian Allotments that are 20 acres. If you click on a point in lot 18 it returns NESE lot 17. If you click on lot 16 to the north it returns SENE lot 15.

I have talked with Mike Smyth and John Lillihaug in November explaining that would review the situation in 2007 after we finish the Snake River Basin Adjudication. I do plan to talk with them the week of January 16-19.



Bureau of Land Management - General Land Office Records



Search Land Patents



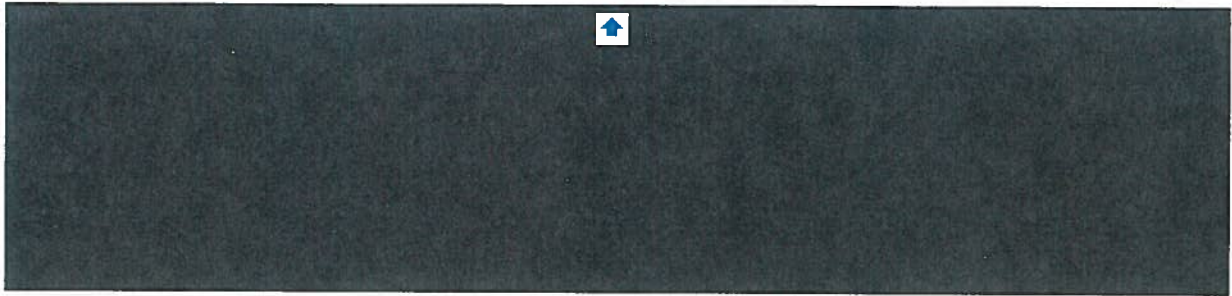
Search Surveys

[Visitors Center](#)[FAQ](#)[View Cart](#) | [Contact Us](#)

Plat Details

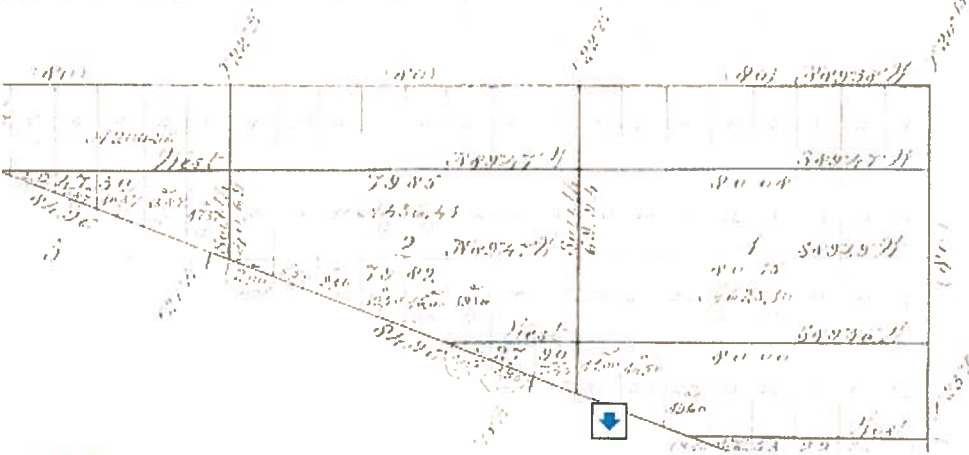
[Quick Help](#) [Bookmark \(Ctrl+D\)](#)[Home](#) > [Survey Search](#) > [Results List](#) > Plat Details[Help](#)[Surveys](#) [Plat Details](#) [Plat Image](#)[< previous](#) [next >](#)

Description: ---



Description.

West Boise Horridion.

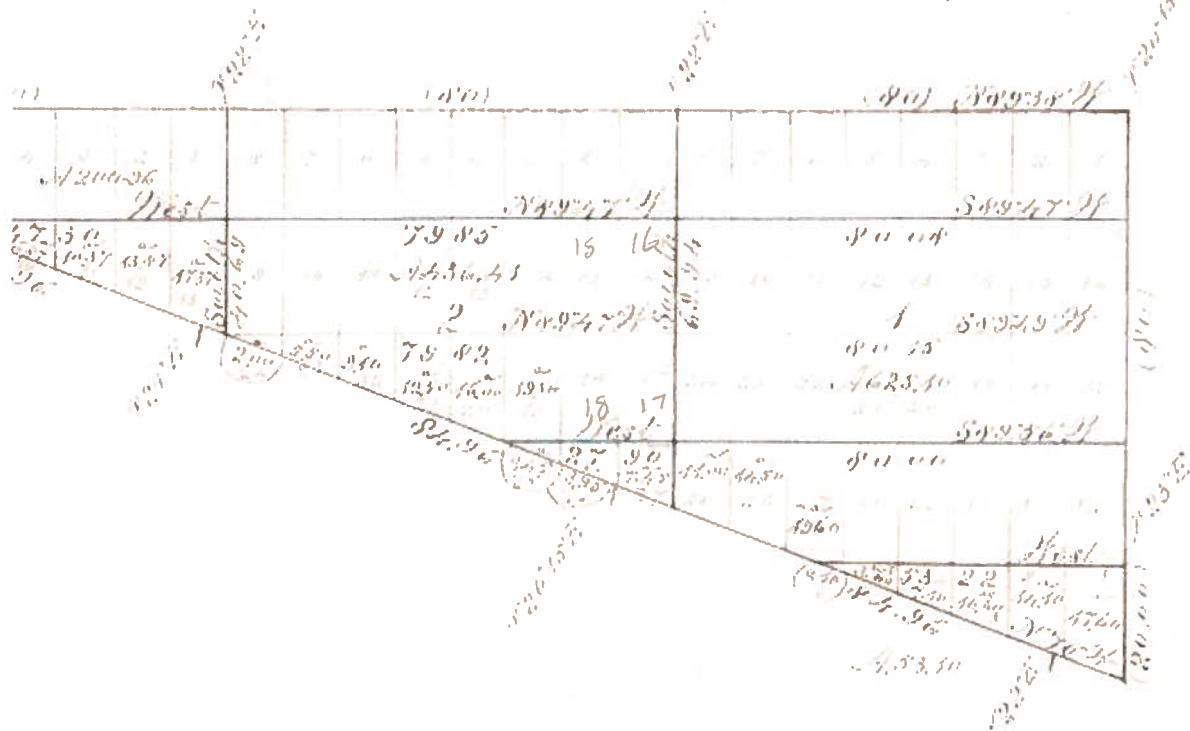
[Basic Viewer](#)[JavaScript Viewer](#)[Plug-In Viewer](#)[Download Image File](#)

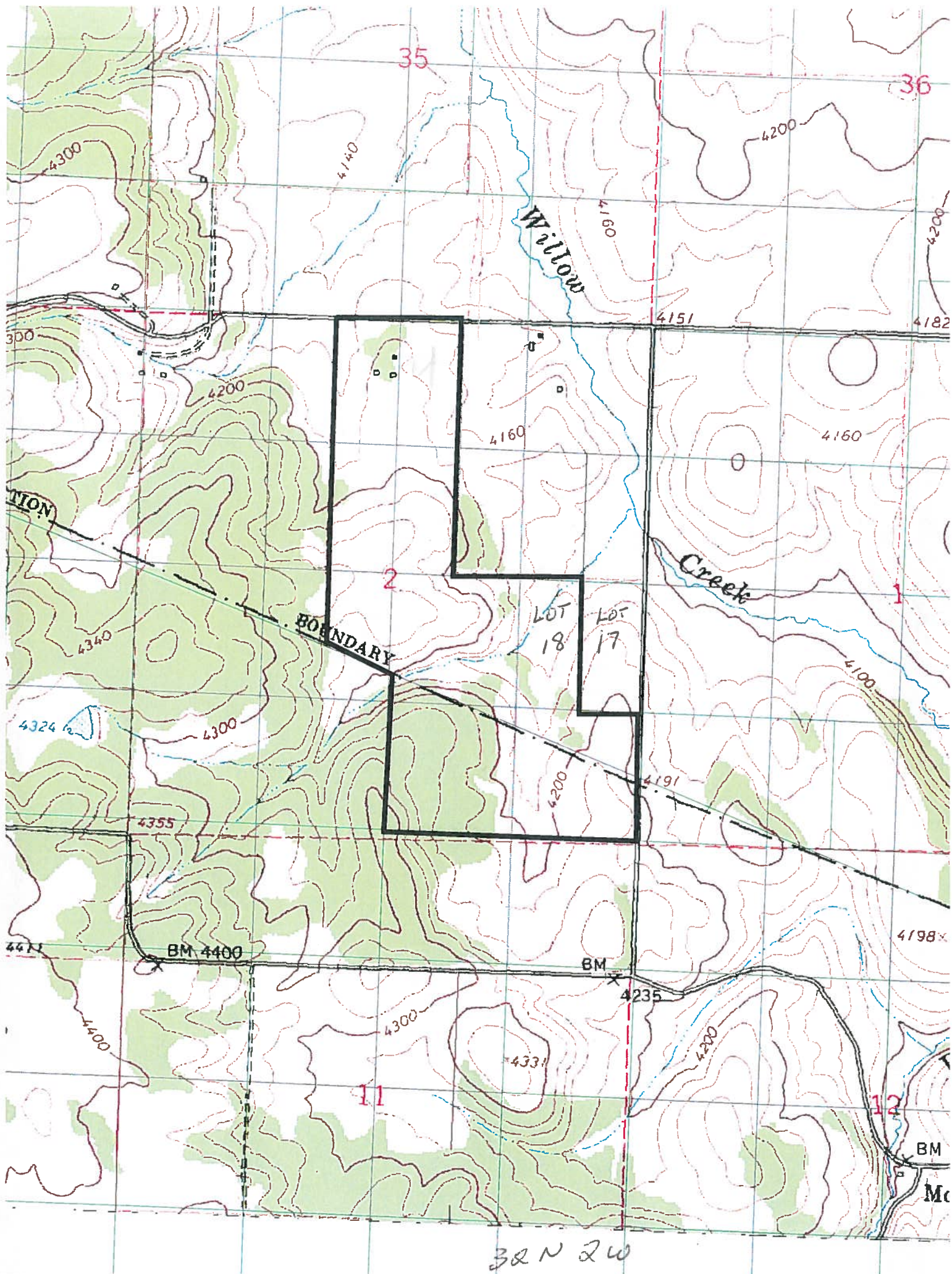
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servation.

Nest Boise Meridian.





SRBA

SUBCASE SUMMARY REPORT 85-15496

[Return to SRBA Home Page](#)

SRBA
12-01-2006

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 85-15496 FILE#: 00525
CLAIMANT: BRAUCHER, M LOUISE
PO BOX 337

CRAIGMONT ID 83523
STATUS: REFERRED UNOBJECTED SPECIAL MASTER: BOOTH, THEODORE R.
WATER SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

****** PARTIES INVOLVED ******

M LOUISE BRAUCHER	C PRO SE
WARREN E BRAUCHER	C PRO SE
PATRICIA B SMYTH	I PRO SE
DARLENE D BRAUCHER LILLEHA	I PRO SE

****** ROA ENTRIES ******

08-18-2005	PARTIAL DECREE FILED		08-18-2005
11-07-2006	MOTION TO SET ASIDE PARTIAL DECREE	MF	11-07-2006
11-07-2006	ORDER OF REFERENCE APPOINTING SPECIAL MASTER THEODORE R BOOTH		
11-07-2006	AMENDED NOTICE OF CLAIM TO A WATER RIGHT		
11-07-2006	ORDER SETTING HEARING	HS	11-28-2006 0130
	MOTION TO SET ASIDE PARTIAL DECREE FILED BY		
11-28-2006	HEARING HELD ON MTN TO SET ASIDE PARTIAL	HS	11-28-2006 0130
11-28-2006	MINUTES FILED		
11-29-2006	ORDER REQUESTING ADDITIONAL INVESTIGATION BY IDWR/DEADLINE FOR REPORT 2/2/07	BZ	02-02-2007 0500
11-29-2006	ORDER SETTING STATUS CONFERENCE	US	02-13-2007 0930

[Return to SRBA Home Page](#)

Knoblock, Ken**From:** John Lillehaug [JLillehaug@idl.idaho.gov]**Sent:** Friday, December 01, 2006 6:51 AM**To:** Knoblock, Ken**Subject:** Water right issues

Ken, I don't know if you remember me but we worked together mostly when I was in the Craigmont IDL office many, many years ago. I'm still a FP Advisor and still in McCall hopefully for just a few more years.

The reason I'm emailing and not phoning you is that I'm headed for the field today but wanted to see if you might be in your office late Monday afternoon. We have a staff meeting in Moscow starting Tuesday so will be coming up that way. Now for the reason of the visit as hopefully you have been already made aware of last week's hearing before Special Master Ted Booth in Twin Falls involving Partial Decree for #85-15496. This involves my wife and her sister Pat Symth in amending this partial degree.

There were some errors on the original partial degree but then the Symth's want to add additional water sources. The Special Master put the burden back onto to your Department to met with both parties and try to resolve the issue. My intent to meet briefly with you is to answer a few questions before we all meet if that is possible. Also have you received a phone call From the Symth's? They are very interesting in getting this settled quickly. Please let me know if we can meet Monday say after #:00 pm your time. Thanks John

*Maralee & Heather Nunn
attorney*
John 634-7125

12/1/2006

Knoblock, Ken

From: Bromley, Chris
Sent: Tuesday, November 28, 2006 1:37 PM
To: McHugh, Candice; Knoblock, Ken
Cc: Harvey, Becky
Subject: 85-15496

Terry Polan

This is a very messy subcase with a lot of issues that are probably worth explaining rather than looking at the notes in the file.

The short of it is that SM Booth did not rule on the Motion to Set Aside based on clerical errors. He did, however, order the Department to prepare a 706 Report! The Report is due Feb. 2, 2007.

The SM also asked that we let Ken know that the parties have been directed to contact him regarding the matter.

Ken, you can expect to be contacted by the Smyths and the attorney for the Lillehaugs, Merrily Munther.

My thought, which the SM agreed with, is that the only clerical issue that's before the Court was the inclusion of Lot 17 as a POD and POU. Lot 17 is apparently not owned by the claimant. The correct lot is Lot 18.

Other than that, there appear to be no clerical errors. The parties would like, however, to use the Motion to Set Aside as a vehicle to include PODs and POUs that were not originally claimed. SM agreed with me that this was probably not proper.

Also, be aware that there is a pending partition action in Lewis County District Court. The sisters (Smyth and Lillehaug) do not seem to be getting along.

Chris

Lot 26

*Stockwater
Domestic*

*Lillehaug
rule of evidence*

Feb 2007

Tuesday Feb 13

706 report

*16 POD's (page 40)
17 West side to east Map*

See Lot 2 to Lot 18

Picture page 21

Ken Knoblock
Idaho Department of Water Resources
7600 Mineral Drive Suite 100
Coeur d'Alene, Id. 83815

RECEIVED
JAN 12 2007
IDWR/North

Dear Ken,

Enclosed please find some information that hopefully should present our side of the argument. I outlined a brief history of the property ownership to show the timeline of events. In addition there is a packet of pictures that were taken by the Smyth's to show possible new water sources they want included in the amended water right application dated Sep. 22, 2006. With this packet note the comments by an individual we hired for his opinion of their claims. Mr. Willis Humphrey is a local expert that is in the business of developing springs and installing septic tanks. We had him on site twice to discuss the future development of water sources once September 3, 2006 and the other November 25, 2006. The first date was before the rain event of September 19-22, 2006 when the area received about 1.5 inches of rainfall (the dates are significant because the Smyth's photos were taken right after the event). As per Mr. Humphrey's note the first visit was dry and he could only observed one location where a spring could possibly be developed outside the CRP ground. This is the Number 9 location in the Smyth's documentation and located in the fence corner below the point of diversion for what is commonly called the split tank. This is also the area that I asked you about in our phone conversation- that being if a person developed a new spring and it dried up a neighbor's spring could you be sued for drying up their water source. We also had Mr. Humphrey give his opinion on the potential water sources that the Smyth's identified in their packet of pictures. Most are located in spots that could not support use by livestock throughout the grazing season or are within CRP or ground surrounded by CRP that the federal government would not allow development, therefore not classified as a beneficial use.

Our contention with this Motion to Set Aside/Modify Partial Degree #85-15496 is twofold: First being the action to divide the property is ongoing and will hopefully be settled no later than February 26, 2007. We feel that after the property is divided then would be the appropriate time to make the change in ownership and change in legal descriptions rather than having to do it several times. The second reason is that the additional water sources proposed by the Smyth's are an attempt to possibly show a higher value on the southern portion of the property bettering their chances in the split of the property.

If you have any questions please call 208-634-4566 or if a meeting is needed to facilitate the development of your report please feel free to contact us.

Thank you.

Sincerely,

Cc: Merrily Munther, Legal Counsel

work 634-7125

Brief History of Ownership

RECEIVED
JAN 12 2007
IDWR/North

January 29, 1977 Ellna M. Lunders died leaving property located in Lewis County to her three granddaughters (Connie Vallem Anderson, Judy Glauner, and Patricia Crow Symth) with a life estate of the said property to her daughter Louise Braucher. There were two parcels located in Township 32 North, Range 2 West BM. The parcel commonly referred to as the Home Place lies in Sections 2 and 11. The Vinegar Hole place lays in Sections 17, 20, and 21.

January, 1984 Connie, Judy and Patricia quitclaim deeded a one fourth undivided interests in the above mentioned property to their sister Darlene Lillehaug.

Summer of 1982 Warren Braucher retired from construction work and returned to Craigmont. He and Louise started farming the property and raising cattle. During this time several springs were developed or improved to provide livestock watering. They continued until 1990 when they decided to retire once again- the brief exception was a short period of time Larry and Connie Vallem took over the operation. Upon their retirement the cropland was put into the CRP program, the grazing and hay crop production was leased to a private individual. Which has continued until present day?

October 18, 2004 a Water Right was submitted as per the request from IDWR as part of the SRBA process. A partial degree was granted August 18, 2005 (subcase 85-15496).

August, 2005 Connie Anderson and Judy Glauner gave their one fourth undivided interests of the Home Place property to Patricia Symth and Darlene Lillehaug in exchange for their respective one fourth undivided interests to the Vinegar Hole property. Patricia and Darlene then had one half undivided interests in the Home Place with their mother Louise Braucher retaining the life estate.

December 28, 2005 Louise Braucher passed away at Cottonwood, Id. Upon her death the life estate becomes null and void, therefore Warren Braucher has no further legal rights.

May 3, 2006 an action by Darlene Lillehaug's counsel was filed in the 2nd District Court in Nezperce, Id., to partition the property between the two owners (Case No.CV2006-0000071).

October 30, 2006 Patricia Symth filed a Motion to Set Aside/Modify Partial Degree with the Fourth District Court in Twin Falls. November 7, 2006 Judge John Melanson ordered Special Master Theodore R. Booth to preside. Her objective was to record the change of ownership, make corrections to the 2004 water right application, and add new water sources to this water right. November 10, 2006 Darlene Lillehaug received a notice from the Special Master that a hearing would be conducted November 28, 2006 in Fourth District Court located in Twin Falls, ID. At the hearing Special Master Booth referred the matter to IDWR with instructions to have a report back to him no later February 2, 2007.

Home Place Water Sources

RECEIVED
JAN 12 2007
IDWR/North

Currently there are six developed springs which are listed in Partial Degree #85-15496. There is no dispute that these are valid water sources and the beneficial use is either domestic or livestock watering. These are identified in Smyth's photos and the attached aerial photo as #'s 2, 3, 5, 6, 7, and 13. #5 has an incorrect legal on the original water right application files by the Braucher's in 2004. It is actually located in Lot 18 of Sec. 2 not Lot 17 (that property belongs to the adjacent landowner). Also #7 has an incorrect legal on the original application it should be located in Lot 21 not Lot 19. So the corrected developments should be listed as follows:

Photo #2 Front lot tank is in the north half of Lot 5 Sec. 2 and is a stock watering tank.
Photo #3 Domestic spring is also in the north half of Lot 5 Sec. 2 use is domestic.
Photo #5 Hayfield tank is located in the north half of Lot 18 Sec. 2 and is a stock watering tank.
Photo #6 Double tank is in Lot 26 Sec. 2 and is a stock watering tank
Photo # 7 Split tank is in Lot 21 Sec. 2 and is a stock watering tank.
Photo #13 CRP tank is in NWNE Sec. 11 and was originally developed for stock watering but now is in the middle of CRP ground that can not be grazed.

The additional 10 potential water sources that the Smyth's included in the amended water application signed by Warren Braucher and Patricia Smyth and dated Sept. 22, 2006 also were accompanied by numbered photos. The photo numbers were transferred to the aerial photo as close as possible. A brief explanation of each is as follows:

Photo #1 Wet draw in Lot 5 (front lot) does have water most of the year as it probably drains from both the Domestic spring and Front Lot developed spring.

Photo #4 shallow drainage that heads in the neighbor's property and is located at the south end of Lot 5.

Photo #8 shows the channel of the intermittent stream (a tributary to the North Fork Willow Creek) as it enters the property from the west. This stream flows through the property next to the Hayfield tank and leaves the property in the northeast corner of Lot 18.

Photo #9 is a wet seep in the northwest corner of Lot 4. This is the spot Mr. Humphrey thought would be part of the Split tank point of diversion. Also the spot referred to in the question about developing it and then drying up the previous development. See Willis' comments.

Photo #10 is the lower end of a wet draw that drains through the CRP and hayfield in Lot 1 Sec. 2 and NENE Sec. 11. This wet draw continues to flow north and connects with the intermittent stream in Lot 18. This site is located within the CRP ground which cannot be grazed.

Photo #11 See Mr. Humphrey's note regarding this location. Again this site is within the CRP ground.

Photo #12 See Mr. Humphrey's note. This is a puddle that the livestock use whenever there is water standing usually only in the spring and early summer. It was dry during the Sept. 3 visit and become wet after the rain event Sept. 19-22, 2006.

Photos # 14-18 are all sites located within the CRP and hayfield located in Sec 11 and cannot be used for grazing. See Mr. Humphrey's notes also #18 is the ditch line from the county road and where the draw starts that drains the CRP and hayfield area.

RECEIVED
JAN 12 2007
IDWR/North

WN-H-25

Having looked at this when it was dry 9/3/06
I can see only one area where a
spring could be developed without damaging
N.E.D. Ground. This area would be
9, above the creek that is a seasonal
stream. As for the other areas - you
could dig for water and make a pond
or a puddle about any place. Where
the ~~other~~ pictures have shown - But
would the water stay all season?

I have been develop. springs and building
ponds in this area for 35 years and have
been born and raised here - know the area
well. Have develop. springs for neighbors
in this area -

Thank you
Steve Murphy 11-25-06

Palmer Headquarters

PALMER PROPERTY

Hawthorne Tract

Property Line

Well Bdry

Road System

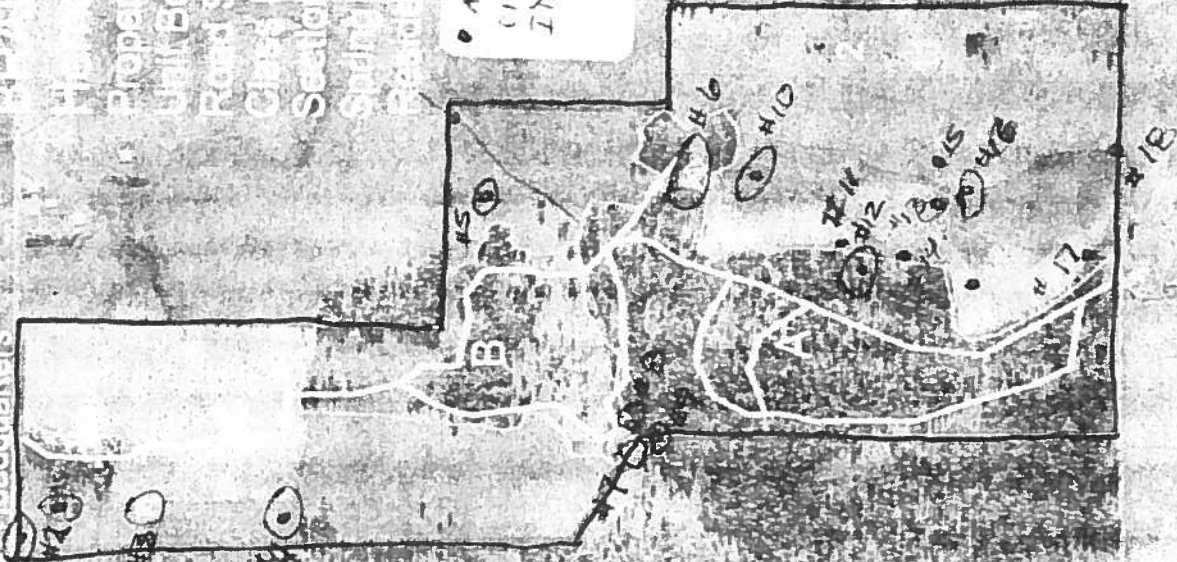
Clay II Stream

Section Corner

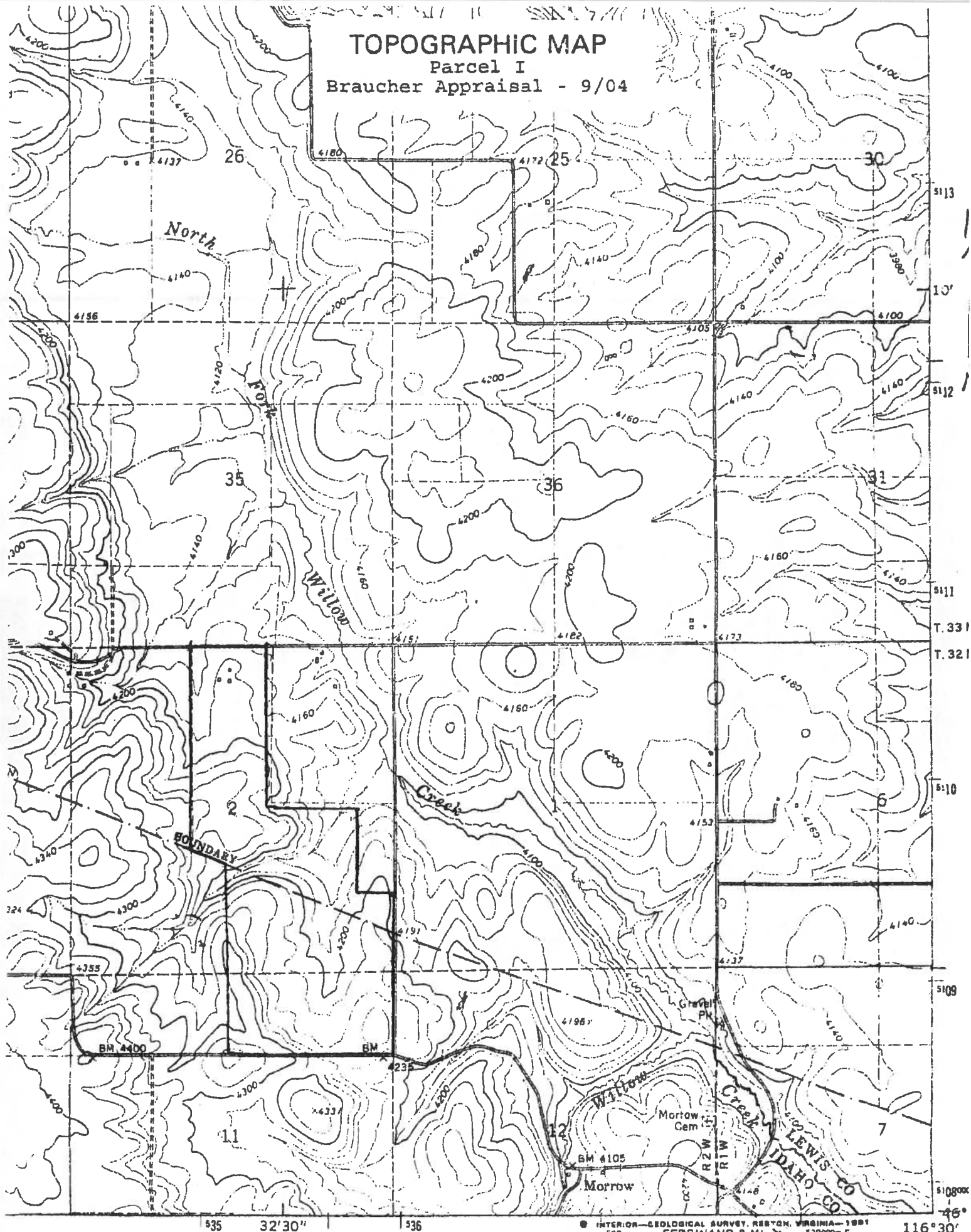
Quarry

Feasible Area

• ADDITIONAL WHITE SOIL (CRATER)
CIVIL CASE # 39576
ID # 85-15496 (increased)
T 32N R 2W



TOPOGRAPHIC MAP
Parcel I
Braucher Appraisal - 9/04



INTERIOR GEOLOGICAL SURVEY, RESTON, VIRGINIA - 1981
537 FERDINAND B MI 538000m E

CIVIL CASE # 39576
FD # 85-15496 Amended
T32N R2W

ROAD CLASSIFICATION

39

1 MILE

#1 NENW Lot 5 Sec. 2

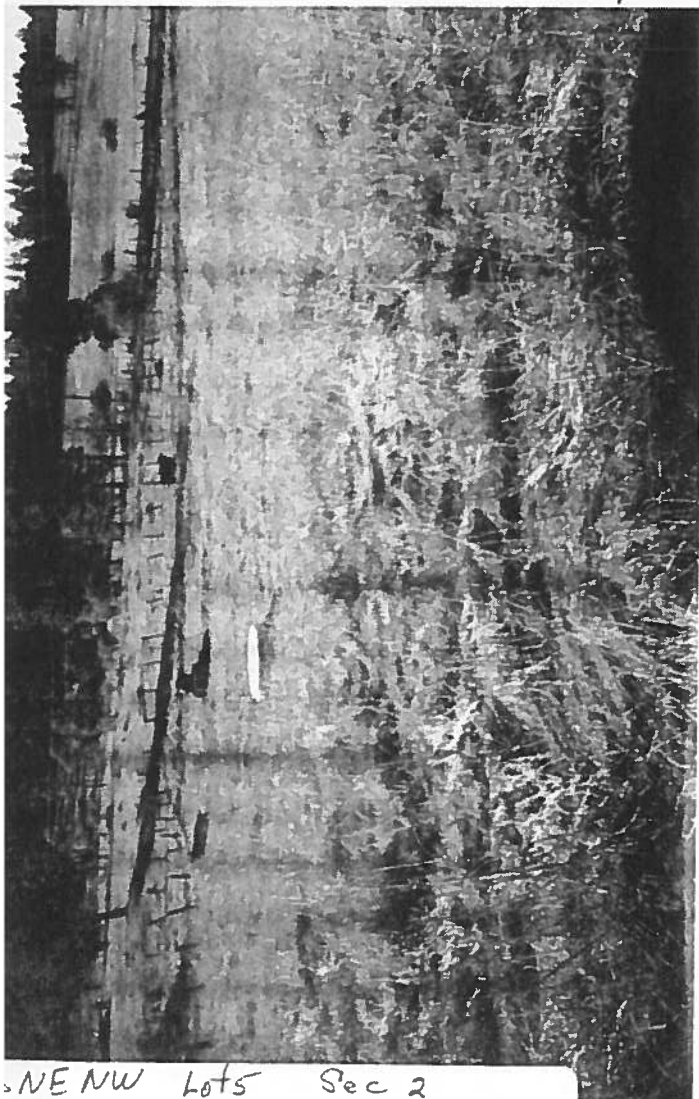
NRL



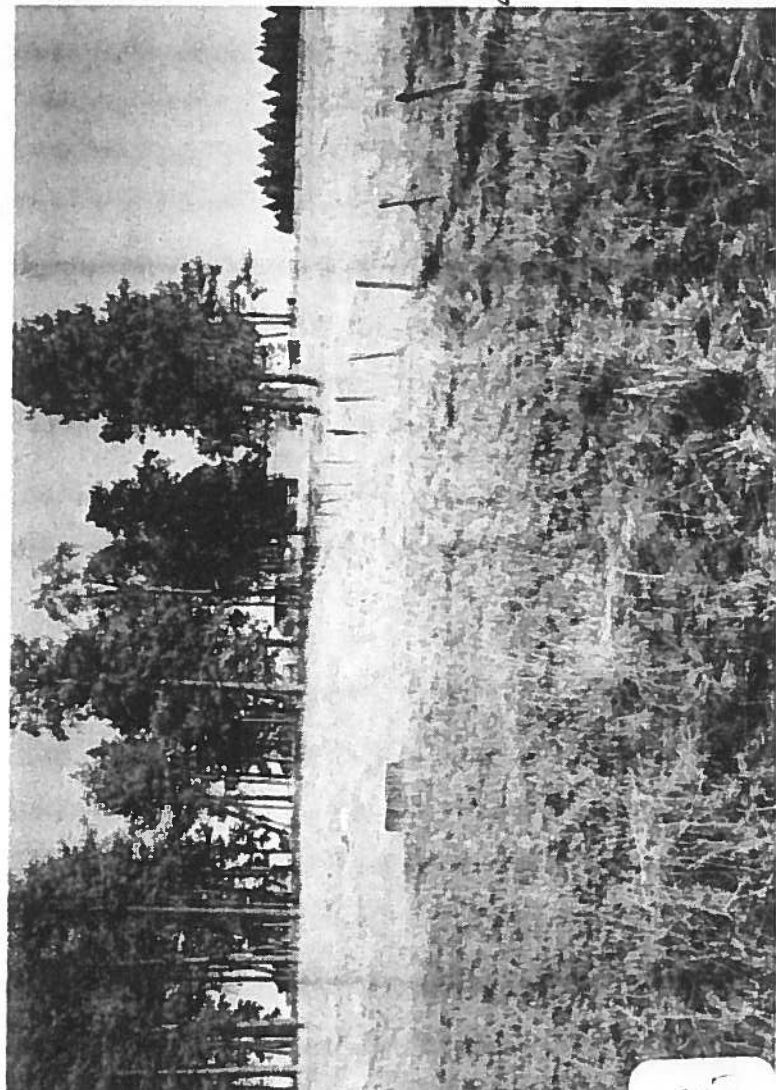
#1 Developed Spring

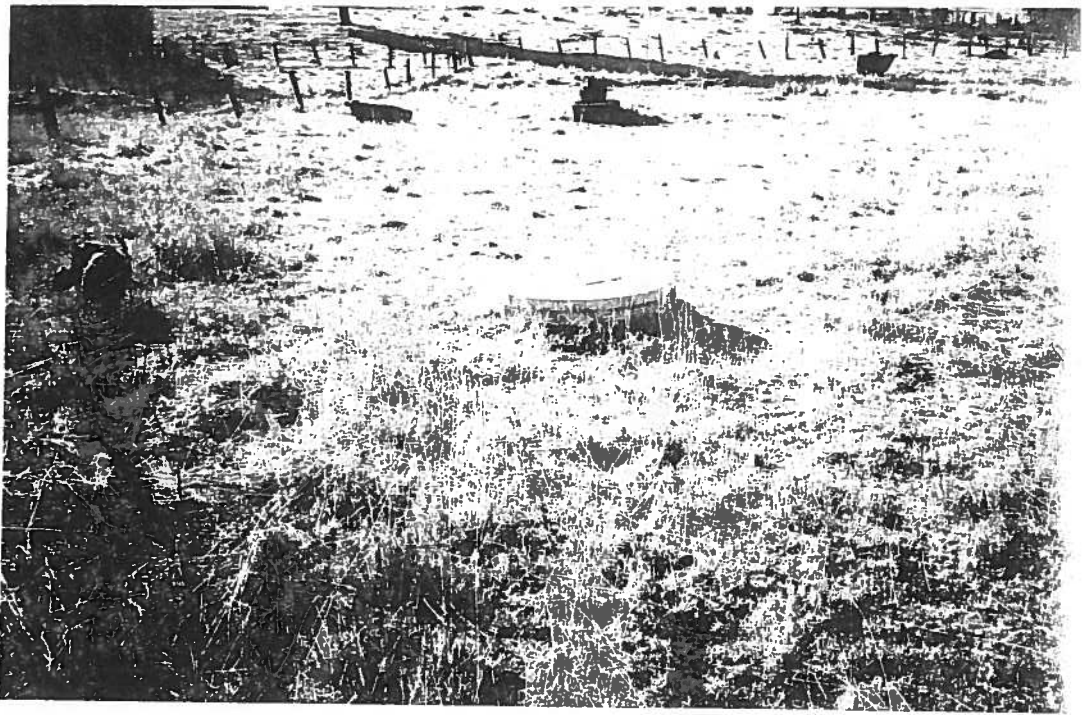
#1
wet draw in front
lot 5

#2 Developed Spring in Front Lot 5



NENW Lots Sec 2





#85-15496

TRAD R200

well

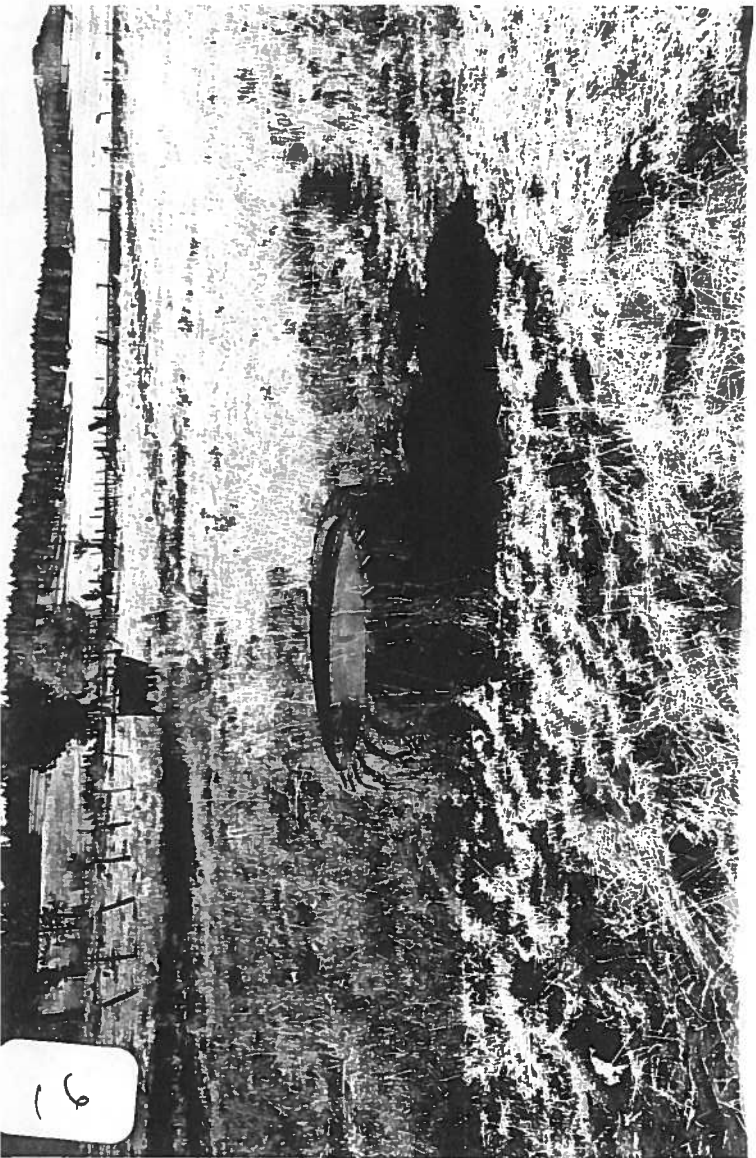
Antelope Springs

FTN in interior

PDS

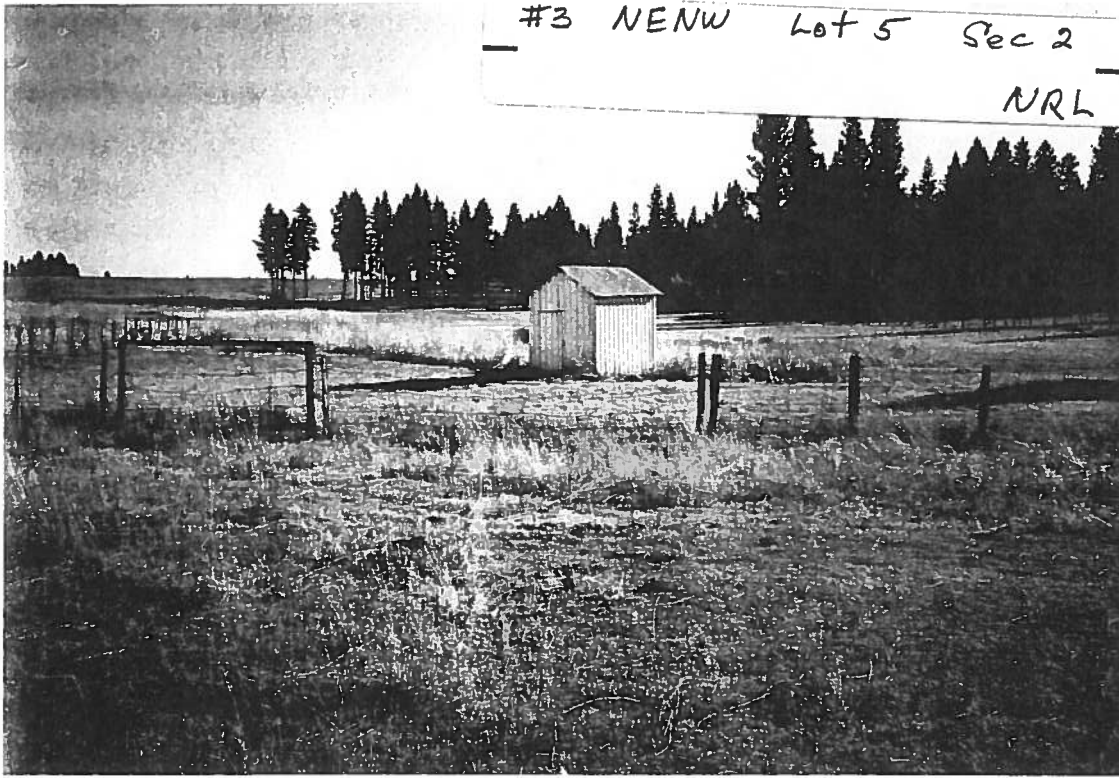
#2

Developed spring in front lot Qaf



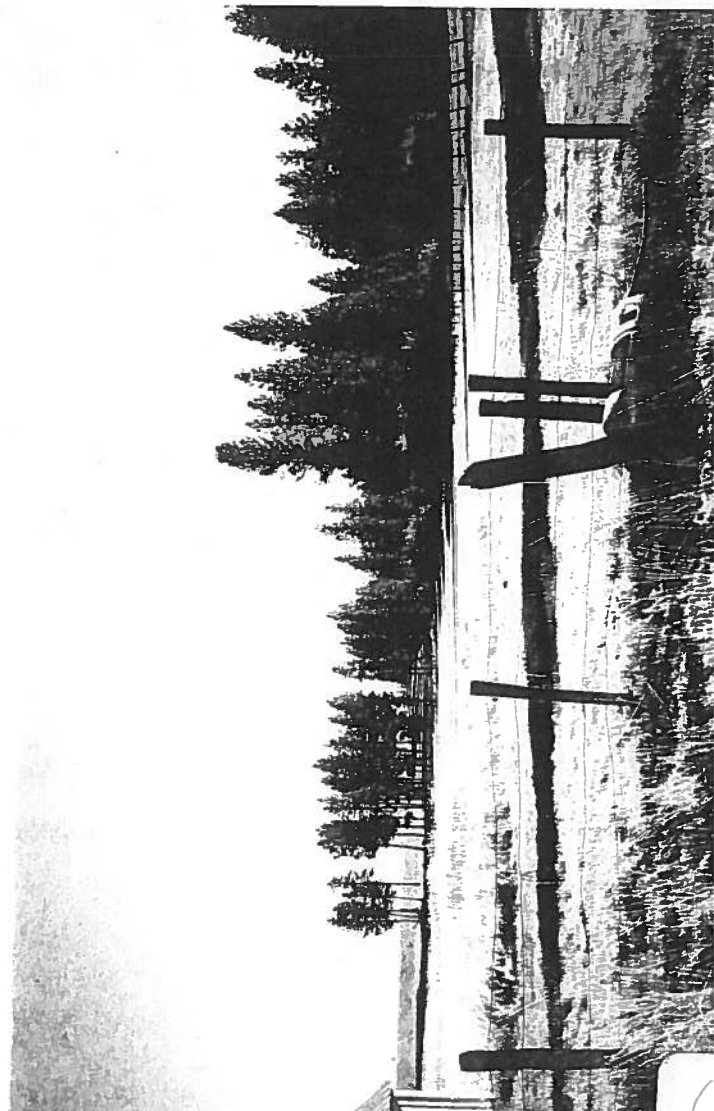
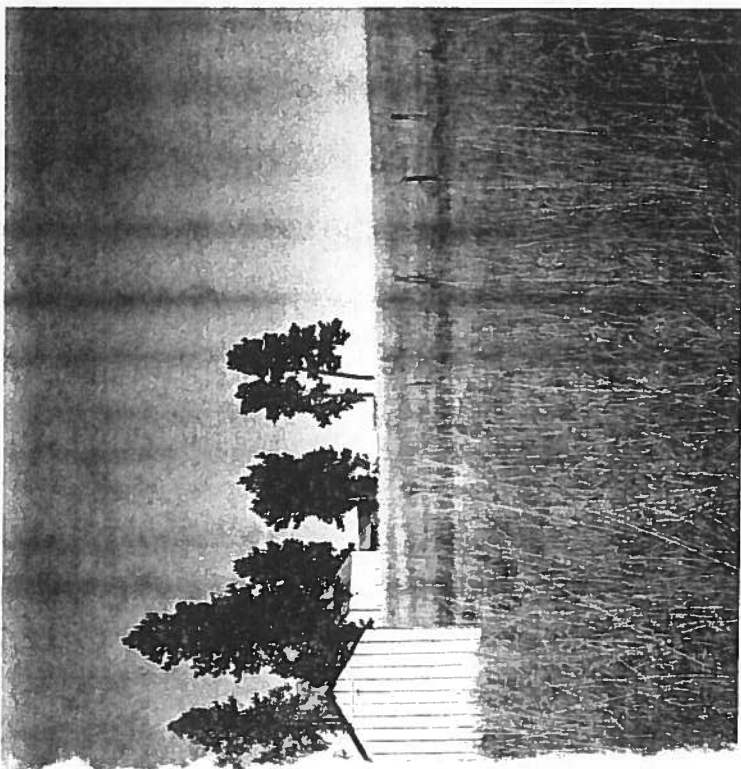
91

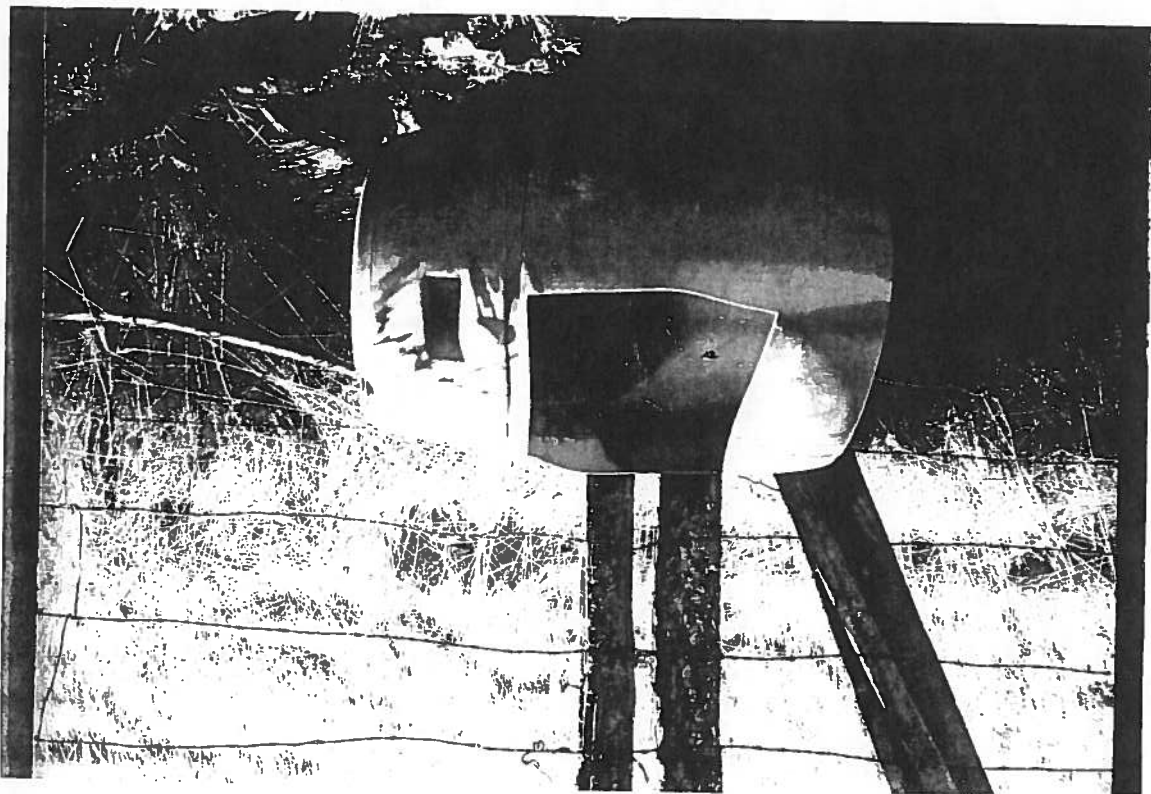
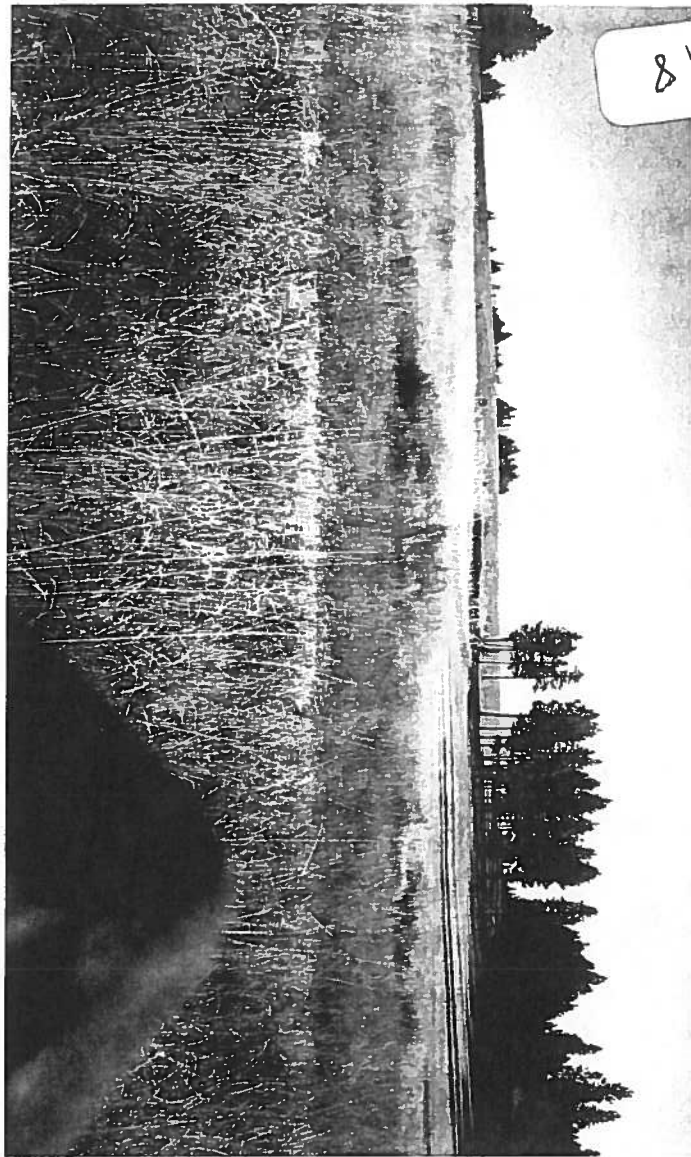
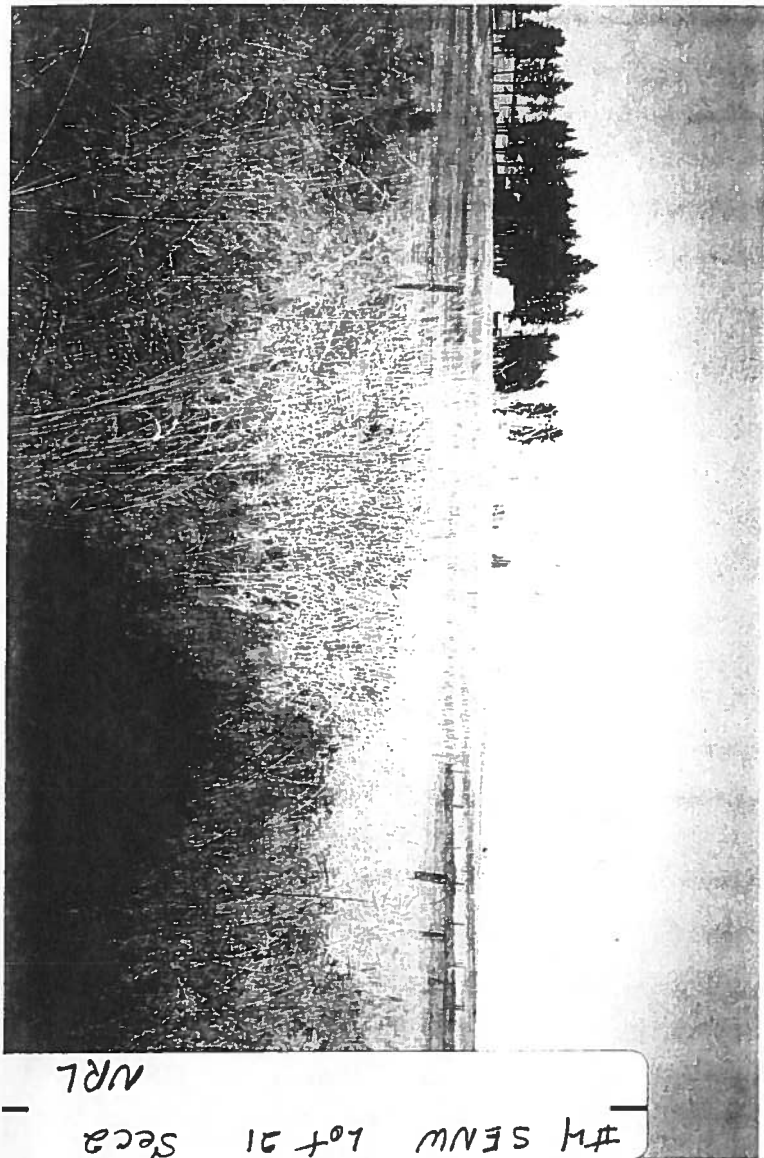
#3 NENW Lot 5 Sec 2
NRL



#3

Domestic
Spring 94

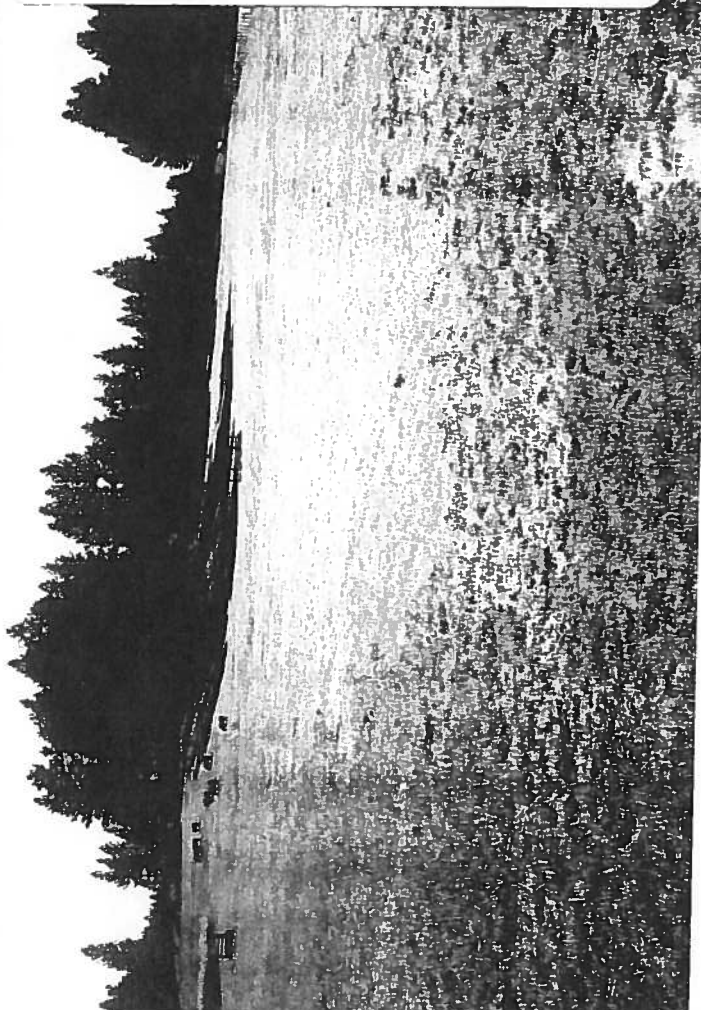




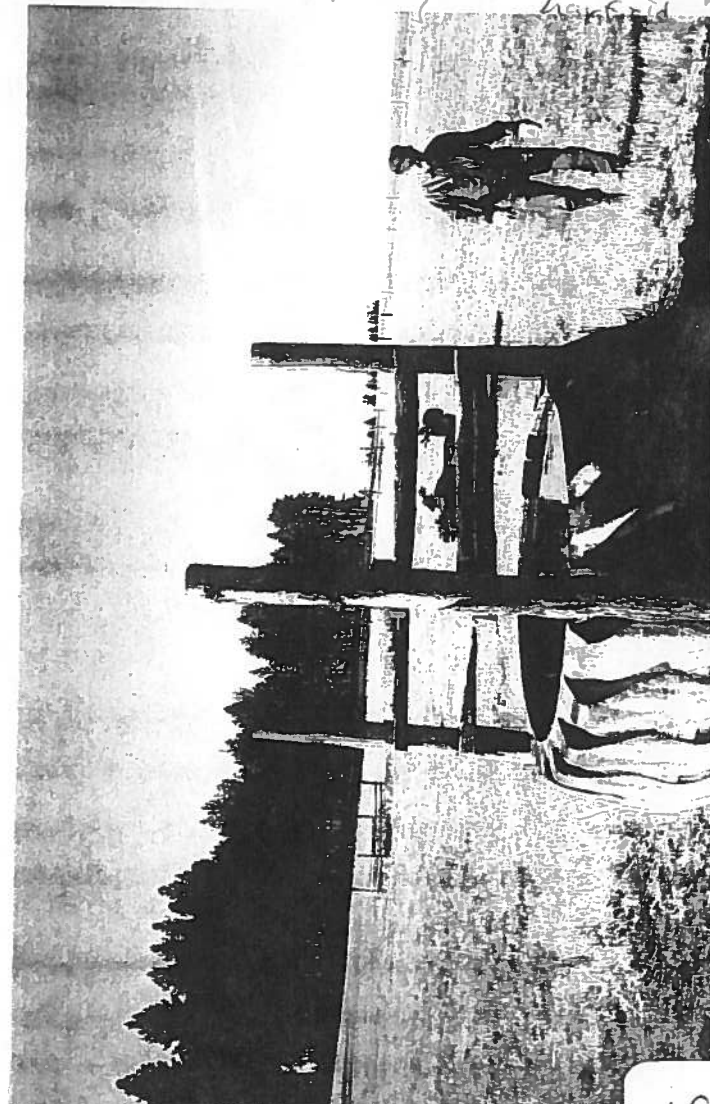


H 4/

#5 NESE Lot 18 Sec 2
13 acre hayfield ON NRL



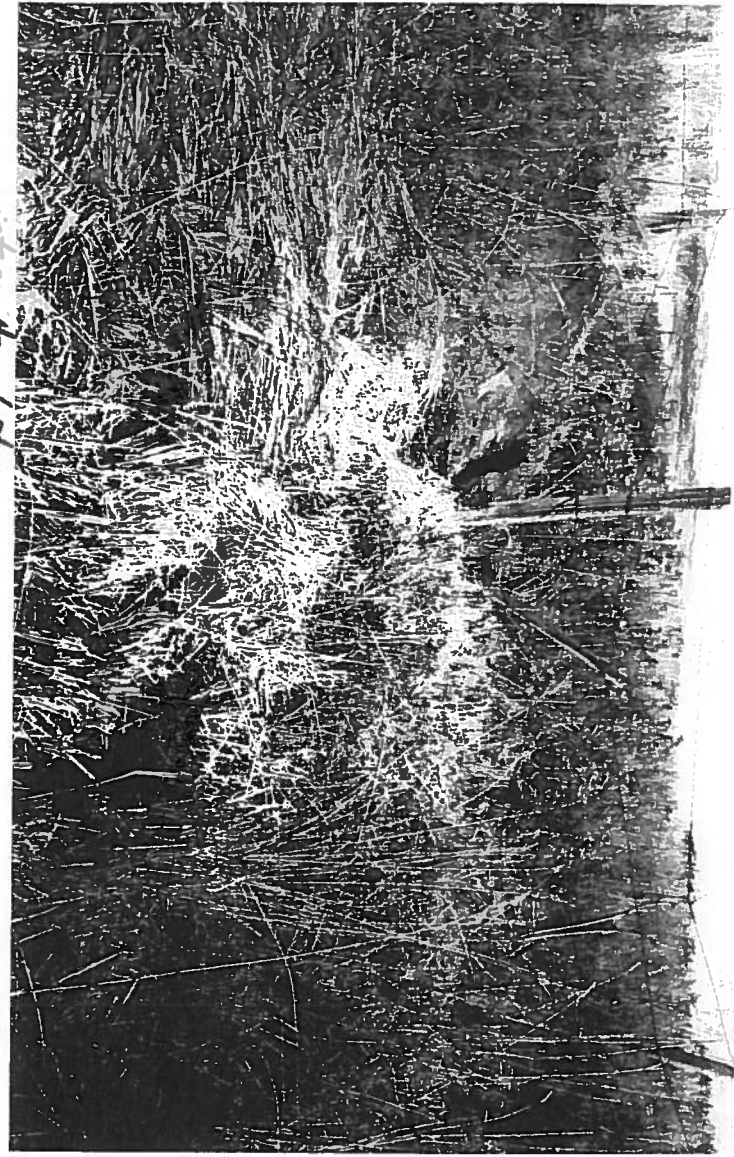
Developed Spring in 13 acre



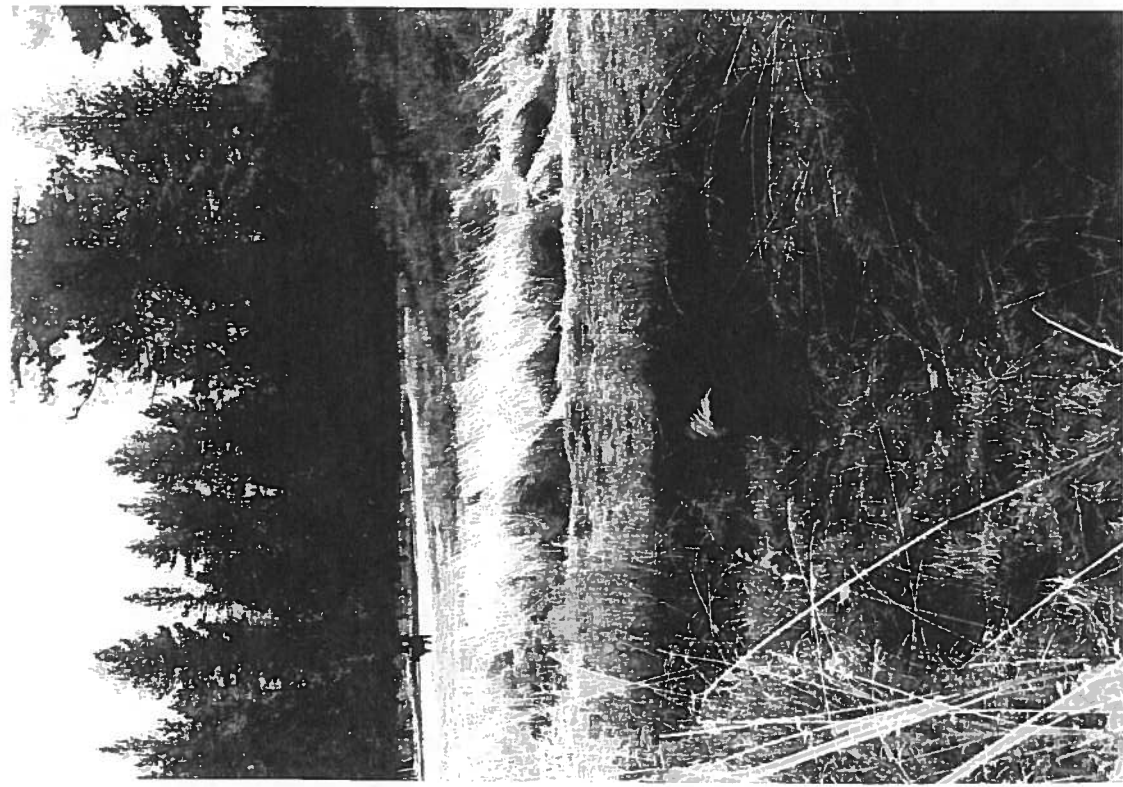


21

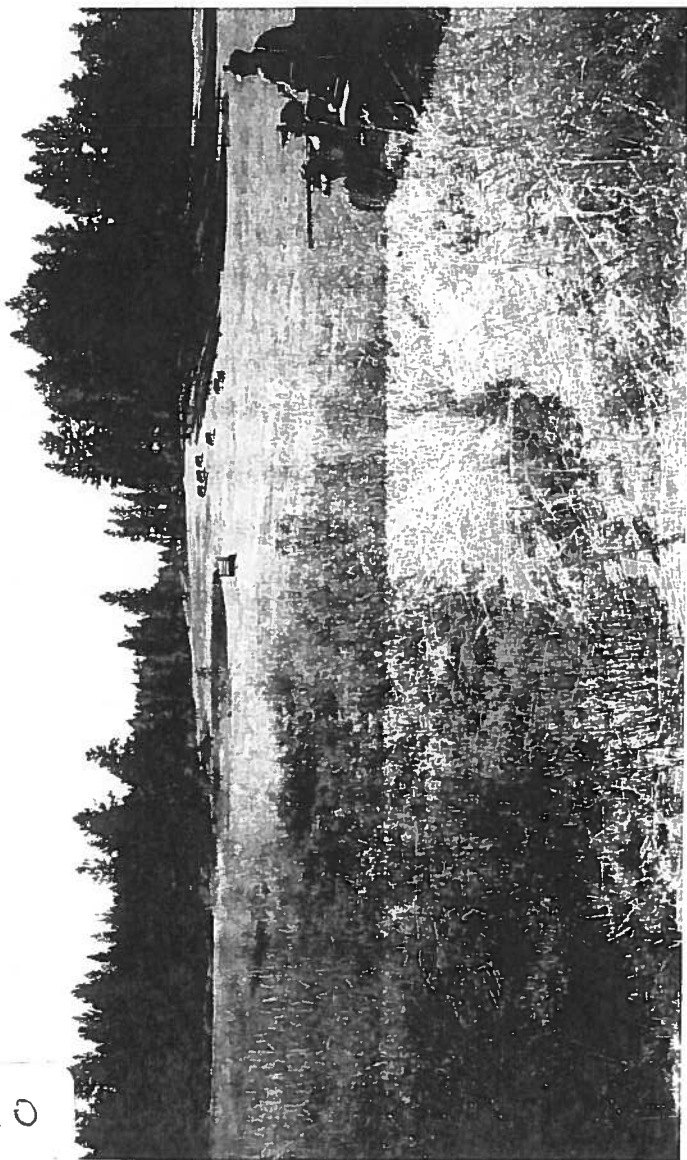
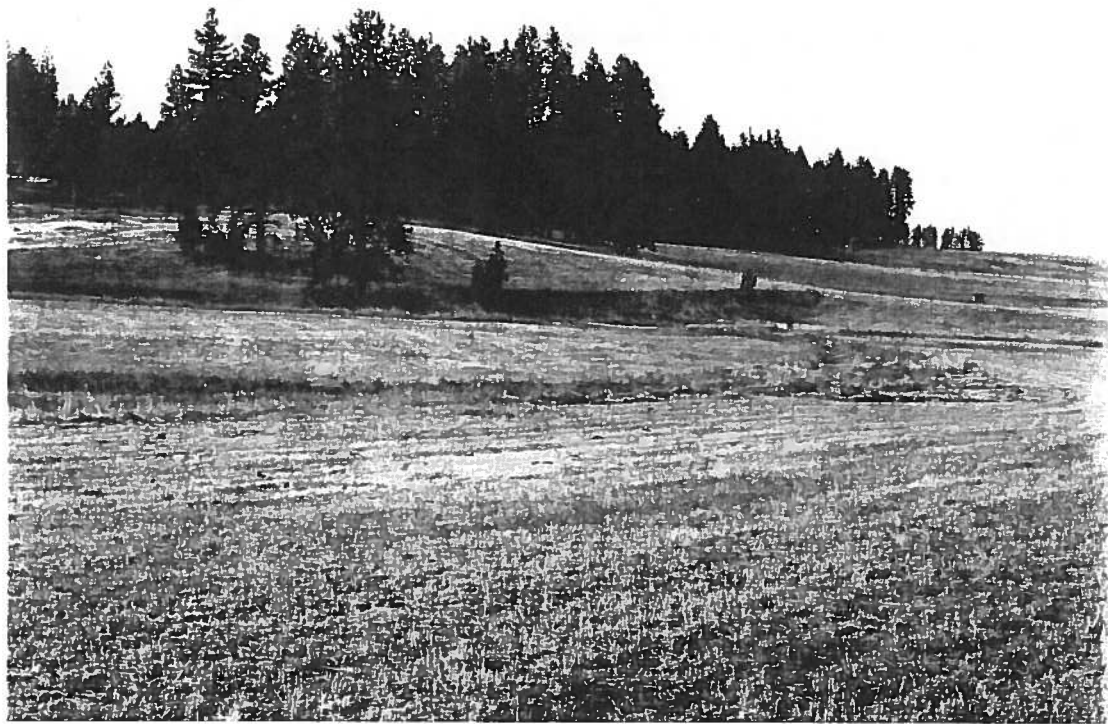
Intermittent stream below developed spring
in bare hay field - creek from property of
Qaf



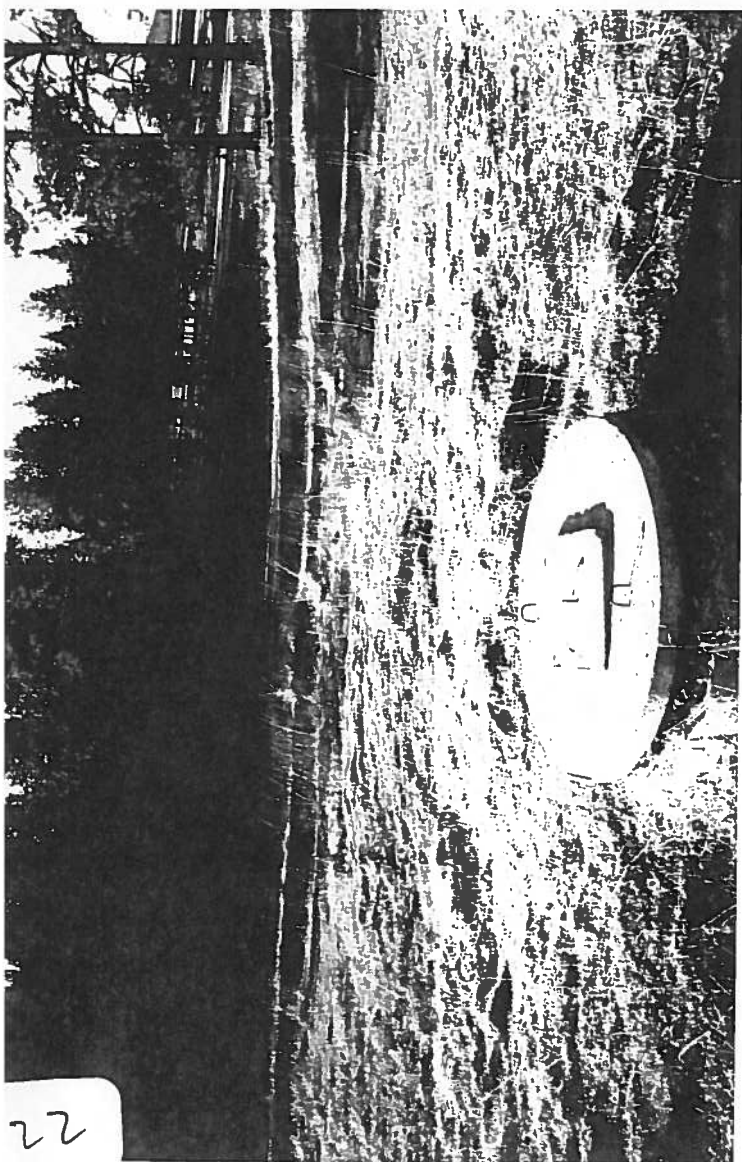
Intermittent stream channel
possibly above developed
Spring in bare hay field Qaf



13 acre hayfield
Jap

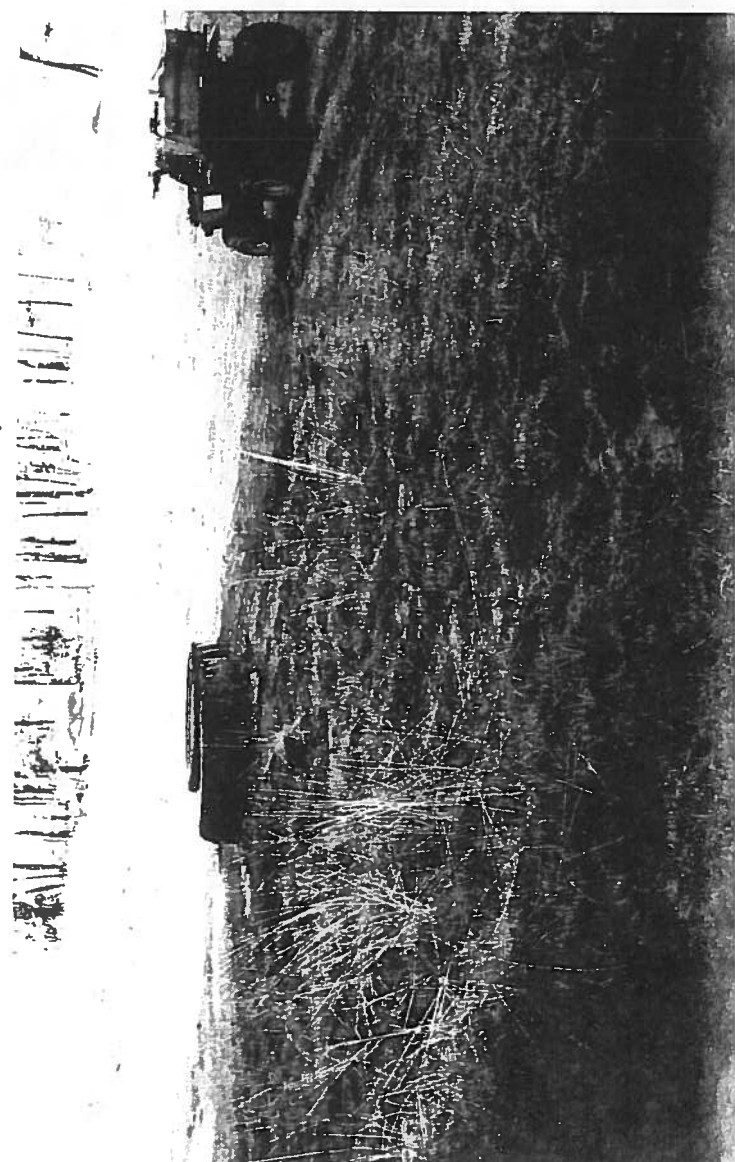


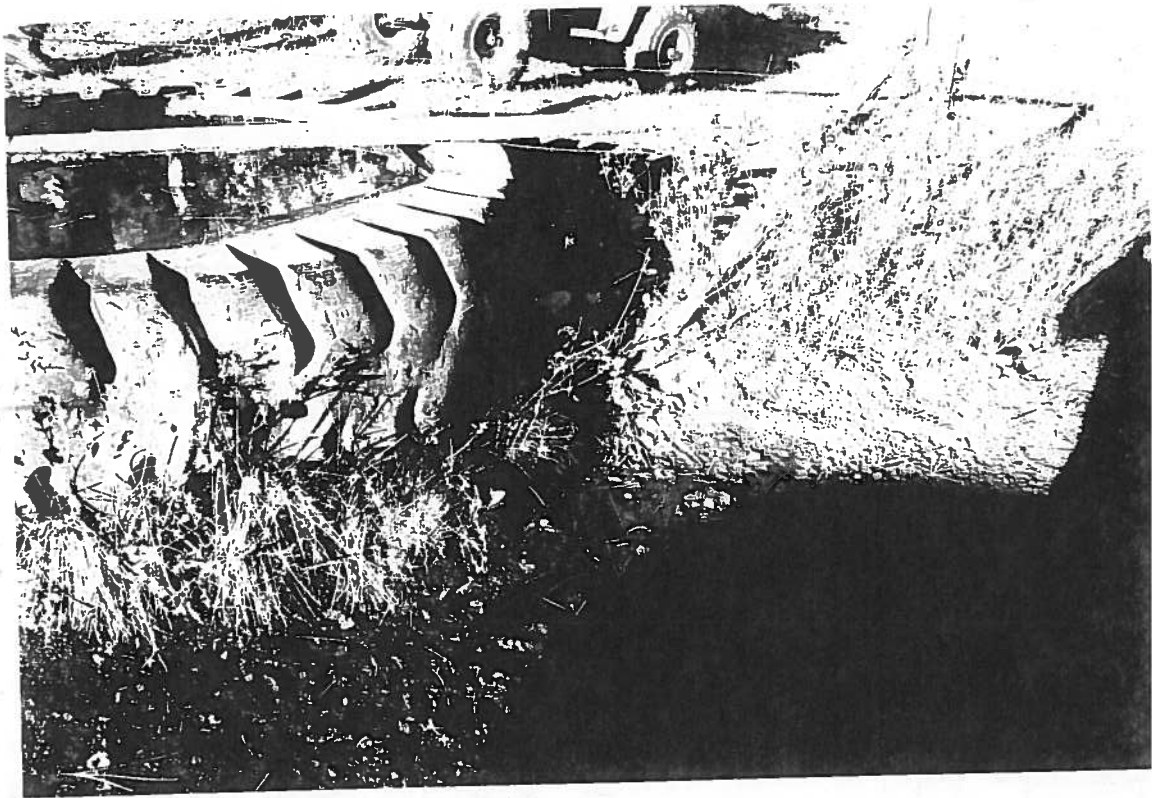
#6 NESE Lot 26 Sec 2
Double tank 900 NRL



22

Double tank w/ 900 900





24

#7 Split tent developed spring
POD above reservation line ~~POD~~
POD

JUST LOT 20 JH. C
#85-15496
T32N R2W
NRL
POD
W 70 E

(GN) CO HIR YB DO 00/25/00

764619 26/56(4R56)

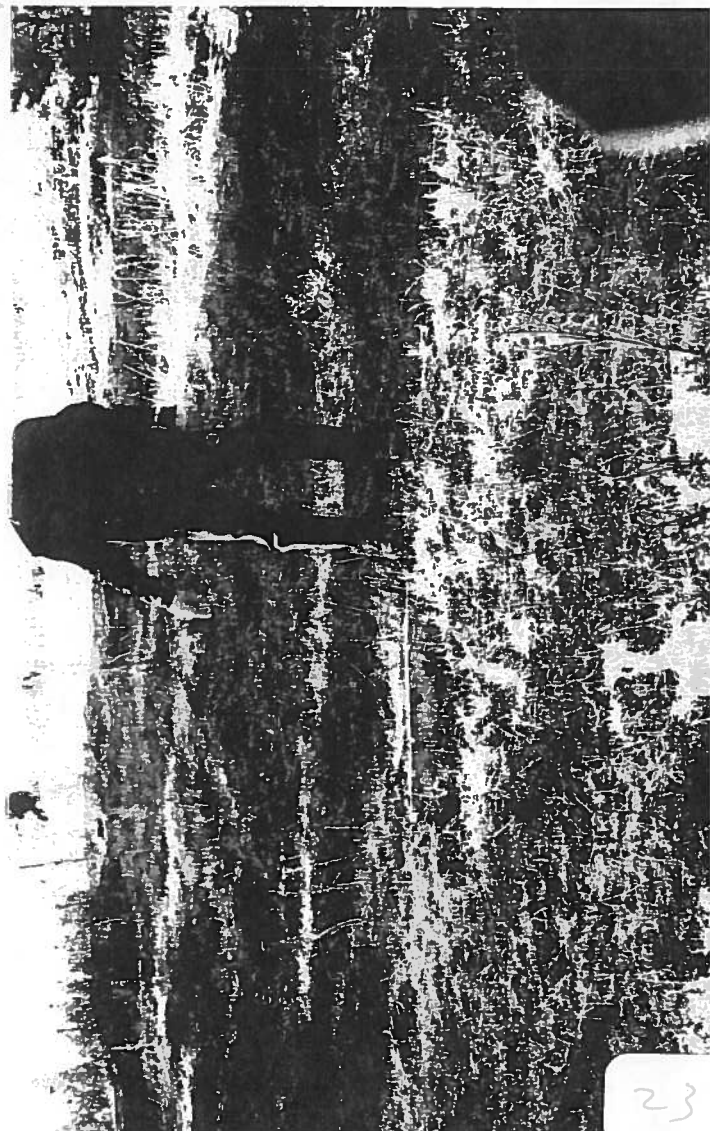


Double tank 9.



Developed spring w/ Wehren pointing to POD located above NR 2

#7 NWSE Lot 20 Sec 2
Developed spring is 2018/10/1



#8 NWSE Lot 2 Sec 2
SRL

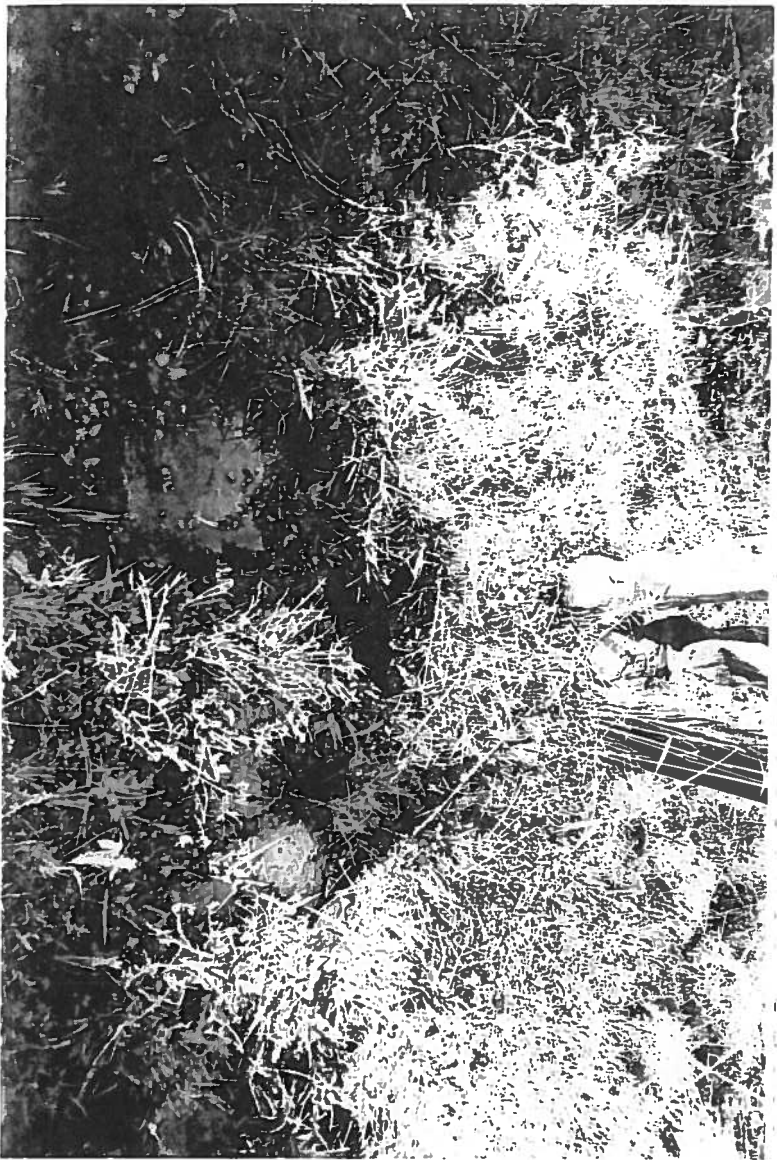


intermittent stream
channel below
split tank 962

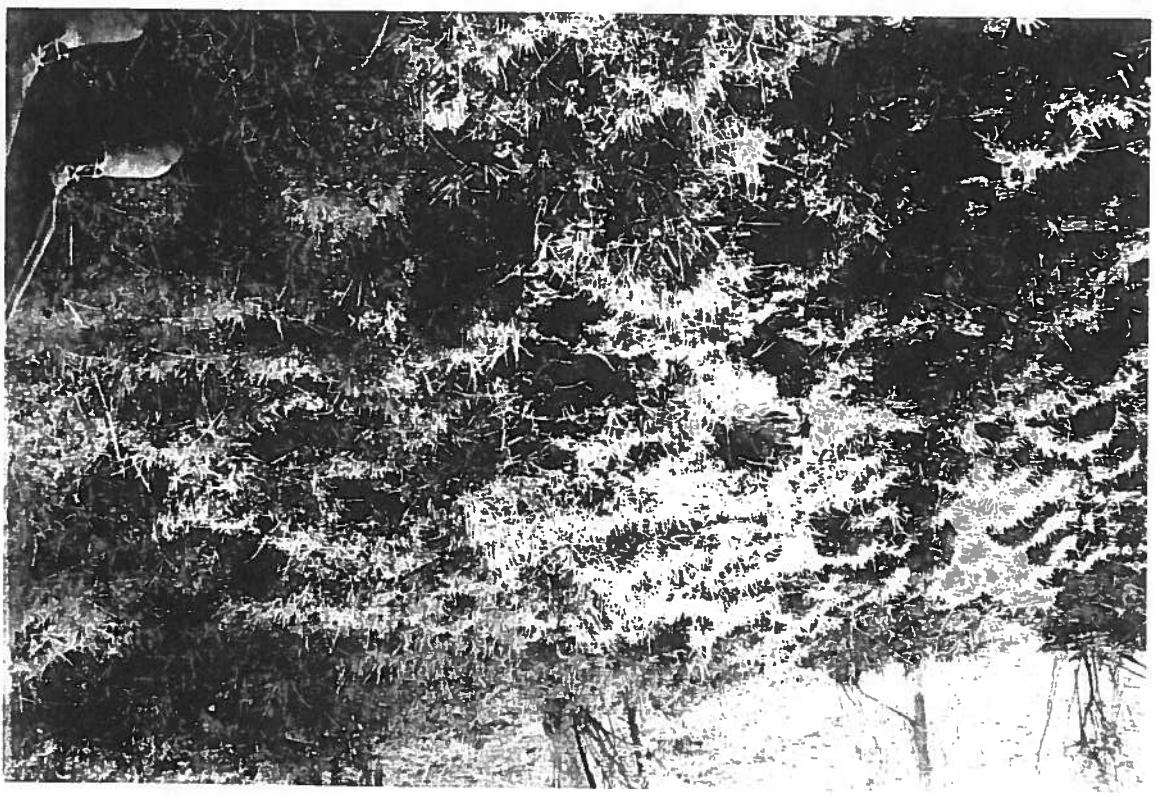
intermittent stream channel 962



#9 NWSE Lot 2 Sec 2

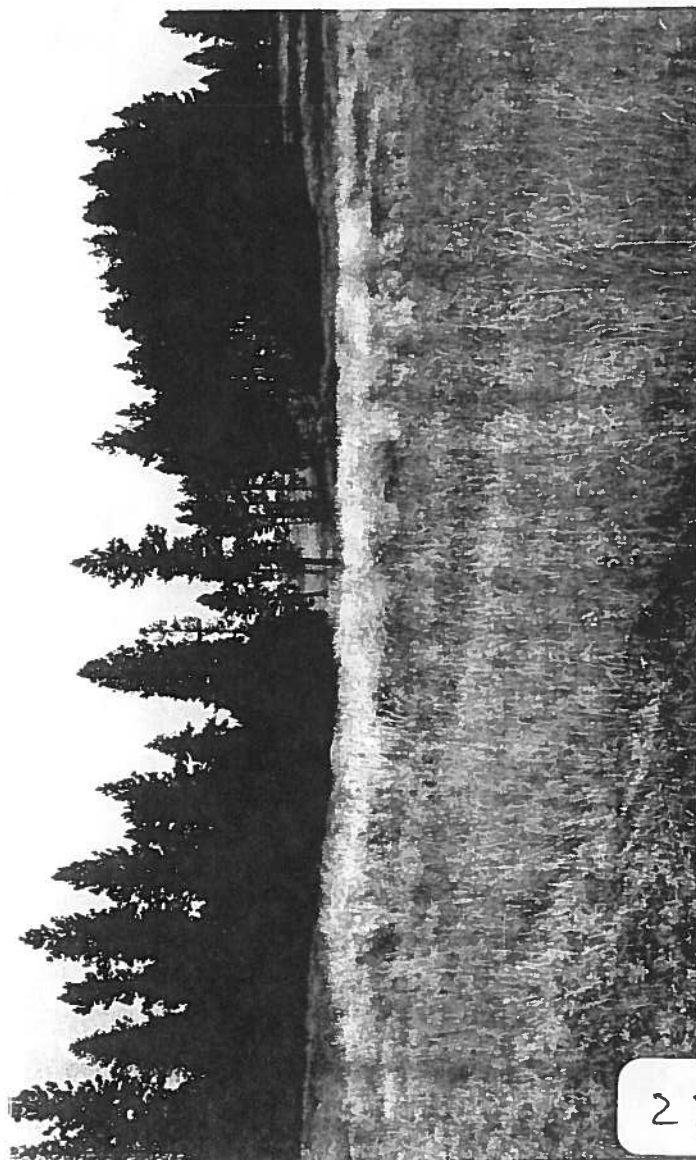
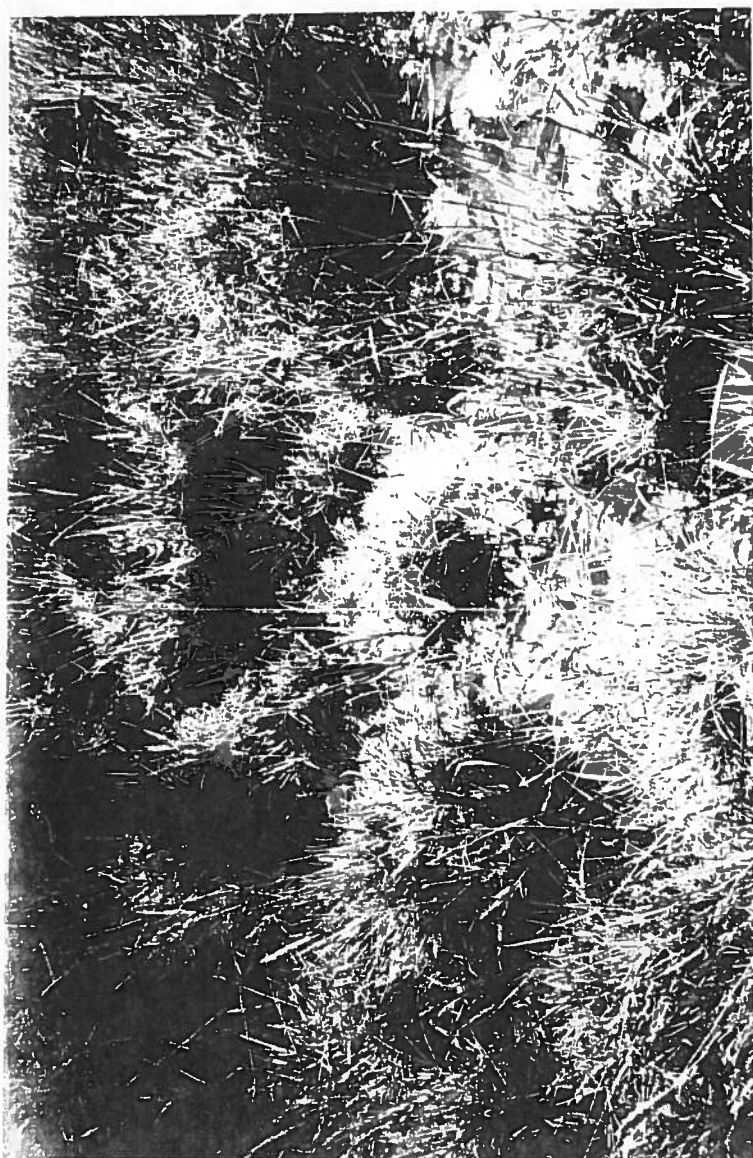


I think This is A POST
of Spring above The fence.
NOT as of This clip Been 1125
Nought for Spring Sheepment 2541.

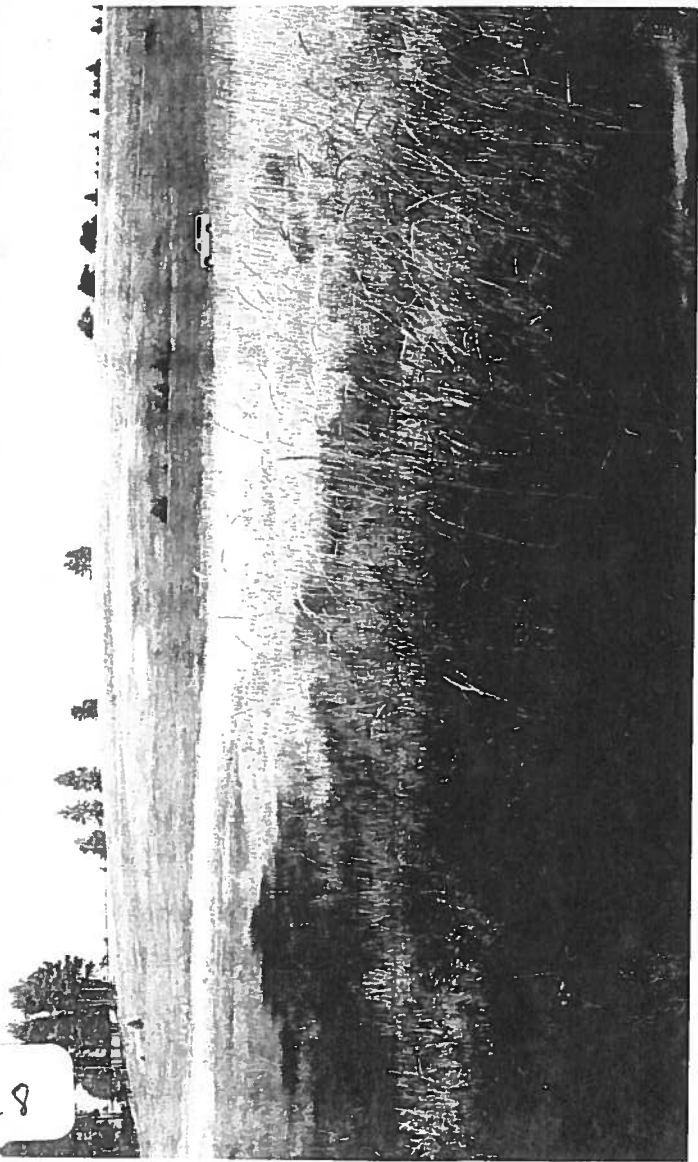
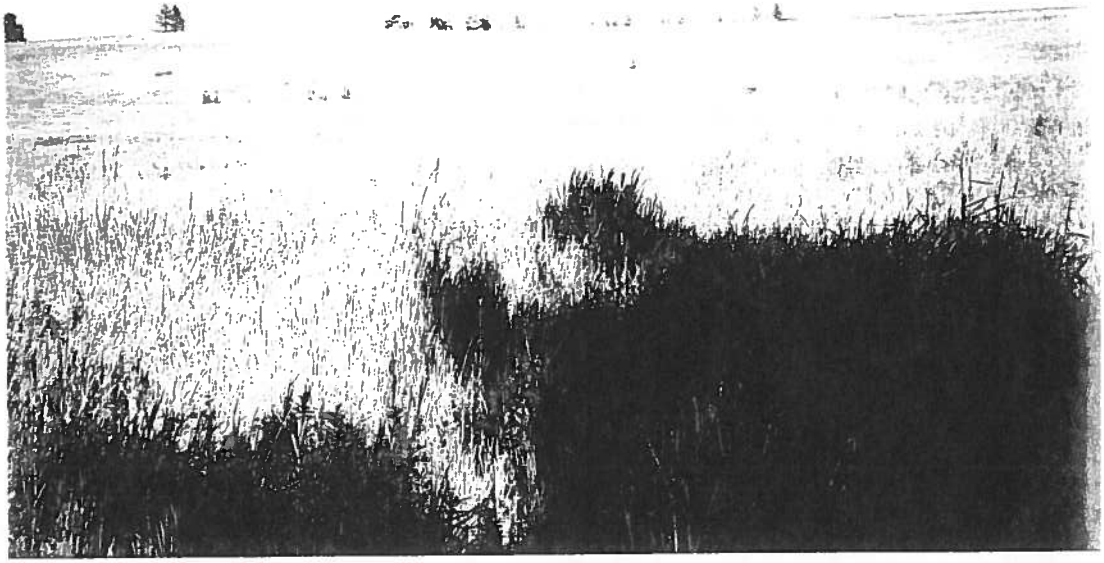




well draw above
double tank



#11 SWSE Lot 2 Sec 2
SRL

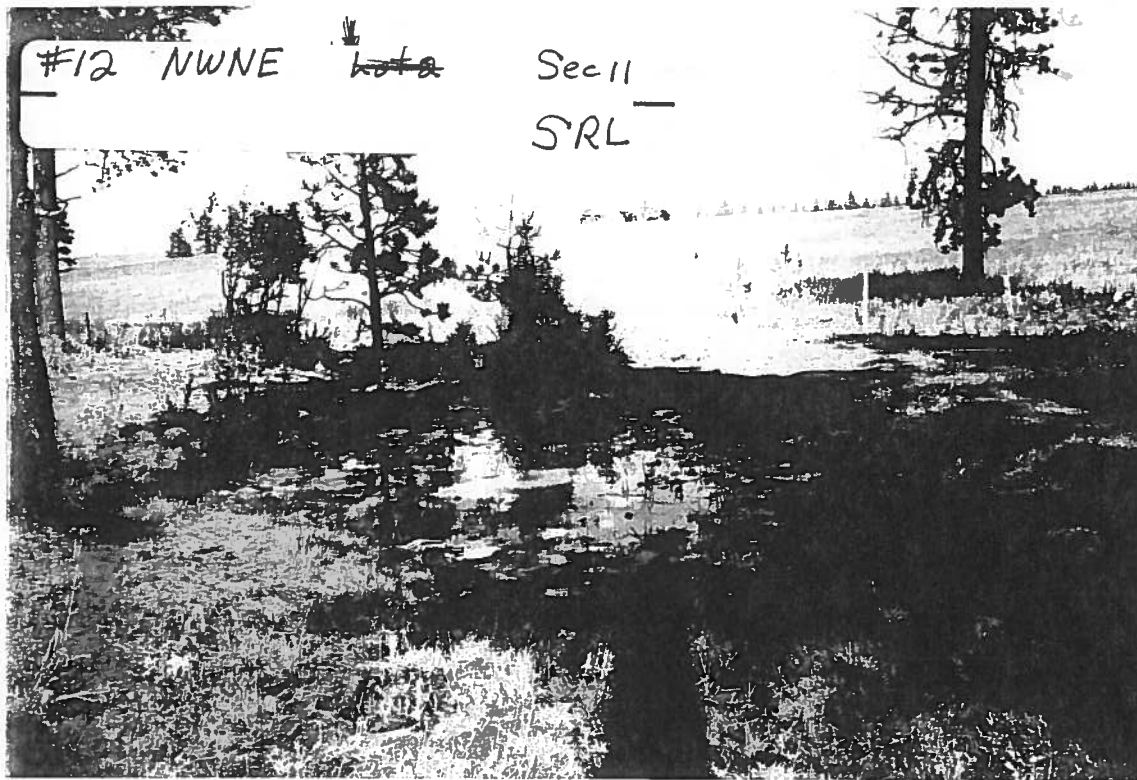


#11 To Dwp. This area - water would
Probably be found in CR. A field.

W.H.
11-25

Start undeveloped
Spring /
Surface water
S to N

#85-15486
T 32N R 2W
SRL



#12 NWNE ~~lot 1~~

Sec 11

SRL

#12

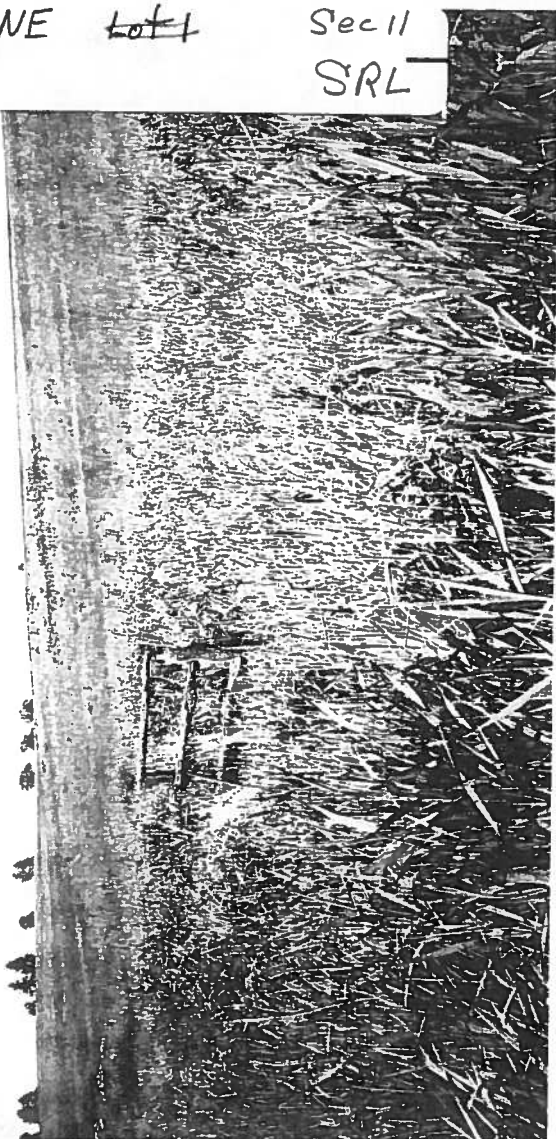
Seasonal Wet
Area - When
Rain and
Spring Time
Water is Trapped
in this Area -

W.H.
11-25

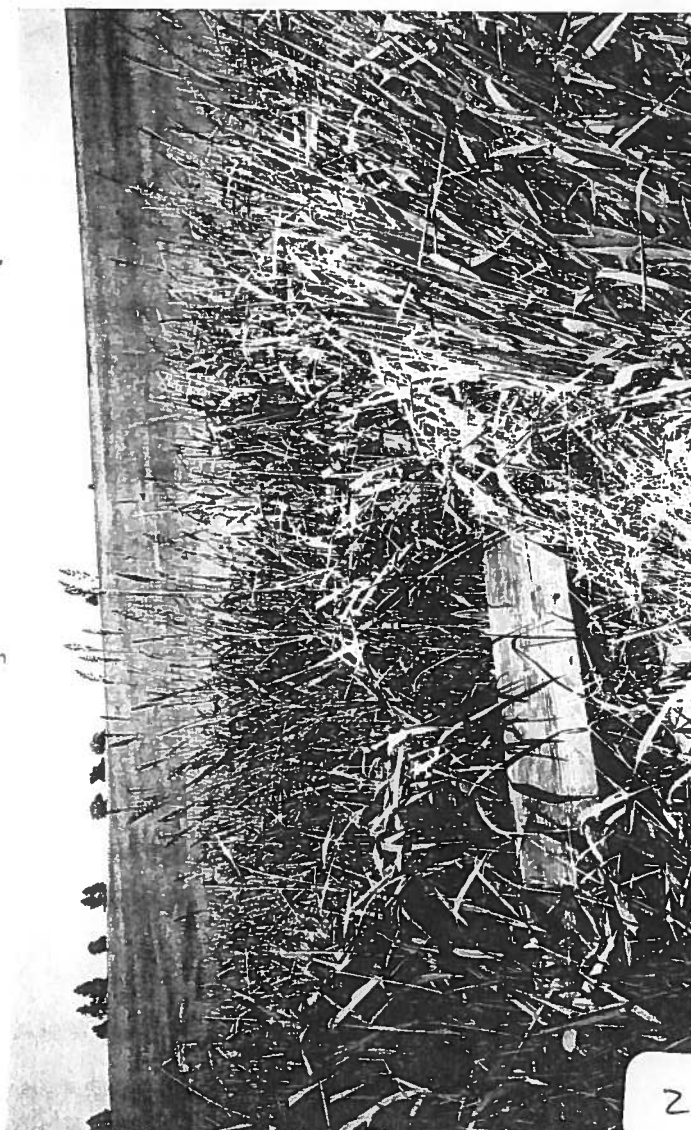
#13 NENE ~~lot 1~~

Sec 11

SRL



Developed spring with CRP ~~lot 1~~





#85 - 15 Y66

T32N R2W

SRL

#13 Developed Spang. w/in CRTD QW



30

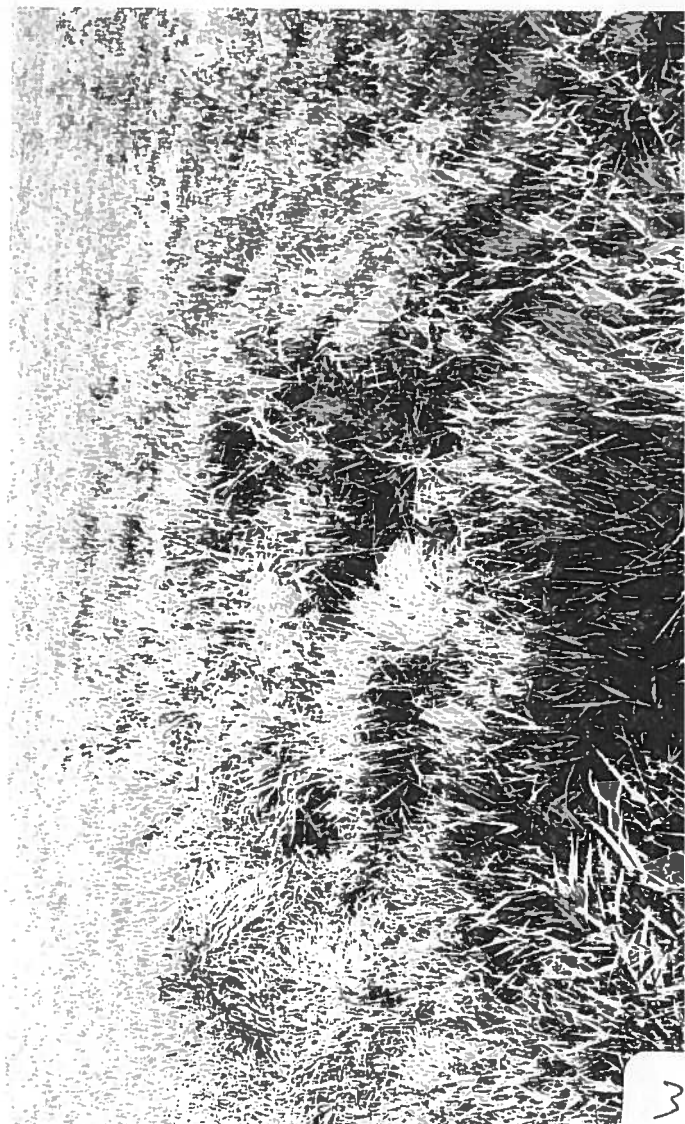
#14 NWNE Lot 2

Sec 11

SRL

W 4 11-25

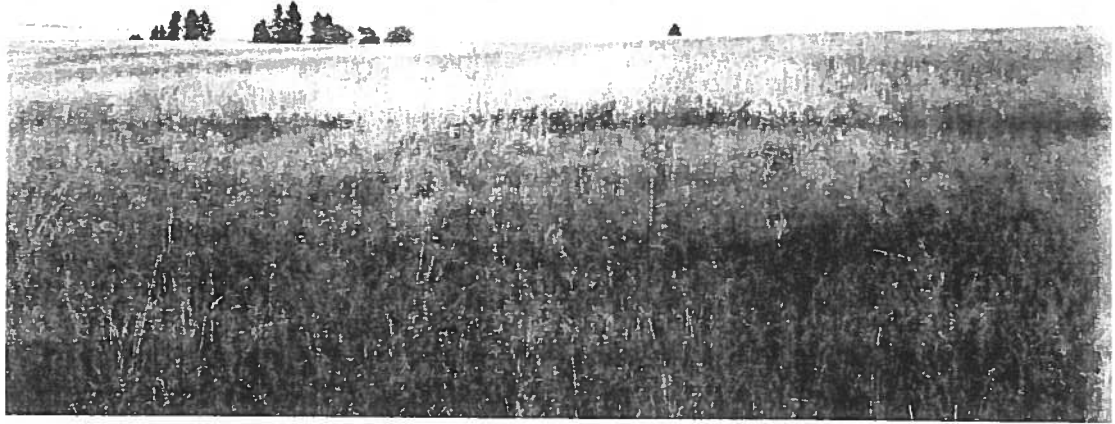
Deerwings Area
From Highway
to School



#15 NENE ~~to H~~

Sec 11

SRL



Mount for 2 Sec. 11

#85-15496

T32N R2W

SRL

Sant undeveloped

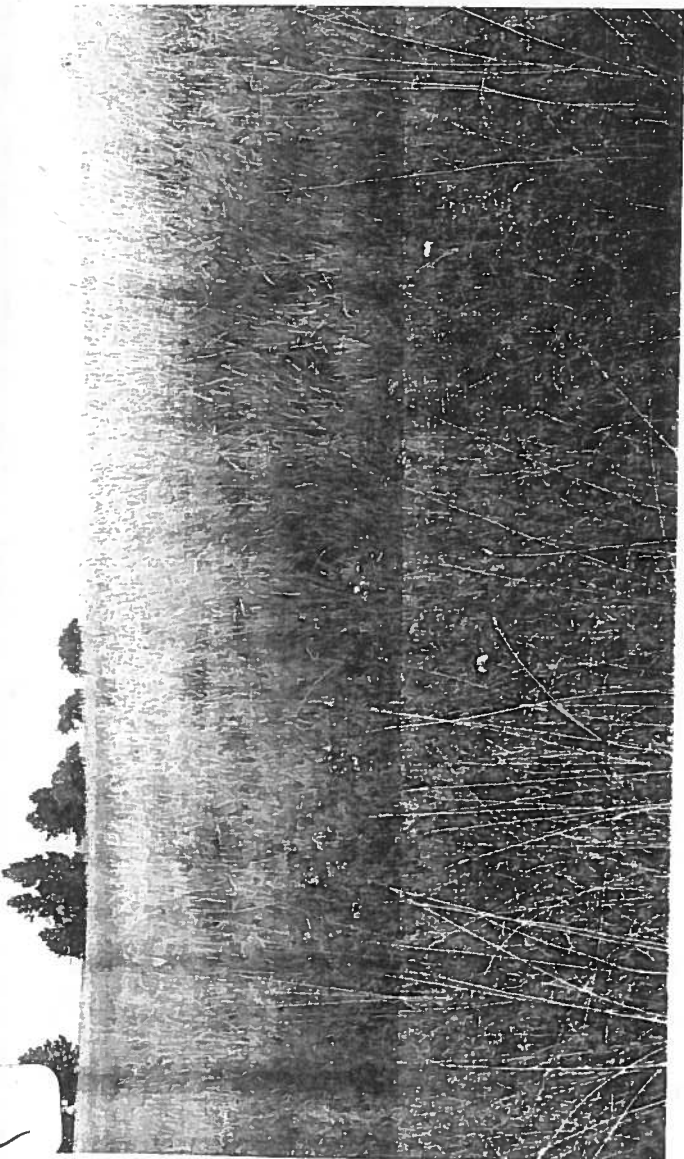
Spring / water

Picnic area

Stony drainage

Drainage to

E.

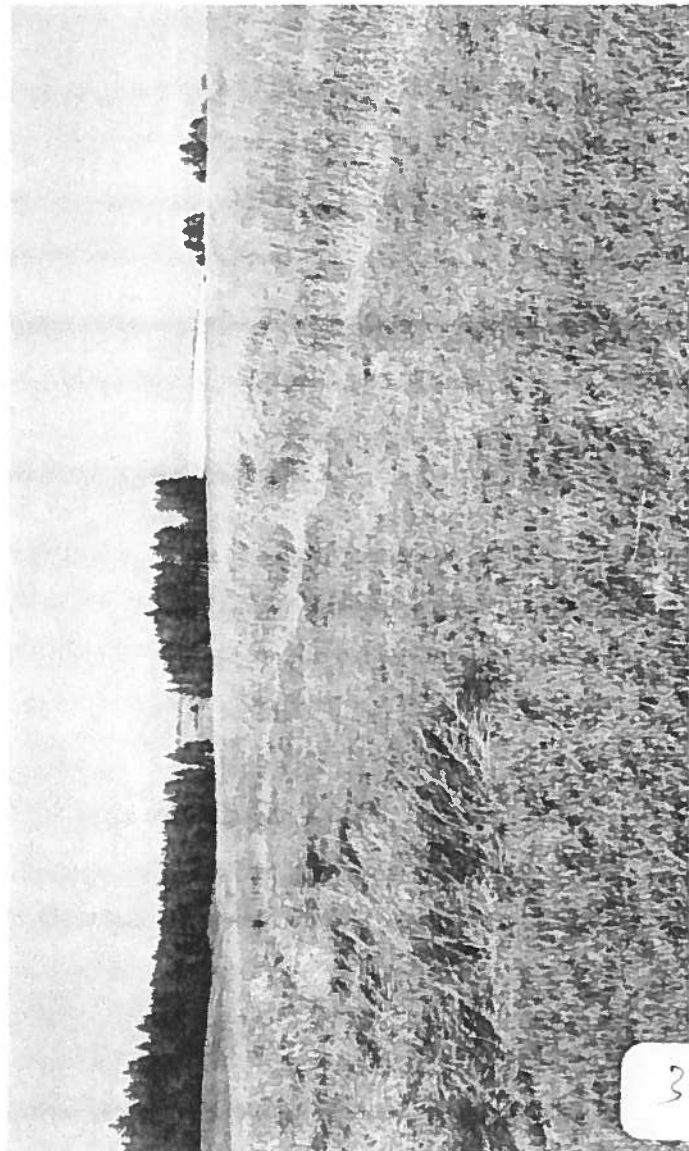
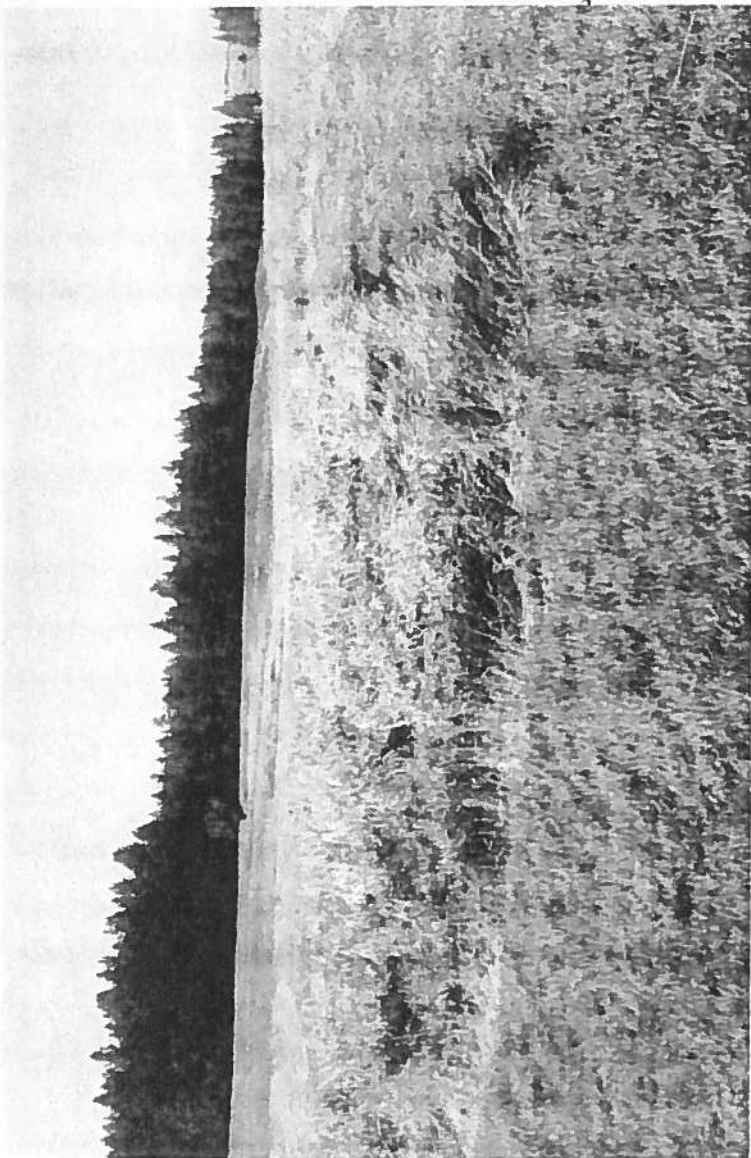


#16 NENE ~~Lot~~ Sec 11
SRL

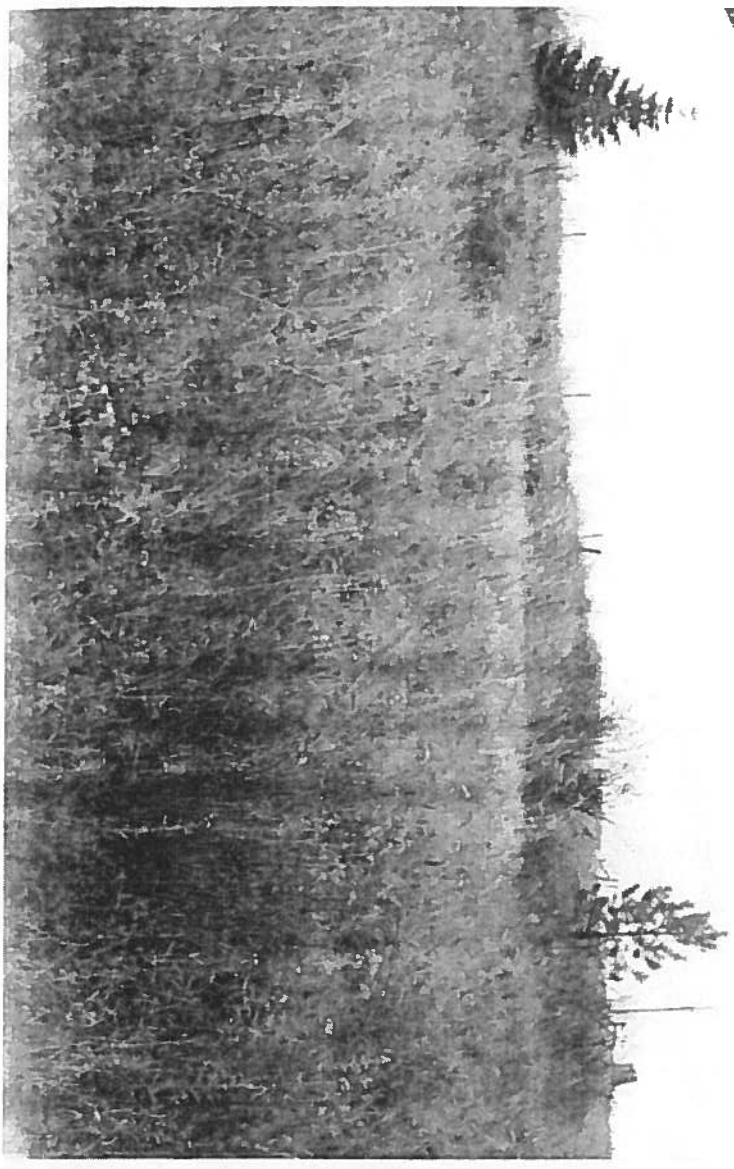


W.H. - 11-25

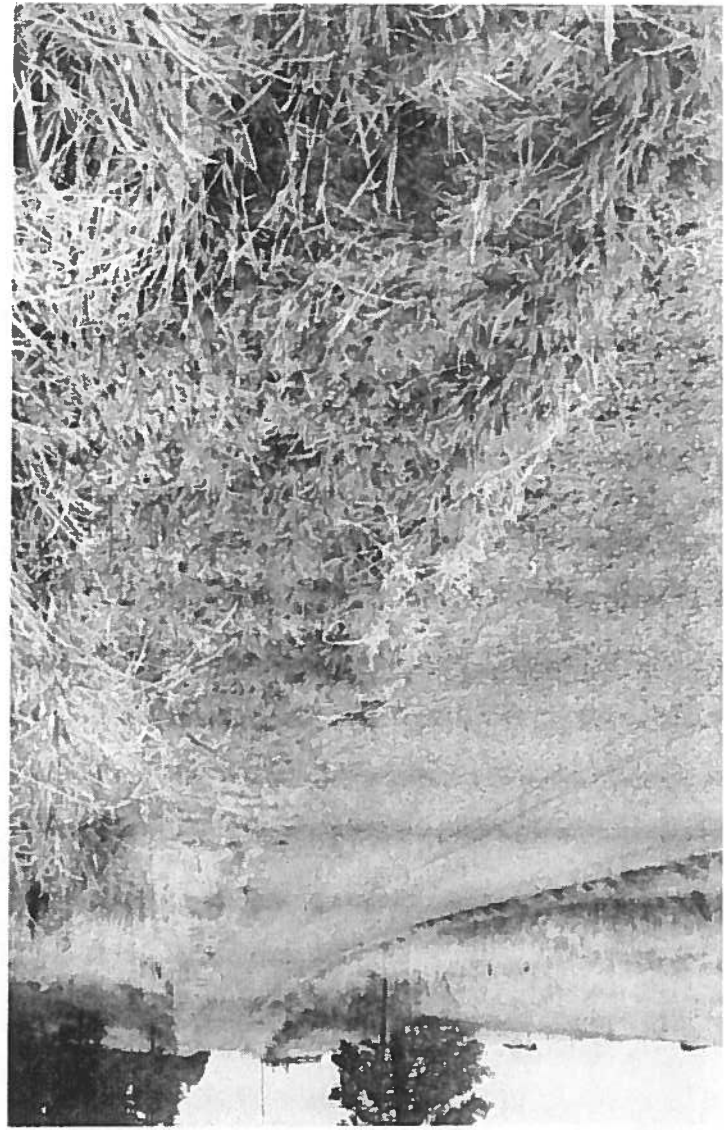
Part of Driveway
from - County
Road and
other Areas
about the
Draw



11-25
 Not Sure This is a Re-Scan
 Build - Bedline 't. NGLS
 but Meet -
 of The Mill - The lower
 The Mill Meets
 where
 Meet:
 11-25 1201 724N
 93451-58 #
 322 NGL
 205



#17 NWNE to 2
 Dec 11
 SRL



#18 AENE for
Sec II
SRL

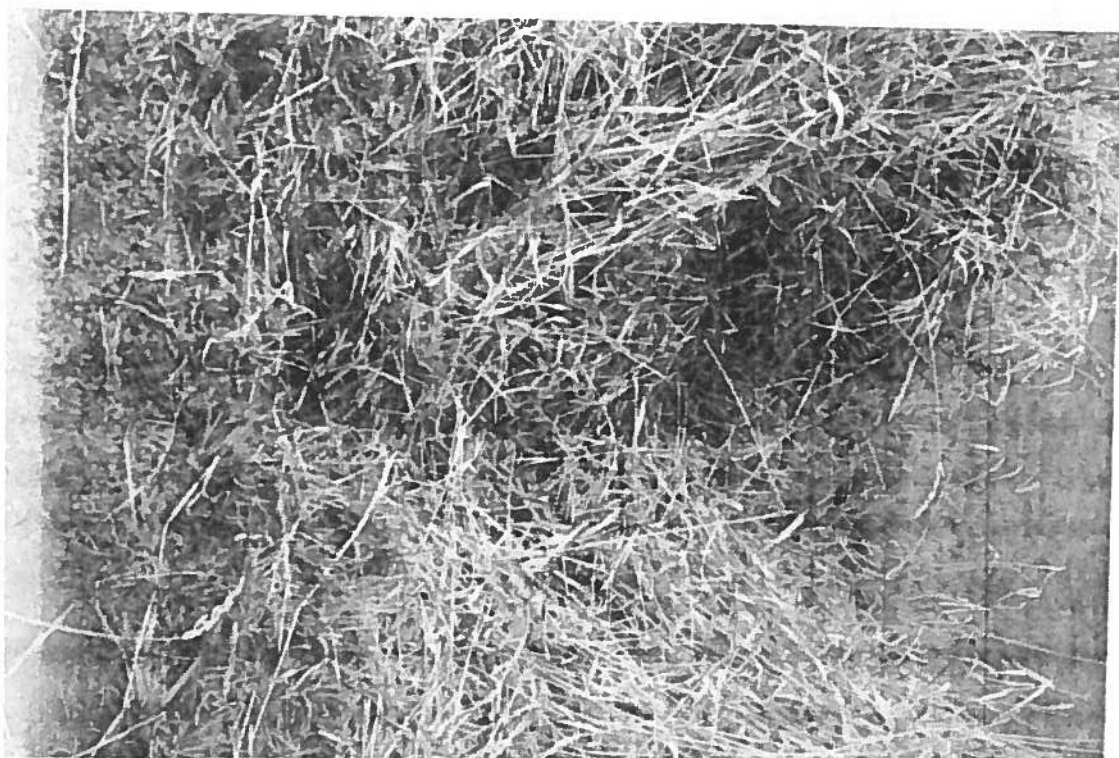
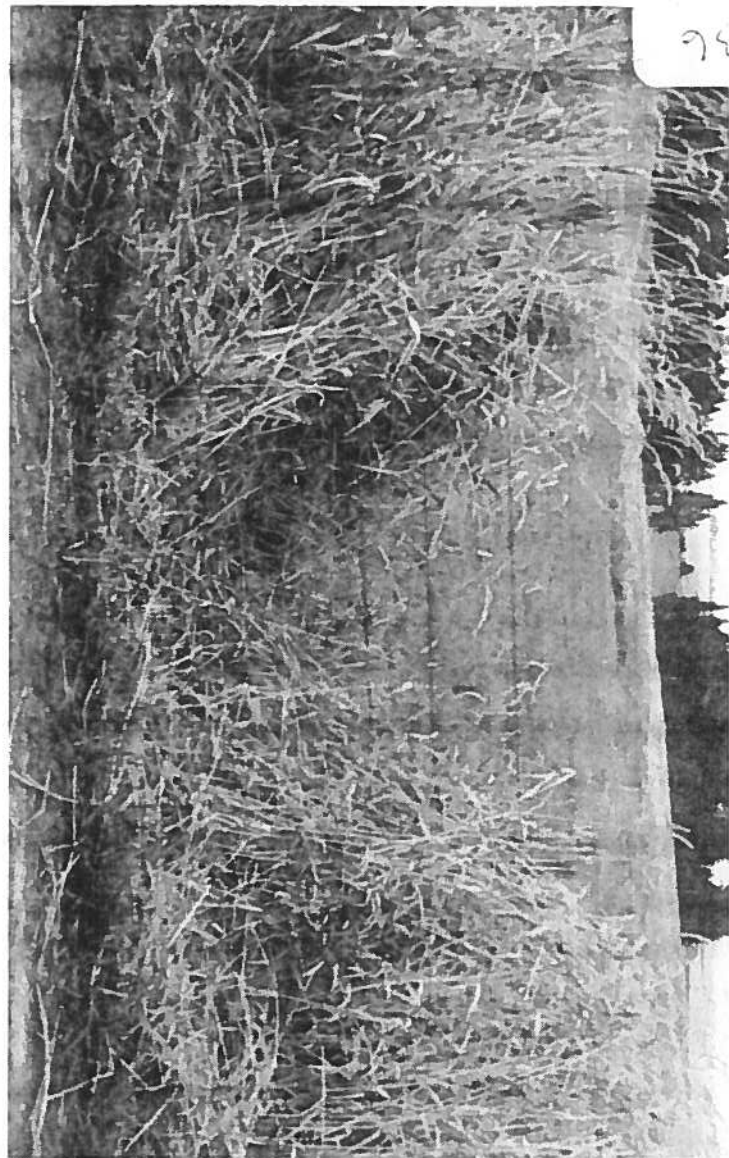
604 - 11-25
Deirage from
A. Ross County Road
to the South -
and along the
ditch for both
Road Both sides

85-15486

T30N R2W

S2L

Count



DAILY PRECIPITATION READINGS CALENDAR YEAR 2006

DAY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	DAY
1	0.22	0.01	0.01	0.31			t						1
2		0.03	0.01			0.20							2
3						0.17							3
4		0.06	0.30	0.44		0.59							4
5		0.04		0.12			0.02						5
6			0.26	0.10			0.02		t				6
7	0.11		0.07		0.13	0.08	0.02						7
8	0.25	0.05	0.02	0.29	0.09	0.51							8
9	0.01		0.01	0.05				0.03					9
10	0.01			0.11		0.14		0.09					10
11	0.09			0.12				0.09					11
12				0.04			0.01						12
13	0.03	0.05		0.22		t							13
14	0.23		0.05	0.01		0.58			0.06				14
15	0.18		0.03	0.85									15
16	0.01	0.01		0.13		0.10		0.02	0.04				16
17	0.06	0.02	0.19	0.01		0.17		0.14					17
18	t		0.09										18
19	0.28		0.01		0.05	0.03			0.47				19
20	0.07				0.47				0.04				20
21	0.02	0.01			0.03				0.70				21
22			0.02	0.01	0.10				0.30				22
23		0.02			0.30								23
24		0.18											24
25			0.68	0.03	0.10			t					25
26			0.38		0.48								26
27	0.01	t			0.05								27
28	0.01	0.10			0.30								28
29			0.02		0.23	0.05		t					29
30	0.03		0.04	0.20				0.05					30
31			0.04										31

RECEIVED
JAN 12 2007
IDWR/North

Total 1.62 0.58 2.23 3.04 2.33 2.62 0.07 0.42 1.61 0.00 0.00 0.00 T. 14.52

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Most	0.28	0.18	0.68	0.85	0.48	0.59	0.02	0.14	0.70	ERR	ERR	ERR
Least	t	t	0.01	0.01	0.03	t	t	0.00	0.00	ERR	ERR	ERR

Wettest 24 hour period for this year to date is 4/15

Average monthly precip for this year to date

Wettest month for this year to date is April

Driest month for this year to date is July

0.85

1.61

3.04

0.07

NUMBER OF DAYS IN WHICH PRECIPITATION OCCURRED

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
	18	13	18	17.00	12	12	5	8	7	0	0	0
%	58%	46%	58%	0.57	39%	40%	16%	26%	23%	0%	0%	0%

ANNUAL DAYS 110 PERCENT 40% Includes days of trace amounts.

MO.	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG YR.
AVG	2.14	1.60	2.40	2.72	3.04	2.11	1.25	1.22	1.43	1.94	2.31	1.95	24.11

DROUGHT CONDITIONS**WINCHESTER IDAHO**

MONTH	AVG.	ACTUAL	PERCENT
OCT 05	1.94	2.02	104.1%
NOV 05	2.34	1.12	47.9%
DEC 05	1.95	1.70	87.2%
JAN 06	2.14	1.62	75.7%
FEB 06	1.60	0.58	36.2%
MAR 06	2.40	2.23	92.9%
APR 06	2.72	3.04	111.8%
MAY 06	3.01	2.33	77.4%
JUN 06	2.11	2.62	124.2%
JUL 06	1.27	0.07	5.5%
AUG 06	1.22	0.42	34.4%
SEP 06	1.46	1.61	110.3%
Annual	24.16	19.36	80.1%

SRBA

SUBCASE SUMMARY REPORT 85-15496

[Return to SRBA Home Page](#)SRBA
11-28-2006

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 85-15496 FILE#: 00525
CLAIMANT: BRAUCHER, M LOUISE
PO BOX 337CRAIGMONT ID 83523
STATUS: REFERRED UNOBJECTED SPECIAL MASTER: BOOTH, THEODORE R.
WATER SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

**** PARTIES INVOLVED ****

M LOUISE BRAUCHER C PRO SE
WARREN E BRAUCHER C PRO SE
PATRICIA B SMYTH I PRO SE
DARLENE D BRAUCHER LILLEHA I PRO SE

**** ROA ENTRIES ****

08-18-2005	PARTIAL DECREE FILED		08-18-2005
11-07-2006	MOTION TO SET ASIDE PARTIAL DECREE	MF	11-07-2006
11-07-2006	ORDER OF REFERENCE APPOINTING SPECIAL MASTER THEODORE R BOOTH		
11-07-2006	AMENDED NOTICE OF CLAIM TO A WATER RIGHT		
11-07-2006	ORDER SETTING HEARING	HS	11-28-2006 0130
	MOTION TO SET ASIDE PARTIAL DECREE FILED BY		
11-28-2006	HEARING HELD ON MTN TO SET ASIDE PARTIAL	HS	11-28-2006 0130
11-28-2006	MINUTES FILED		

[Return to SRBA Home Page](#)

*Clerical error? Claim listed NESE LOT 1
Contractor listed ^{VT} 97 NESE*

RECEIVED

NOV 07 2006

Department of Water Resources
Adjudication Bureau

Civil Case # 39576
Id.# 85 -15496

List of Documents

1. LETTER OF MOTION TO SET ASIDE PARTIAL DECREE # 85-15496.
2. AMENDED NOTICE OF CLAIM TO A WATER RIGHT CIVIL CASE #39576, ID. # 85-15496.
3. IDWR NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP FORM # 42 - 248 / 42-1409(6), JULY, 2000.
4. PARTIAL DECREE FOR # 85-15496.
5. SRBA SUBCASE REPORT # 85-15496.
6. LETTER FROM WARREN E. BRAUCHER EXPLAINING OWNERSHIP CHANGE.
7. SUPPORTING DOCUMENTS:
 - a. PHOTO'S WITH LOCATION WRITTEN ON BACK OF PHOTOGRAPH'S.
 - b. ARIEAL PHOTOGRAPH OF #85-15496 / T32N R2W WITH CURRENT CLAIMED LOCATIONS OF WATER SOURCES.
 - c. PLOT MAP OF # 85-15496 / T32N R2W WITH LOT, ACRES, SECTION#'S AND OUTER AND INNER BOUNDARIES WITH AMENDED LOCATIONS OF WATER SOURCES.
 - d. TOPOGRAPHIC MAP OF #85-15496 / T 32N R2W.
 - e. ARIEAL PHOTOGRAPH OF LAYOUT OF IDENTIFYING SPECIFIC ITEMS ON # 85-15496 / T32N R2W IE. PROPERTY LINE, ROAD SYSTEM, CLASS II STREAM, RESIDENCE WITH ONLY 3 IDENTIFIED SPRINGS OF WHICH WAS PREPARED BY JOHN D. LILLEHAUG OF THE IDAHO DEPARTMENT OF LANDS DATED 1/ 6/04.
 - f. ORIGINAL NOTICE OF CLAIM TO A WATER RIGHT - CIVIL CASE #39576, ID. # 85-15496, DATED 10/18/04.
 - g. ASSESSOR'S PARCEL MASTER INQUIRY FOR # 85-15496.
 - h. ELLNA M. LUNDERS (DECEASED) FINAL DECREE OF LIFE ESTATE / CUSTODY TO MARY LOUISE BRAUCHER (DAUGHTER TO ELLNA M. LUNDERS).

- i. QUICK CLAIM DEEDS FOR DARLENE DEE LILLEHAUG FROM MARNYCE CONNIE BRAUCHER VALLEM ANDERSON, JUDY KAE BRAUCHER GLAUNER, AND PATRICIA BERNADINE CROW SMYTH.
- j. DEATH CERTIFICATE OF MARY LOUISE BRAUCHER.
- k. WARRANTY DEED TO PATRICIA B. SMYTH AND DARLENE DEE LILLEHAUG.
- l. LEWIS COUNTY, IDAHO PARCEL MASTER INQUIRY FOR T32N R2W WITH LEGAL OWNERS PATRICIA B. SMYTH LIVING TRUST AND DARLENE DEE LILLEHAUG.

October 30 , 2006

To: Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID. 83303-2707

Attn: Judge John Melanson

From: Patricia B. Smyth
1436 Bryden Avenue
Lewiston, ID. 83501
Home Phone # 208-798-1674

Subject: Letter of Motion to set aside Partial Decree #85-15496

Dear Judge Melanson;

I have been instructed by your court clerk and Greg Taylor (Sr. Water Source Agent at Coeur d'Alene, ID.) to ask you to set aside the Partial Decree # 85-15496. Reasons for this letter to set aside is due to the following:

1. Original Notice of Claim to a Water Right with received date stamped 10/18/04 by IDWR, has on Line #4, Additional points of diversion, NESE Lot 17 Sec.2. This location isn't owned by me. This location is owned by Clifford & Mickey Kinzer, who are landowners adjacent to # 85-15496.
2. I had my husband, Michael E. Smyth (1436 Bryden Ave., Lewiston, ID.) attended a Public Meeting at Riggins, ID. on 9/6/06 for purposes of learning more of the SRBA and IDWR process. Since this public meeting, I had my husband survey and document any and all water sources on # 85-15496. We have discovered through his efforts and documentation, that additional, unreported water sources on # 85-15496 need to be recorded as being on this property. He has been in telephone contact with Greg Taylor and Dave LePart of the IDWR at Coeur d'Alene, ID. and they have been greatly informative on how to inform the court for the changes that need to be done for # 85-15496.
3. Ownership of # 85-15496 has been transferred to Patricia B. Smyth and Darlene D. Lillehaug (daughters) of Mary Louise Braucher (mother) who passed away on 12/28/05).

Your attention to this letter to set aside Partial Decree #85-15496 would be greatly appreciated. #85-15496 / T32N R2W is currently set for court trial in Lewis Co., ID. for February 26 & 27, 2007 for the division of this land parcel by myself and Darelene Dee Lillehaug. It is imperative and my prayer that this matter can be expedited in an expeditious manner. Your time and consideration in this matter is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Patricia B. Smyth". The signature is written in dark ink and is positioned above the printed name.

Patricia B. Smyth

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 AMENDED
Identification No. 85-15496
Date Received _____
Receipt Number _____

**NOTICE OF CLAIM
TO A
WATER RIGHT**
ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.

~~Filing Fee \$25~~

Please type or print clearly

1. Name of Claimant (s) WARREN E. BRANCHER Phone (208) 924-5639
Mailing Address P.O. Box 337, CRAIGMONT, ID. 83523 Zip _____
2. Date of Priority (Only one per claim) 12/31/1918 Month/Day/Year
3. Source of water supply (Check one) () Groundwater or Other ☒ (a) SPRING / SURFACE
Name or kind of source
which is tributary to (b) NORTH FORK WILLOW CREEK
4. Location of point of diversion is: Township 32N Range 2W
Section 2, SE 1/4 of N/E 1/4 of N/W 1/4, Govt. Lot 5 (x2), BM.,
County of LEWIS
Additional points of diversion if any: SE NW LOT 22 SEC. 2, NE SE LOT 18 SEC. 2 (x2) (SEE ADDITIONAL PAGE)
5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. DEVELOPED SPRINGS PIPED TO HOME AND TROUGHS
6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

	Month/Day	Month/Day	(cfs)
For <u>DOMESTIC</u> purposes from	<u>1/1</u>	to <u>12/31</u>	amount <u>.04</u>
	(Both dates are inclusive)		
For <u>STOCKWATER</u> purposes from	<u>1/1</u>	to <u>12/31</u>	amount <u>.04</u>
7. Total quantity claimed .04 (cfs)
8. Total consumptive use claimed is de minimus
9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) DOMESTIC, 1 HOME, STOCKWATER, 80 HEAD

10. Place of use is: Township: 32N Range 2W
Section 2, NE 1/4 of NW 1/4, Govt. Lot 5, B.M.,

for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any _____

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

12. 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.

13. Describe any other water rights used at the same place and for the same purposes as described above.
() None or _____

14. Remarks: P.O.U. FOR STOCKWATER IS SAME AS ALL P.O.U. FOR
DOMESTIC IS NENW SEC. 2 LOT 5

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number 85-15496

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) X Warren E. Brasher Date 9-22-06
Patricia B. Smyth Date 9/22/06

For Organizations: I do solemnly swear or affirm that I am _____

_____ Title
of _____, that I have signed the foregoing
Organization
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 _____

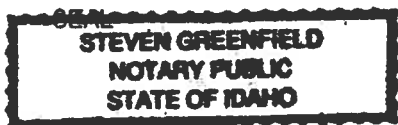
State of Idaho/or _____)

County of NEZ PERCE)

SS.

NOTARIZATION REQUIRED FOR EACH CLAIM

Subscribed and sworn (or affirmed) before me this 22nd day of SEPTEMBER 2006



Notary Public SE [Signature]

Residing at Wells Fargo Bank

My Commission Expires 09/06/2011

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

Amended Notice of Claim To A Water Right Civil Case Number 39576

ID. # 85-15496

Line #4 (Additional points of diversion) continuation:

North of the Reservation Line

NWSE Lot 20 Section 2

SESE Lot 26 Section 2

- Old Notice of Claim to Water Right dated 10/18/04 (NESE Lot 17) is to be deleted due to not owning this lot.

South of the Reservation Line

NWSE Lot 2 Section 2 (x's 2)

SESE Lot 1 Section 2

SWSE Lot 2 section 2

NWNE Lot 2 Section 11 (x's 3)

NENE Lot 1 Section 11 (x's 4)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	<u>85-15496</u>	☐			☐
		☐			☐
		☐			☐
		☐			☐
		☐			☐

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR
 If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) M. LOUISE OR WARREN F. BRANCHER
P.O. BX. 337, CRAIG MONT, ID. 83523 PA. 208-924-5639
4. New Owner/Claimant(s) PATRICIA B. SMYTH
 Name Connector (Check one): ☐ and, ☐ or, ☒ and/or
- New Mailing Address 1436 BRYDEN AVE.
- City, State and ZIP Code CRAIG MONT, ID. 83501
- New Telephone Number (208) 798-1674
5. Date you acquired the property 12/28/05

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Patricia B. Smyth

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney. If you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

State of Idaho
Department of Water Resources
Notice of Change in Water Right Ownership
Form # 42-248/42-1409(6) July, 2000

Line #4 New Owner /Claimant(s) continuation:

Darlene Dee Lillehaug
1303 Ponderosa, McCall, ID.

Mailing Address:
P.O. Box 1250
McCall, ID. 83638

2005 AUG 18 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA)
)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 85-15496

NAME AND ADDRESS: M LOUISE BRAUCHER
 WARREN E BRAUCHER
 PO BOX 337
 CRAIGMONT, ID 83523

SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

QUANTITY: 0.04 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 12/31/1918

POINT OF DIVERSION: T32N R02W S02 LOT 5 (SENENW) Within Lewis County
 LOT 5 (SENENW)
 LOT 19 (NWSE)
 ~~LOT 17 (NESE)~~
 LOT 26 (SESE)
 S11 NWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.04 CFS
	Domestic	01-01 TO 12-31	0.04 CFS

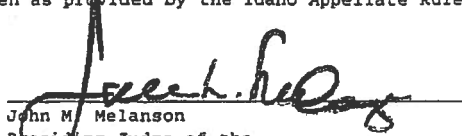
PLACE OF USE:	Stockwater	Within Lewis County
	T32N R02W S02 LOT 5 (NENW)	LOT 17 (NESE)
	LOT 19 (NWSE)	LOT 26 (SESE)
	S11 NWNE	
	Domestic	Within Lewis County
	T32N R02W S02 LOT 5 (NENW)	

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a
determination of historical beneficial use.
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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

SRBA

SUBCASE SUMMARY REPORT 85-15496

[Return to SRBA Home Page](#)

SRBA
09-07-2006

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 85-15496 FILE#: 00000
CLAIMANT: BRAUCHER, M LOUISE
PO BOX 337

CRAIGMONT ID 83523
STATUS: PD ISSUED SPECIAL MASTER:
WATER SOURCE: SPRING TRIBUTARY: NORTH FORK WILLOW CREEK

**** PARTIES INVOLVED ****

M LOUISE BRAUCHER	C PRO SE
WARREN E BRAUCHER	C PRO SE

**** ROA ENTRIES ****

08-18-2005 PARTIAL DECREE FILED

08-18-2005

[Return to SRBA Home Page](#)

September 22nd, 2006

To: Greg Taylor, Senior Idaho Department Water Resource Agent
7600 Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83814

Subject: Change in ownership on land parcel #85-15496

I, Warren E. Braucher, an Idaho Resident since 1937 and living at 308 4th Avenue, Craigmont, Idaho 83523 (mailing address of Post Office Box 337, at Craigmont, Idaho 83523) was husband to Mary Louise Braucher, who had inherited from her mother (Ellna M. Lunders) a LIFE CUSTODY / ESTATE on land parcel #85-15496, dated 10/27/1975.

Louise passed away on 12/28/2005 of which land parcel #85-15496 transferred a 50% / 50 % undivided interest to Patricia Bernadine Braucher Smyth of 1436 Bryden Ave., Lewiston, Idaho 83501 and Darlene Dee Braucher Lillehaug of 1303 Ponderosa, McCall, Idaho, mailing address Post Office Box 1250, McCall, Idaho 83638. (See attached copy of Ellna M. Lunders decree of settlement of final account and final distribution – District Court of the Second Judicial District of the State of Idaho, in and for the County of Lewis, Case # P212 dated September 20, 1983 and signed by Magistrate Judge Michael J. Griffin of Grangeville, Idaho).

Sincerely,

Warren E. Braucher

Warren E. Braucher

SE

EXP 09/06/2011

STEVEN GREENFIELD
NOTARY PUBLIC
STATE OF IDAHO

Cc to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Ave. North
Twin Falls, ID. 83303 - 2707

IDWR Document Depository
P.O. Box 83720
Boise, ID. 83720 - 0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83711 - 4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID. 83724

#1 NENW Lot 5 Sec 2
NRL



2 NENW Lot 5 Sec 2
NRL



15



NEW LOT 5 SEC. 2

85-15496

T32N R2W

NEL

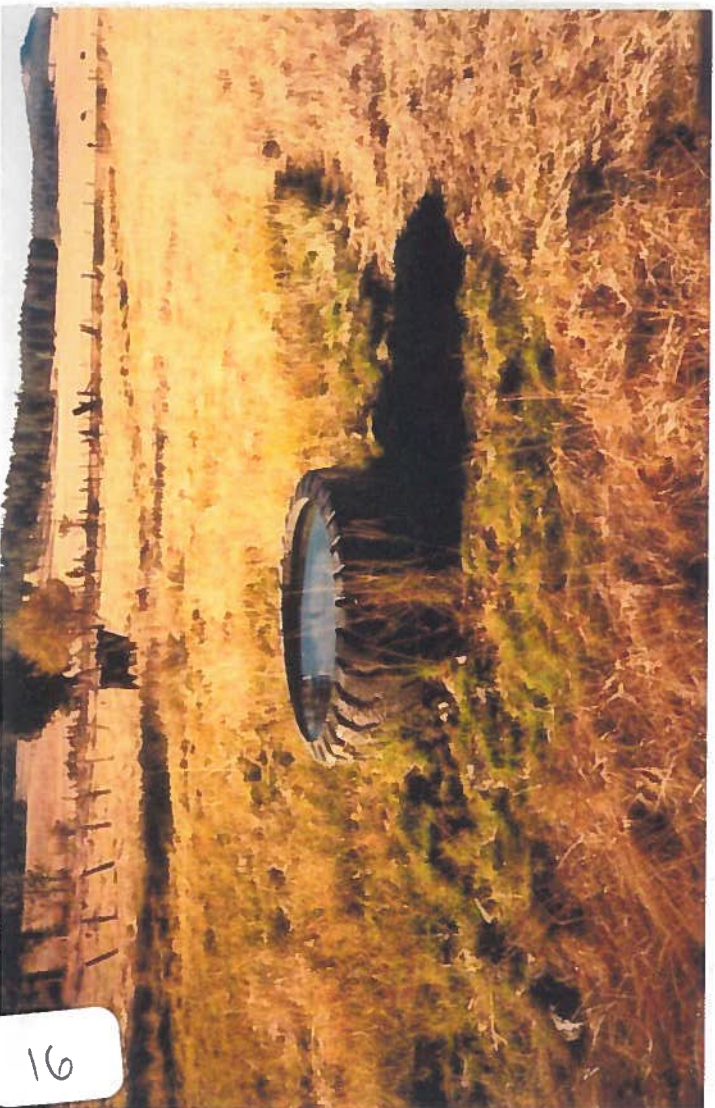
Devolved Spruce

to ~ Direction

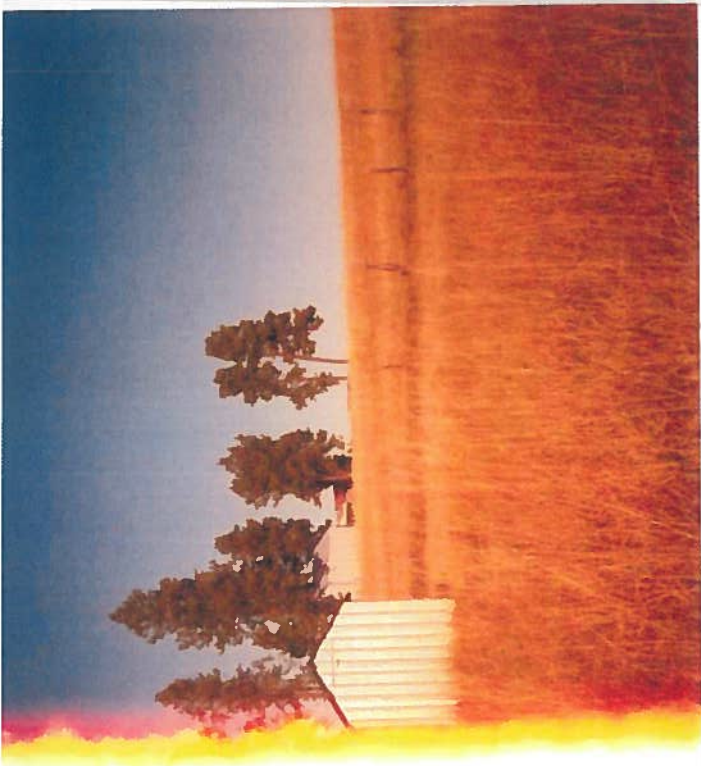
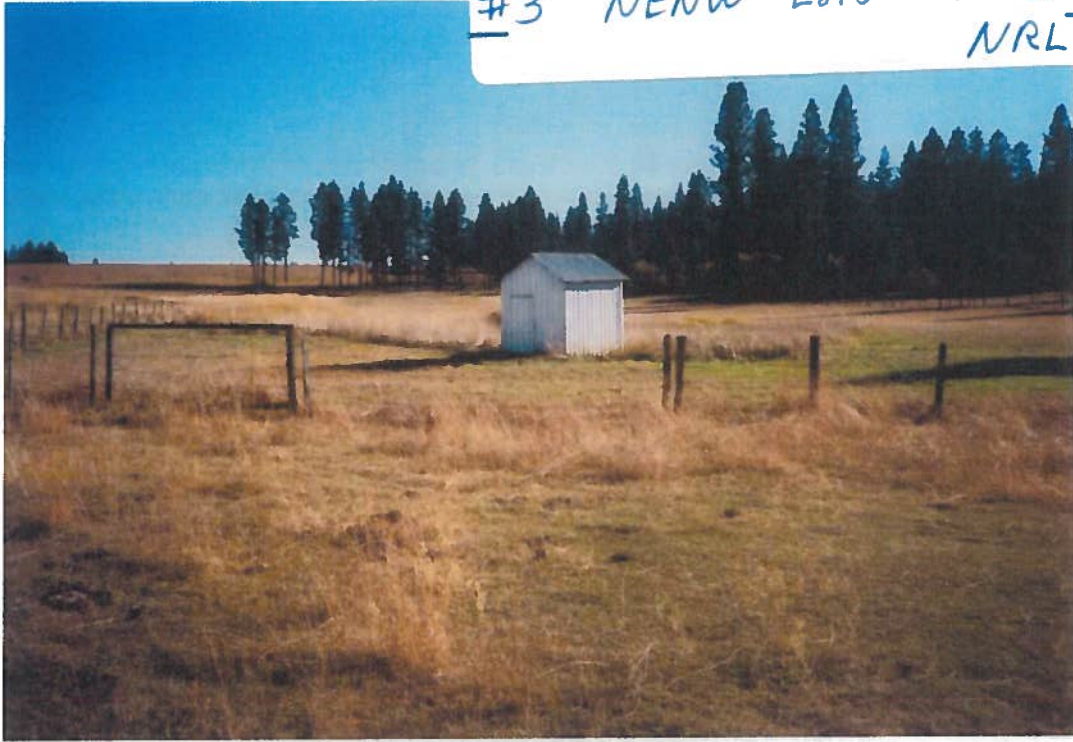
Pod

< 09/25/06

764618 16/35 < 764618-R1-25-0



#3 NENW Lot 5 Sec 2
NRL



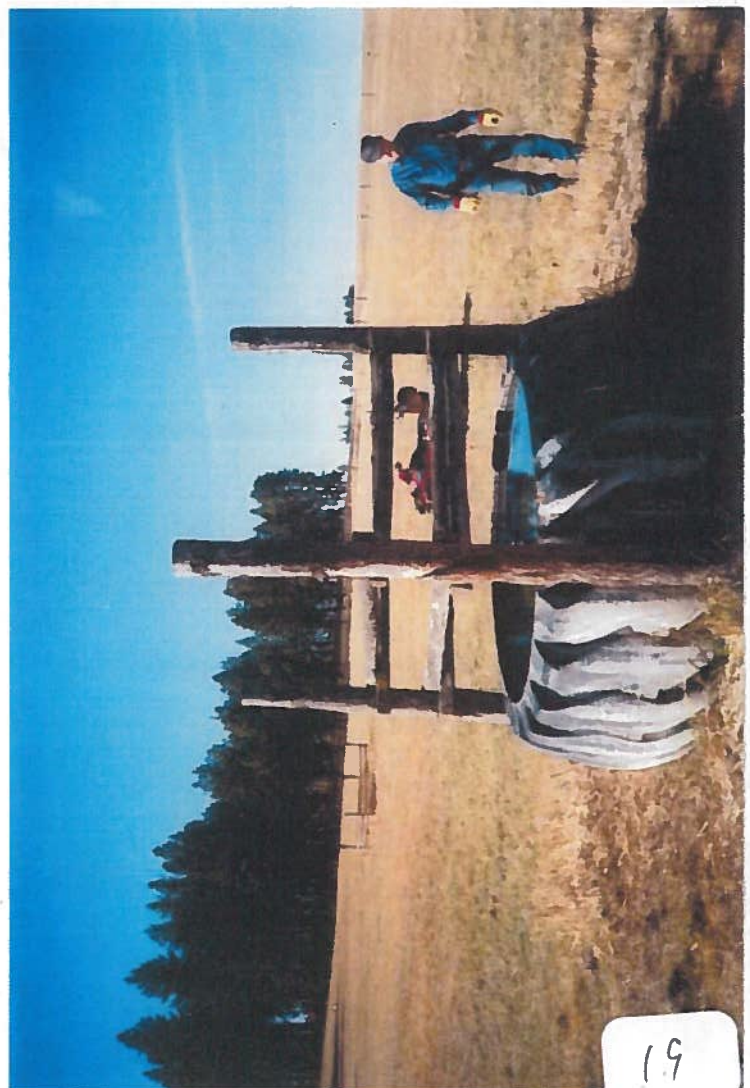
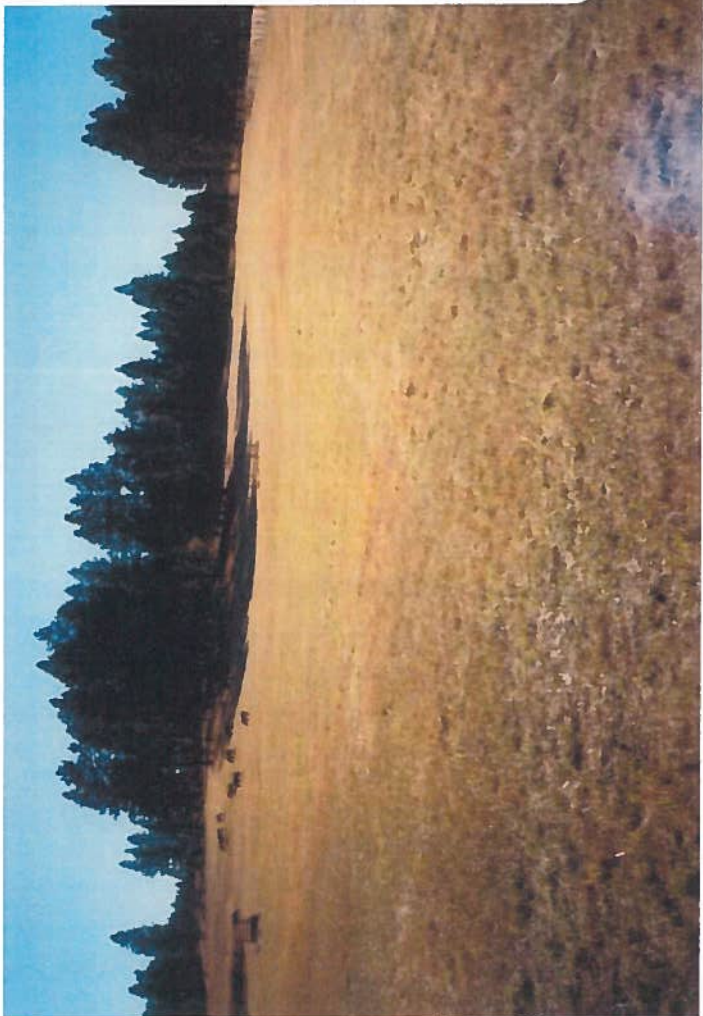


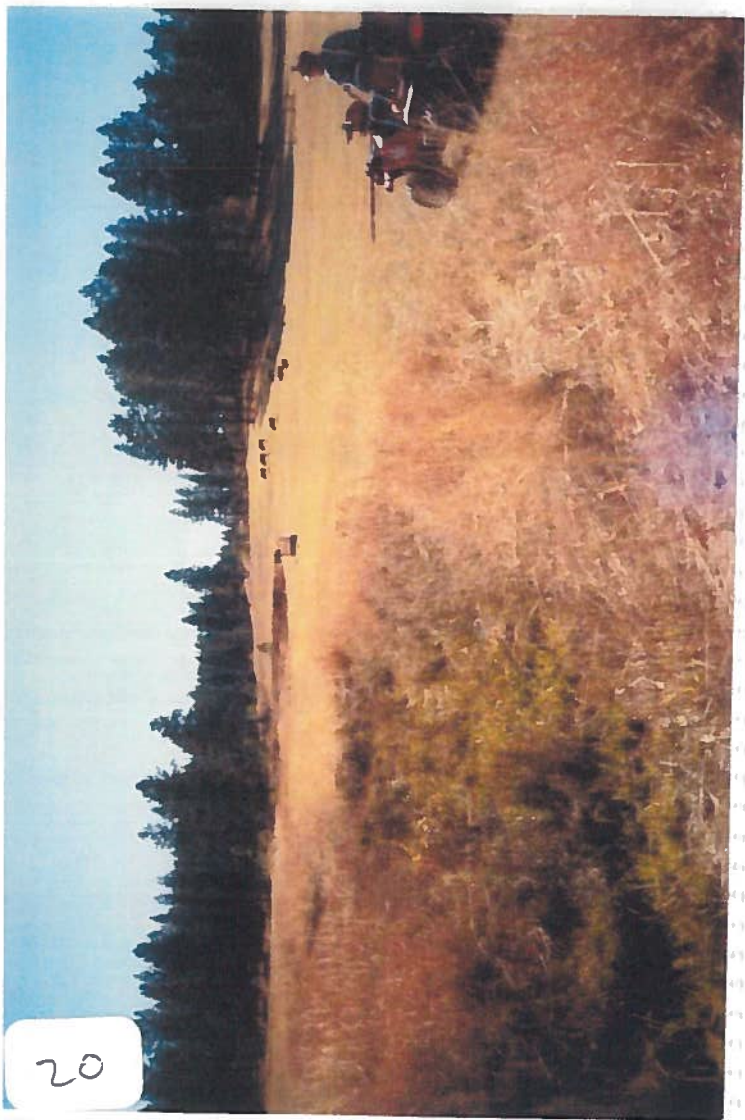
#4 SENW Lot 21 Sec 2
NRL





5 NESE Lot 18 Sec 2
NRL





20



Harvey, Becky

*Decreed Disallowed
3-5-2008
DMS*

From: Harvey, Becky
Sent: Tuesday, May 01, 2007 3:39 PM
To: Bromley, Chris
Subject: → FW: 85-15496 - Smyth/Lillehaug

*Split to
85-15691+92*

Chris: After looking at the map and speaking with Ken, here is the plan:

Ken is going to draft the splits - giving each .02 cfs for stockwater and the domestic goes entirely to Smyth since she got the house, correct the clerical mistakes, place the correct owners on each split and then send it to us for review.

Becky

-----Original Message-----

From: Knoblock, Ken
Sent: Tuesday, May 01, 2007 9:15 AM
To: Harvey, Becky
Subject: RE: 85-15496 - Smyth/Lillehaug

RECEIVED

SEP 05 2008

IDWR/North



Lillehaug.pdf

-----Original Message-----

From: Harvey, Becky
Sent: Tuesday, May 01, 2007 8:04 AM
To: Knoblock, Ken
Subject: RE: 85-15496 - Smyth/Lillehaug

The map didn't come through Ken.

-----Original Message-----

From: Knoblock, Ken
Sent: Monday, April 30, 2007 4:58 PM
To: Harvey, Becky
Subject: RE: 85-15496 - Smyth/Lillehaug

Attached is the map. The red specks is the Smyth property. The shaded gray is the Lillehaug property. The yellow is the recommended place of use.

ken

-----Original Message-----

From: Harvey, Becky
Sent: Monday, April 30, 2007 1:59 PM
To: Knoblock, Ken
Cc: Bromley, Chris
Subject: 85-15496 - Smyth/Lillehaug

Ken:

Attached please find the letter from Merrily Munther with the *Order Partitioning Real Property* from Lewis County. Could you please prepare a map with the outline of the partially decreed place of use and then spatially determine how the property was divided and indicate that on the map? Chris and I were thinking that if the divisibility is distinct, then maybe we could split the right, correct the clerical error and do changes of ownership/NCAPs and be done with this ??? Perhaps it's wishful thinking on our part. Could you prepare the map when you have a chance and email it to us? The next status conference with the SRBA court is June 12th.

Thanks!

Becky

<< File: 20070430143402688.pdf >>

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munther · goodrum · sperry

CHARTERED - ATTORNEYS AT LAW

Innovative solutions for a changing world

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APR 30 2007

DEPARTMENT OF
WATER RESOURCES

COPY

April 25, 2007

Mr. Albert Barker
Barker, Rosholt & Simpson LLP
P. O. Box 2139
Boise, ID 83701-2139

85-15496

Re: Pat Smyth and Darlene Lillehaug

Dear Al:

I received Chris Bromley's letter suggesting two routes to go with Mrs. Smyth's proposal to add sources of water to those included in the decreed water right appurtenant to the property which has now been partitioned by Judge Bradbury.

My client, Darlene Lillehaug, is not interested in joining in this effort to add water sources for the property. She will be satisfied to receive the water right that is appurtenant to the share of property decreed to her. Although I don't think it's necessary to have her approval for the change of the decree to correct the reference to Lot 17 to Lot 18, Mrs. Lillehaug would not oppose this.

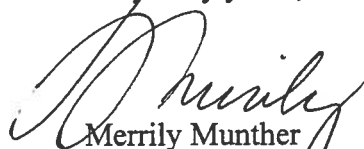
I think we need to file a change of ownership form with the Idaho Department of Water Resources. To that end, I am forwarding you and Chris Bromley a copy of the Order partitioning the parties' property. If Mr. Bromley will direct me in preparing that form, I'll follow up to complete it.

The bottom line is that my client does not wish to be part of any motion to amend or petition for late filing on water rights. She is adamantly opposed to any attempt to vacate or modify the decree other than the typographical error referenced above. We would, therefore, ask that the documents filed with the Snake River Basin Adjudication on behalf of Mrs. Smyth be revised to remove the property which has been decreed to Mrs. Lillehaug from the properties identified as being water sources or places of use of the additional water claimed by Mrs. Smyth.

Mr. Albert Barker
April 25, 2007
Page 2

If you have questions about what we are trying to do, please let me know. I would appreciate receiving a copy of the documents which are revised so that I can confirm that my client and her property have been removed from Mrs. Smyth's efforts.

Very truly yours,



Merrily Munther
mmunther@mgslegal.com

MM/klw
Enclosure
Cc: Chris Bromley
Darlene and John Lillehaug

Thomas W. Callery, ISBN 2292
JONES, BROWER & CALLERY, P.L.L.C.
1304 Idaho Street
P.O. Box 854
Lewiston, ID 83501
(208) 743-3591
Facsimile (208) 746-9553
tcallery@lewiston.com

RECEIVED

APR 30 2007

DEPARTMENT OF
WATER RESOURCES

Lewis County District Court
FILED
APR 11 0'CLOCK PM

APR 18 2007

CATHY LARSON
Clerk of District Court

By Nicole Kinzer Deputy

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEWIS

DARLENE LILLEHAUG,	)	CASE NO. CV – 2006 - 71
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER PARTITIONING
	)	REAL PROPERTY
PATRICIA SMYTH	)	
	)	
Defendant.	)	
_____	)	

The Court having entered its order appointing DON A. KERBY of WESTERN APPRAISALS as the referee in the above-entitled partition action pursuant to Idaho Code § 6-546 as the sole referee, and the Court having received and reviewed the Report of the Referee dated March 14, 2006 which included a stipulation between the plaintiff and defendant as to the partition of the real property, and the Court being fully advised in the premises:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

ORDER PARTITIONING
REAL PROPERTY

I.

The plaintiff and defendant are the owners, as tenants in common, of the following described real property located in Lewis County, State of Idaho:

Township 32 North, Range 2, W.B.M.

Section 2: Lots 1 and 2 South of Reservation line; Lots 4, 5, 12, 13, 18, 19, 20, 21, 25, 26 and 27, all lying North of the Reservation line.

Section 11: The North half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$).

II.

That the real property described in Paragraph I above shall be partitioned between the plaintiff and defendant along a line beginning on the existing Reservation line at its intersection with the west property line; thence following said line Southeasterly to its intersection with the North line of Government Lot 25, thence East along the North line of Government Lots 25, 26, and 27.

III.

The plaintiff, DARLENE LILLEHAUG shall therefore have awarded to her, as her sole and separate property the following real property:

Situate in the County of Lewis, State of Idaho, to-wit:

Government Lots 25, 26 and 27 lying north of the Reservation line and Government Lots 1 And 2 lying south of the Reservation line, all lying in Section 2, Township 32 North, Range 2 W.B.M.; and the North half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$) of Section 11, Township 32 North, Range 2 W.B.M.

IV.

The defendant, PATRICIA SMYTH, shall therefore have awarded to her, as her sole and separate property:

Situate in the County of Lewis, State of Idaho, to-wit:

Lots 4, 5, 12, 13, 18, 19, 20 and 21, all lying north of the Reservation line, all lying in Section 2, Township 32 North, Range 2 W.B.M.

V.

A survey under the direction of the referee to establish the location of the new property line boundary shall be completed. In addition, a fence shall be constructed or relocated along the newly surveyed property line under the direction of the referee. The costs of the survey and fence shall be paid one-half by plaintiff and one-half by defendant.

VI.

Based upon the agreement of the parties and the report of the referee, DON KERBY, the timber identified in Stands One and Two in the map attached hereto shall be logged, which logging shall result in a light shelter wood or seed tree residual stand that will comply with the Idaho Forest Practices Act. Plaintiff and defendant shall share equally in the net timber proceeds. Prior to the timber proceeds being distributed to the parties, all costs, which are to be paid one-half (½) by each party, including but not limited to the following shall be paid:

- a. Survey to establish location of new property boundary;
- b. Cost of new fencing or relocation of fencing along the newly

surveyed property line.

- c. Yield taxes: 3% stumpage tax due Lewis County, Idaho generated from the sale of timber.
- d. Referee expenses incurred after March 15, 2007.
- e. Expense of forester and logging cost.

VII.

Referee DON KERBY will continue in his role as Court appointed referee and shall supervise and coordinate the hiring of a forester, the logging operation, the survey and construction and/or relocation of the boundary fence. The Referee shall receive all net proceeds from the logging operation and deposit those funds in an interest bearing trust account. The Referee is further authorized to pay from said trust account the expenses listed in paragraph VI (a) through VI (e). After all expenses have been paid, the Referee is then authorized to pay one-half of the net timber proceeds to the plaintiff, DARLENE LILLEHAUG, and one-half to the defendant, PAT SMYTH. If, after final disbursement of the net timber proceeds by the Referee Don Kirby, an expense arises related to the logging, survey or fence installation, or related to the plaintiff's and defendant's ownership of the real property described in Paragraph I above, as tenants-in-common, the plaintiff and defendant shall each pay one-half of said expense.

VIII.

There currently is a water trough that straddles the existing reservation line near the west property line. This trough will remain in place until completion of the survey.

If the trough encroaches on the south half hereby awarded to plaintiff DARLENE LILLEHAUG, the defendant PAT SMYTH will move the trough onto the defendant's property at the sole expense of the defendant.

IX.

The plaintiff and defendant shall each pay one-half ($\frac{1}{2}$) of the referee's charges for services rendered through March 15, 2007 upon receipt of an invoice.

X.

This Order will be considered a final order as it relates to the partition of real property; however, the Court shall retain jurisdiction with regard to the logging and sale of the timber and the completion of the survey and fencing.

DONE IN OPEN COURT this 18 day of April, 2007.

JOHN BRADBURY

JUDGE JOHN BRADBURY

CERTIFICATE OF MAILING

IT IS HEREBY CERTIFIED that the undersigned is the (Deputy) Clerk of the above entitled Court; that on the 18th day of April, 2007, the undersigned enclosed a copy of the *ORDER PARTITIONING REAL PROPERTY* to which this Certificate is attached, issued by the above entitled court in the above entitled action, in an envelope addressed to:

DARLENE LILLEHAUG
% MERILEE MUNTHER
PENLAND, MUNTHER, GOODRUM CHARTERED
PO BOX 199
BOISE, ID 83701

PATRICIA SMYTH
% THOMAS W. CALLERY
JONES, BROWER & CALLERY PLLC
P.O. BOX 854
LEWISTON, ID 83501

DON A. KERBY
WESTERN APPRAISALS
1014 MAIN ST.
LEWISTON, ID 83501

which are the present and last known addresses reported to the undersigned by Jones, Brower & Callery, P.L.L.C.; placed the necessary postage thereon, and deposited the same in the United States Post Office.

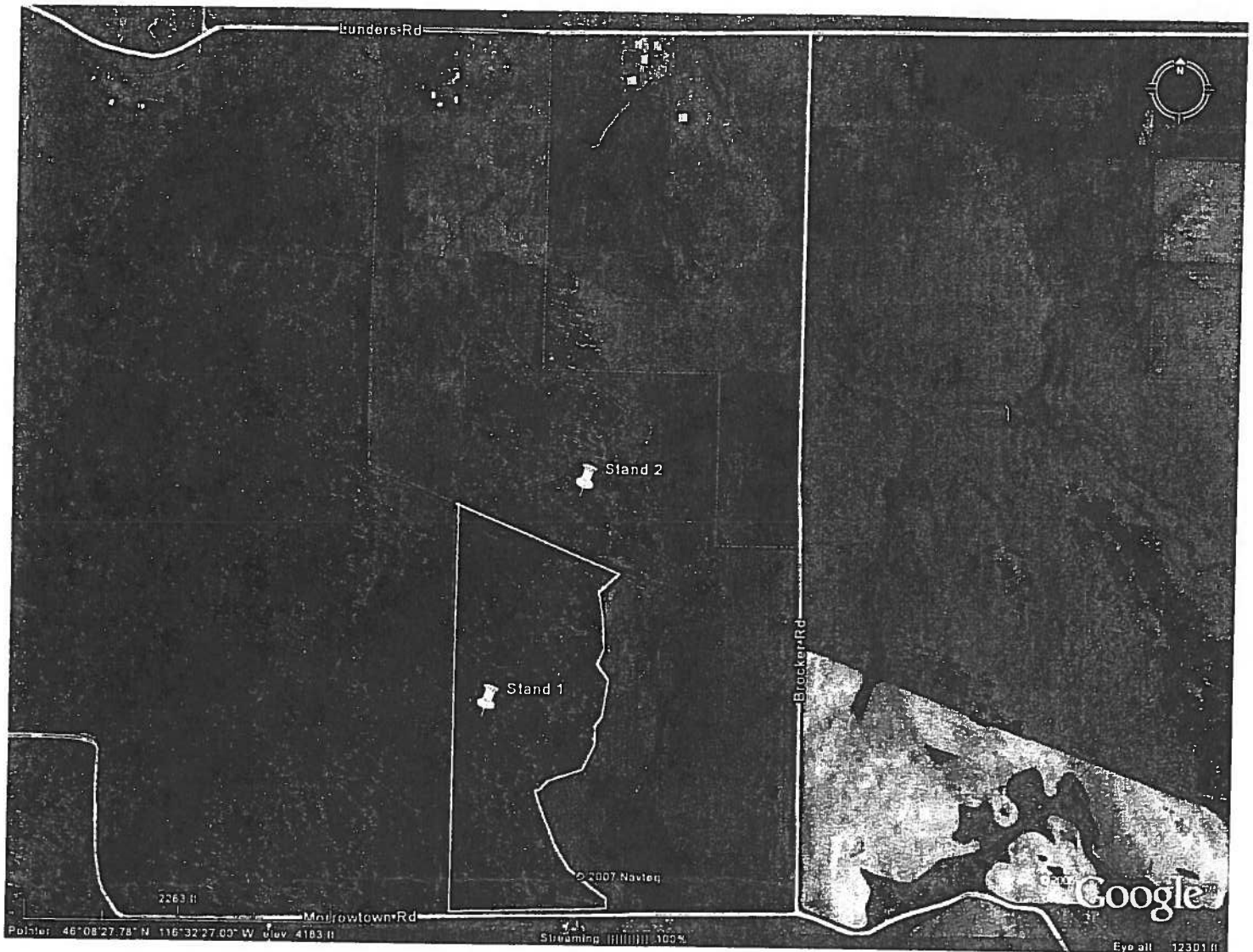
DATED this 18th day of April, 2007.

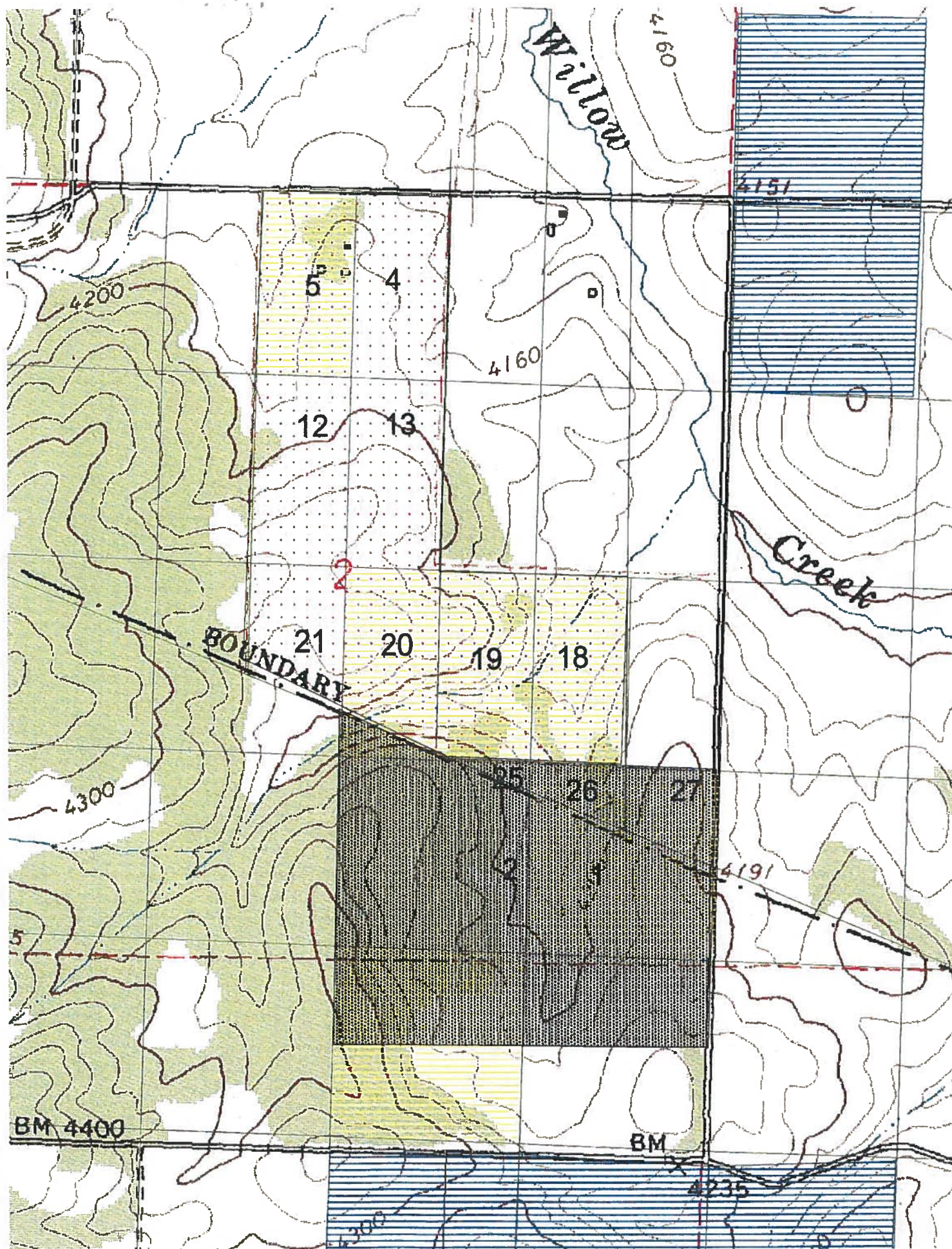
CLERK OF THE DISTRICT COURT

By Nicole Kinzer
Deputy

ORDER PARTITIONING
REAL PROPERTY

TIMBER STANDS





85-15496