

Exhibit

B

RECEIVED
OCT 15 2019
DEPARTMENT OF
WATER RESOURCES

Erin Kingsbury

We purchased the property you now own in the Spring of 1991 from the Hansens. The address was then 1000 Spring Creek Road; Rathdrum. During the house and property walkthrough given by Mr. Hansen I was shown a platform below the house on the west side of the property just above the garden arena upon which sat a valve connected to a poly pipe which came out of the ground. Next to it was another white plastic pipe sticking out of the ground with a taped electrical wire in it. He told me that this was a gravity flow water system originating from Spring Creek further up Mt. Rathdrum. The water rights were owned by as, I remember, 4 parties - Rodney Peterson, Bob Jones, Myself with the purchase of the property, and another who I don't believe I ever knew. He then took me by a trail past Petersons up the mountain to where there was a dam on Spring Creek where the water line originated. It flowed down a pipe - I can't remember the size at this time - to Mr. Peterson's property where it was divided into at least 4 smaller lines - mine being one of them. Each party was responsible for once every 4 years to go up to the dam area and clean it out and clean the filter system there to insure that the water line ran smoothly. I did this in the years 1993 and 1997- twice each of those years - once in the early Spring and once in the late Summer.

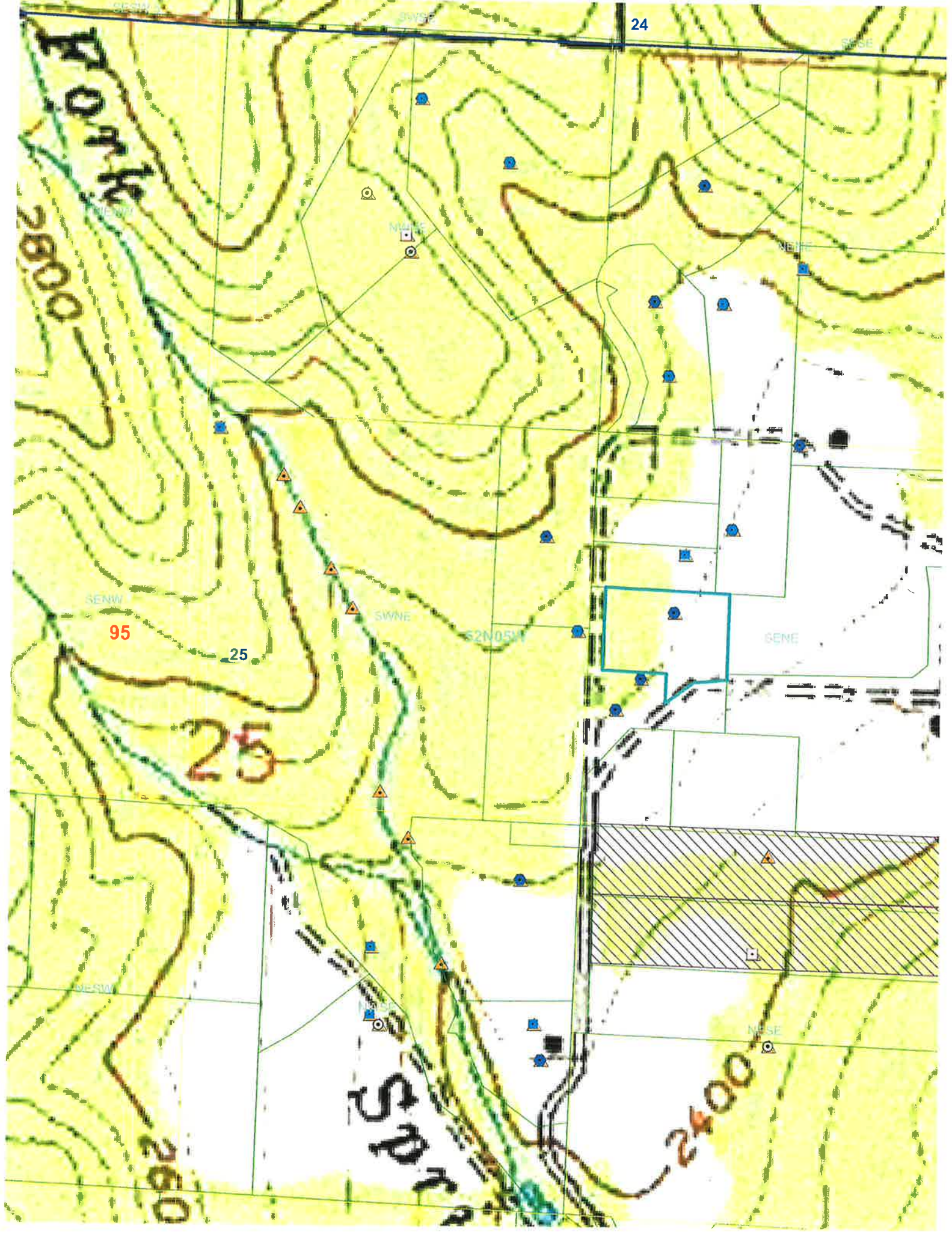
He had a small ½ hp pump that we installed on the valve by the garden using the electrical wire located close by running from the circuit panel in the basement of the house. I installed a small building - about the size of an outhouse - later that Spring to cover it. From this I was able to water the large garden I grew there using soaker hoses and drip irrigation every year we lived there. I was also able to use it to water the 10-12 fruit trees we had in the same vicinity as the garden in all the years we lived there. The water line never went dry even in the driest summers. Sometimes the flow was not as great during the heat of the day but always returned during the night.

When we sold in May of 1999, I passed all of this information onto the new buyers but could tell they were not very interested because they told me they had no desire to grow a garden. Evidently that part of the water line went to complete disrepair after that and from what you say was completely destroyed.

Hope this helps with your efforts to restore that system to the property. I do remember having to file some paperwork with the State of Idaho either in 1997 or 1998 - my memory of over 20 years ago has slipped - about water rights. I cannot remember exactly what it all entailed - sorry. I can remember at the time I was concerned.

Conrad M Renberg





To the Court, and Mr. and Mrs Bob and Sandy Jones,

Our hope through bringing this water information; usage and non usage, to the attention of the Court is to regain usage of irrigation water to our property from water right 95-4360 that had been being used by previous owners of our house up until approximately the year 2000. It is not our intent to take any water away from Mr. Jones or Mr. Conroy who still use 95-4360 and 95-0951, respectively. However, we are diligently working to regain irrigation water usage from water right 95-4360 that once serviced our property. I have included many documents in Exhibit B for 95-4360 because I did not know exactly what is needed to reinstate this water usage but I have a great deal of proof that it once existed and I would be using it today, as well as previous owners that would have used it, had it not been severed.

After an extensive search of information over the past year regarding water issues with our newly purchased house and property that were not disclosed at the time of purchase I have found that Post Falls Highway District had done a significant amount of work to rebuild Reservoir Road. This planning of this "rebuild" started as early as 1996 or 1997 with attention being drawn to the need of preparing the road by Rathdrum Hills residents as early as 1973. It is my strong belief that when PFHD rebuilt this road sometime between 2000 and 2003 the 1" diameter black PVC pipe that carried gravity flow water from 95-4360 was severed during the process. Mr. Jones collection box for that water right was rebuilt, per his testimony to us, but this properties line was not restored and should have been. Furthermore, based on study of the time lines of the sale of this property I believe the line was severed during the sale from one previous owner to the next or shortly after Patrick Fox bought the property and he was not aware of what happened and therefore would not know to fix it. To clarify, our predecessor, Jan Hansen, will not be found decreed water right 95-4360 because prior to the first adjudication ending in 1989 Jan Hansen's father (who is Bob Jones predecessor) executed a conveyance deed of his permitted water right with his son Jan Hansen for 1/2 interest in Spring Branch Creek water (95-4360) and half usage of a large concrete vault; I have included the document in Exhibit B. When comparing a hand drawn map by an IDWR Inspector from Jan 1971 and a map sketched by Mr. Jones in 2009 it appears that 95-0951 and 95-4360 originate from the same source. I am only claiming a contested water right for 95-4360 so that I can again use this for irrigation for my 11 fruit trees.

Respectfully submitted,

Erin Kingsbury

1183795

WARRANTY DEED

FOR VALUE RECEIVED

O. EARL HANSEN and VIOLET L. HANSEN, TRUSTEES & SUCCESSOR TRUSTEES OF
THE HANSEN FAMILY TRUSTthe Grantor s , do hereby grant, bargain, sell and convey unto
ROBERT F. JONES and SANDRA JONES husband and wife

the Grantee s , whose address is

PO Box 258, Rathdrum, Id 83858

the following described premises, to-wit:

See Exhibit "A" attached hereto and made a part hereof for legal description

** OSCAR EARL HANSEN and VIOLET LORENE HANSEN, husband and wife in favor of NORTHERN
STATE BANK, records of Kootenai County, Idaho, which Deed of Trust the Grantees
herein hereby assume and agree to pay according to its terms.

ALL WATER, WELL AND SPRING RIGHTS TO BE TRANSFERRED TO THE BUYERS.

GRANTOR TRANSFERS TO BUYERS DED TO WELL AND GRANT OF EASEMENT RECORDED MAY
11, 1990 UNDER INSTRUMENT #1182402.

AT THE REQUEST OF
PIONEER TITLE COMPANY
COUNTY OF KOOTENAI, ID
MAY 29 12 06 PM '90
SINLEY DEITZ
DEPUTY

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee
their heirs and assigns forever. And the said Grantor s do hereby covenant to and with the
said Grantees that they are the owner in fee simple of said premises; that said premises are free from all
encumbrances except covenants, conditions, restrictions and reservations of record,
easements of record and in view and general taxes (and irrigation assessments, if
applicable) for the year 1990 and subsequent years, which are not yet due and payable,
also subject to that certain Deed of Trust dated September 10, 1987 executed by **
and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: May 16, 1990

O. Earl Hansen Trustee Violet L. Hansen
O. EARL HANSEN, TRUSTEE VIOLET L. HANSEN, TRUSTEE

Oscar Earl Hansen Violet Lorene Hansen

ACKNOWLEDGMENT - Individual

STATE OF Idaho, County of WashingtonOn this 18th day of May, in
the year of 1990, before me,

Ethel Mae Reese, a notary public,
personally appeared O. Earl Hansen
Violet L. Hansen, known or

identified to me to be the person s whose name Hansen

subscribed for the within Notarization and acknowledged to

me in the presence of the following witnesses:

Ethel Mae Reese
410 E. 1st St. Coeur d'Alene, ID 83814
St. George, Utah 84770
My Comm. Expires Nov 1993
Notary Public
State of Utah
Residing at St. George, Utah

Reading of the foregoing instrument

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed for record
at the request of
at _____ minutes past _____ o'clock m.,
this _____ day of _____
19 _____, in my office, and duly recorded in Book
of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy.

Fees \$
Mall to:PIONEER TITLE COMPANY
OF KOOTENAI COUNTY

618 N. 4th Street / P.O. Box 486 Coeur d'Alene, Idaho 83814 / (208) 664-8254

A parcel of land in the Southeast quarter of the Northeast quarter of Section 25, Township 52 North, Range 5 W.B.M., Kootenai County, Idaho, more particularly described as follows:

Beginning at a point that is North 169.90 feet from the Southwest corner of said Southeast quarter of the Northeast quarter; thence, continuing North along the West boundary of said Southeast quarter of the Northeast quarter, 416.10 feet to a point; thence, East parallel to the South boundary of the said Southeast quarter of the Northeast quarter, 415.00 to a point; thence, South 260.00 feet to a point; thence, West 271.90 feet to a point; thence South $40^{\circ}41'$ West, 219.52 feet to the Point of Beginning.

EXCEPTING THEREFROM a parcel of land in the Southeast quarter of the Northeast quarter of Section 25, Township 52 North, Range 5 W.B.M., Kootenai County, Idaho, more particularly described as follows:

Beginning at a point that is North 796 feet from the Southwest corner of said Southeast quarter of the Northeast quarter; thence, East parallel to the South boundary of said Southeast quarter of the Northeast quarter 259 feet to the True Point of Beginning for this description; thence, continuing East a distance of 156 feet to a point; thence, South 260 feet to the North line of an existing roadway; thence, Southwesterly along the North line of said roadway 150 feet, more or less, to a point due South from the True Point of Beginning; thence North a distance of 293 feet, more or less, to the True Point of Beginning.

ALSO EXCEPTING THEREFROM a parcel of land in the Southeast quarter of the Northeast quarter of Section 25, Township 52 North, Range 5 W.B.M., Kootenai County, Idaho, described as follows:

Beginning at the Southwest corner of the Southeast quarter of the Northeast quarter; thence, along the West line of said Southeast quarter of the Northeast quarter North $0^{\circ}29'20''$ East, 807.09 feet to an iron rod; thence, crossing the county road South $89^{\circ}16'40''$ East, 53.25 feet to an iron rod on the East side right of way line of the county road, which is the True Point of Beginning; thence, continuing South $89^{\circ}16'40''$ East, 220.64 feet to an iron rod; thence, South 280.00 feet to an iron rod; thence, North $89^{\circ}16'40''$ West, 220.53 feet to an iron rod on the East side right of way line of the county road; thence, along said right of way line North $0^{\circ}01'20''$ West, 280.00 feet to an iron rod, which was the True Point of Beginning.

1182402

DEED TO WELL AND GRANT OF EASEMENT

THIS Deed and Grant of Easement is made and executed this 11th day of May, 1990, by and between JAN. M. HANSEN and SYDNIE JO HANSEN, husband and wife, GRANTOR, and O. EARL HANSEN and VIOLET L. HANSEN, Trustees and Successor Trustees of THE HANSEN FAMILY TRUST.

WHEREAS GRANTOR and GRANTEE have developed a well, casings, pump, water lines and electrical circuits over, under and across the property of GRANTOR, being more particularly described as that well situate approximately 90 feet west of the easternmost boundary and approximately 150 feet south of the northernmost boundary of GRANTOR'S property, being more particularly described as follows:

Attached hereto as Description #3 and incorporated herein by reference as if set forth in full.

That said well services and supplies water to the adjoining property of GRANTEE which lies in the Southeast Quarter of the Northeast Quarter of Section 25, T.52 N., R.5 W., Boise Meridian, State of Idaho;

For valuable consideration, receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey unto GRANTEE, their successors and assigns, that certain well and appurtenances hereinbefore described.

GRANTOR further grants unto GRANTEE, their successors and assigns, an easement of twenty (20') feet in radius around the well site, and an easement of ten (10') feet in width, lying five (5') feet to the left and right of the centerline of the existing

1183795 -
Hansen Trust then
w. well & easement

1182402

pipeline which extends from said well site in a southerly direction approximately 80 feet; thence in a southwesterly direction approximately 150 feet to the southwestern boundary of GRANTOR's property, with the right, privilege and authority vested in GRANTEE, their successors and assigns, to pass and re-pass over said easement to maintain, repair or replace pumps, pipes, wires and other appurtenances. GRANTEE may cut and remove brush, trees and other obstructions which in the opinion of GRANTEE interfere with exercising the rights herein contained.

The covenants herein contained shall run with the land and are binding upon all subsequent owners thereof.

IN WITNESS WHEREOF, the GRANTORS have set their hands and seals hereunto this 11th day of May, 1990.

GRANTORS:

JAN M. HANSEN
JAN M. HANSEN

SYDNIE JO HANSEN
SYDNIE JO HANSEN

STATE OF IDAHO)
) ss
KOOTENAI COUNTY)

On this 11th day of May, 1990, personally appeared before me, a Notary Public in and for said State, JAN M. HANSEN and SYDNIE JO HANSEN, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and they acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written in this certificate.



Notary Public for Idaho

Residing at: Rathdrum

Comm. Expires: 12-21-92

DEED TO WELL AND
GRANT OF EASEMENT / page 2 of 3

1182402

DESCRIPTION #3

A parcel of land in the Southeast Quarter of the Northeast Quarter of Section 25, Township 52 North, Range 5 W.B.M., Kootenai County, State of Idaho, described as follows:

Beginning at the Southwest corner of the Southeast Quarter of the Northeast Quarter; thence

Along the West line of said Southeast Quarter of the Northeast Quarter, North 0 29' 20" East, 807.09 feet to an iron rod on the West side of the County Road; thence

South 89 16' 40" East 273.89 feet to an iron rod, which is the True Point of Beginning; thence continuing

South 89 16' 40" East 201.40 feet to an iron rod; thence

South 0 39' 25" East 289.50 feet to a R/R spike in the center of a driveway; thence along the center line of said driveway

South 82 45' 45" West 110.35 feet to an R/R spike; thence along said center line of driveway

South 51 56' 20" West 120.95 feet to a R/R spike; thence

North 380.49 feet to an iron rod, which was the True Point of Beginning.

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
AT THE REQUEST OF
Jan Hansen
MAY 11 1 06 PM '90
Shirley Deitz
FEE \$ 7.00 DEPUTY

1182401

GRANT OF SHARE IN WATER SYSTEM AND GRANT OF EASEMENT

THIS Grant is made and executed this 7th day of September, 1988, by and between O. EARL HANSEN and VIOLET L. HANSEN, husband and wife, GRANTOR, and JAN M. HANSEN and SYDNIE J. HANSEN, husband and wife, GRANTEE.

WHEREAS GRANTOR is the developer and 1/3 (one third) owner of a water distribution system, consisting of a diversion box and gravity flow pipeline of approximately 40' of 4" pipe, 20' of 3" pipe and 1,000' of 2" pipe, and;

WHEREAS GRANTOR is also the owner of a large concrete water storage tank and other water lines appurtenant to the above water distribution system and located on GRANTOR'S property in the SE 1/4 of the NE 1/4 of Section 25, T.52 N., R.5 W. Boise Meridian, State of Idaho, and;

(Complete description attached hereto as Exhibit A) *ESP*
VRH

WHEREAS GRANTOR has since May 14, 1971 continuously diverted water from the north fork of Spring Branch Creek for irrigation of GRANTOR'S property, and;

WHEREAS GRANTOR has a claim to a water right since May 14, 1971, filed with the State of Idaho as Claim No. 95-4360, and also filed as I.D. No. 95-4360 with the District Court of the First Judicial District of the State of Idaho, and;

WHEREAS GRANTOR has been granted, by way of Judgement through the District Court, State of Idaho, in Hansen vs Rust et al, the amount of water which flows through a one inch (1") tap on the above referenced water distribution system, and;

1182401

WHEREAS GRANTEE, being a successor in title to a portion of GRANTOR'S property, is also entitled to the use of water from said Creek;

NOW THEREFORE, GRANTOR, for and in consideration of one and no/100 (\$1.00) dollar and other good and valuable consideration, does hereby grant, bargain and sell unto GRANTEE a share of ownership in the aforesaid water distribution system equal to one ^{half 1/2 OER VLN} ~~third (1/3)~~ of GRANTOR'S interest in same; with the restriction that GRANTEE, or GRANTEE'S successors or assigns, shall not draw more than one ^{half 1/2} ~~third (1/3)~~ of the total amount of water GRANTOR and GRANTEE are collectively entitled to.

TOGETHER WITH an EASEMENT for ingress and egress, over, under and accross GRANTOR'S property, to maintain, repair, install or replace pipelines, valves, wires, pumps, tanks or other appurtenances to the water distribution system. This EASEMENT shall be ^{ten 10' OER VLN five 5'} ~~twenty feet (20')~~ in width, lying ~~ten feet (10')~~ to the left and right of the centerline of all existing pipelines; including an area within a ^{twenty 20'} ~~fifty foot (50')~~ radius from the center of existing storage tank. GRANTEE shall have the right to remove brush, trees, buildings or any other obstruction, which, in the opinion of GRANTEE, interferes with the exercise of this EASEMENT.

THIS GRANT and EASEMENT shall be perpetual and shall inure to the benefit of GRANTOR and GRANTEE, their successors or assigns, and shall run with the property of GRANTOR and GRANTEE and shall be binding upon the subsequent owners thereof.

O. Earl Hansen
O. EARL HANSEN

Violet L. Hansen
VIOLET L. HANSEN

EXHIBIT A

1182401

A parcel of land in the Southeast Quarter of the Northeast Quarter of Section 25, Township 52 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as:

BEGINNING at a point that is North 169.90 feet from the Southwest corner of said Southeast Quarter of the Northeast Quarter; thence, continuing North along the West boundary of said Southeast Quarter of the Northeast Quarter, 416.10 feet to a point; thence, East parallel to the South boundary of the said Southeast Quarter of the Northeast Quarter, 415.00 to a point; thence, South 260.00 feet to a point; thence, West 271.90 feet to a point; thence, South 40°41' West, 219.52 feet to the POINT OF BEGINNING,

EXCEPTING THEREFROM a parcel of land in the Southeast Quarter of the Northeast Quarter of Section 25, Township 52 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

BEGINNING at a point that is North 796 feet from the Southwest corner of said Southeast Quarter of the Northeast Quarter; thence, East parallel to the South boundary of said Southeast Quarter of the Northeast Quarter 259 feet to the TRUE POINT OF BEGINNING for this description; thence, continuing East a distance of 156 feet to a point; thence, South 260 feet to the North line of an existing roadway; thence, southwesterly along the North line of said roadway 160 feet, more or less, to a point due South from the TRUE POINT OF BEGINNING; thence, North a distance of 293 feet, more or less, to the TRUE POINT OF BEGINNING,

ALSO EXCEPTING THEREFROM a parcel of land in the Southeast Quarter of the Northeast Quarter of Section 25, Township 52 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, described as follows:

BEGINNING at the Southwest corner of the Southeast Quarter of the Northeast Quarter; thence, along the West line of said Southeast Quarter of the Northeast Quarter North 0°29'20" East, 807.09 feet to an iron rod; thence, crossing the county road South 89°16'40" East, 53.25 feet to an iron rod on the East side right of way line of the county road, which is the TRUE POINT OF BEGINNING; thence, continuing South 89°16'40" East, 220.64 feet to an iron rod; thence, South 280.00 feet to an iron rod; thence, North 89°16'40" West, 220.53 feet to an iron rod on the East side right of way line of the county road; thence, along said right of way line North 0°01'20" West, 280.90 feet to an iron rod, which was the TRUE POINT OF BEGINNING.

STATE OF IDAHO
COUNTY OF KOOTENAI } SS:

AT THE REQUEST OF

Jan. Hansen

MAY 11 1 05 PM '90

SHIRLEY DEITZ

D. Reister

DEPUTY

FEES \$12.00

City of Rathdrum
8047 W. Main Street
Rathdrum, ID 83858
WWW.RATHDRUM.ORG



Public Works Department
P 208.687.2700
F 208.687.1377

October 2, 2019

Ms. Erin Kingsbury
17116 N. Reservoir Road
Rathdrum, ID 83858

**Re: Public Records Information Request
Spring Branch Creek**

Dear Ms. Kingsbury:

We received your Public Records Information Request on 9.30.19. I herein offer the following information.

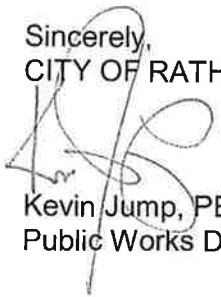
To answer your question about there being an existing water diversion system on the City of Rathdrum's property, I offer the following:

- Prior to the validation of the Barrett Road public right-of-way, by the Post Falls Highway District, the City of Rathdrum was seeking to obtain a direct point of access to its Rathdrum Mountain property.
- As part of our pursuit of a direct point of access to Rathdrum Mountain, City of Rathdrum personnel were in discussions with representatives of Kootenai County Parcel 52N05W-25-7870 (15204 N. Reservoir Road).
- I don't recall the specific date; but, several years ago, we met on-site with the property owner to discuss the City's proposal to purchase their property (or a portion of their property). During our site visit, it was disclosed to us by the property owner that a source of their water was from the existing water diversion system which is referenced in your Public Records Information Request. It should be noted that neither installation nor operation nor access onto the City's property was granted to the property owner.

As it pertains to the balance of your Public Records Information Request, it's unclear to me what you are seeking.

By providing the attached documents, I hereby consider the first portion of your Public Records Information Request to have been satisfied. I await some additional information regarding the second portion of the Public Records Information Request.

Sincerely,
CITY OF RATHDRUM


Kevin Jump, PE
Public Works Director

the Roth Addition to hold over until the usual fall work is done.

Mr. Wayne Meckel was present to discuss the proposed Kiefer Addition on Washington Street in Rathdrum. Mr. Kiefer has subdivided seven lots for this plat which was presented to the Council for its approval. Councilman Zigler moved to approve the signing of the plan for the Kiefer Addition, contingent upon correction and contingent upon receipt of written evidence that underground utilities will be required in the subdivision and evidence requiring underground utilities has been added to the restrictive covenants. Second by Councilman Wilhelm. Motion carried.

KIEFER ADDITION
APPROVED

Ray Smith, of the Citizens Committee was available to discuss with the Council the plan for the Labor Day activities or Rathdrum Days. The Citizens Committee presented a letter to the Council requesting a street dance to be held Sunday, August 31, 1975. The Rathdrum Lions Club presented a letter to operate a beer booth in the park on September 1, 1975. Mr. Smith also explained the other activities planned for Rathdrum Days. Councilman Zigler moved to approve the request for a street dance to be held Sunday August 31, 1975 on 1st Street between McCartney and Mill Streets. Time will be from 7:00 P.M. to 11:00 P.M. Also to approve the sale of beer in the City Park in a beer booth on September 1, 1975 between the hours of 12:00 noon til 6:00 p.m. providing all other legal requirements are met. Second by Councilman Wilhelm. Motion carried.

STREET DANCE AND
BEER IN PARK AP-
PROVED FOR RATHDRUM D
CELEBRATION

The Kempton license was next on the written agenda which was prepared by James English, City Attorney and worded much the same as the easement that had been prepared by Attorney Herb Nagel. Councilman Zigler moved to approve the license to allow Mr. Ray Kempton, William E. Barnes (it is listed as Mary L. Graisy, who has sold out to Mr. Barnes) and Oscar Earl Hanson to obtain access to cross land belonging to the City of Rathdrum to gain the utilization of the water supply. Second by Councilman Wilhelm. Motion carried.

KEMPTON LIC.
APPROVED

Park Commissioner Wilhelm reviewed the pamphlet that the City of Rathdrum received from the Idaho Department of Parks & Recreation under the Federal Land & Water Conservation Fund Program. Mr. Wilhelm asked that the Clerk send away for an application and any additional information available.

PARK GRANT
APPLICATION

Committee Reports

COMMITTEE
REPORTS

Executive Session

Meeting adjourned at 10:30 P.M.

ATTEST:

RESPECTIVELY SUBMITTED:

Glenda Tull
Glenda Tull, Clerk

Robert F. Jones
Robert F. Jones, Mayor

Mason & Stricklin, LLP Lawyers

Memo

Given 6-8-10

To: Mayor and City Council
From: Nancy Stricklin
CC: Brett Boyer
Date: June 7, 2010
Re: Water Diversion from Spring Branch Creek

It was recently brought to the City's attention that a water diversion system existed on property owned by the City on Rathdrum Mountain. The diversion system diverts water from Spring Branch Creek to serve several properties not owned by the City. The diversion system currently serves properties owned by at least 4 separate owners: Bob Jones, William Conroy, Heath (Suzanne) Peterson and Bohl Trust. The water rights associated with that diversion were part of the adjudication that occurred in 1989 relating to the Twin Lakes and Rathdrum Creek drainage.

At the time that a water right is granted, both a Point of Diversion and a Place of Use have to be designated and approved. However, if the approved Point of Diversion is on property owned by another it is necessary to have the permission of the property owner on whose property that the diversion system will be constructed in order to install and operate the diversion system.

Minutes from the August 19, 1975 council meeting indicate that the issue of the construction and maintenance of a diversion system on property owned by the City was discussed and that the City was unwilling to grant a perpetual easement for the diversion works. Instead, the city council authorized the issuance of licenses to Ray Kempton, William E. Barnes, and Oscar Earl Hanson to obtain access across land owned by the City to construct and operate a diversion system on City property to divert water from Spring Branch Creek. Ray Kempton is a prior owner of the property now owned by Suzanne Peterson. Oscar Hanson and William E. Barnes are the prior owners of properties now owned by Bob Jones. William E. Barnes is the prior owner of property now owned by William Conroy. Bob Jones was the mayor at the time the licenses were granted and has provided further details. According to Bob Jones, the city council decided that they did not want to grant an easement for the water diversion works on City property. Instead, the city council elected to only grant licenses to the individuals, partly due to a desire for the City to be able to revoke the license if it impaired the City's water right. Neither Mr. Jones, Mr. Peterson or Mr. Conroy had a copy of the license that was granted to their predecessors. Jim English was the city attorney at that time. He has advised me that they did not keep his files from 1975, however, he will check some old boxes of information in his garage and if he finds anything in them he will let me know.

The City's water right to divert from Spring Branch Creek has a priority date of January 1, 1880. The two properties owned by Bob Jones have priority dates of March 24, 1976 and May 14, 1979; Suzanne Peterson's water right has a priority date of January 1, 1970; William Conroy's water right

has a priority date of April 1, 1971; and the Bohl Trust water right has a priority date of May 1, 1900. If there is insufficient water to accommodate all of the water rights from a particular water source, the water right with the most senior priority date will take priority. With an 1880 priority date, the Rathdrum water right should take priority over the rights of all the individuals to whom licenses were granted by the Rathdrum city council in 1975.

An easement is a right of use of real property, falling short of ownership, and usually for a certain purpose. An easement can be granted to either a person for use of the easement, or to a person for the benefit of a specific parcel of property owned by that person. In either case, the burdens associated with the grant of an easement run with the burdened property and are binding on subsequent owners of the burdened property. If an easement is granted for the benefit of another property, that benefit runs with the benefitted land, regardless of any changes in ownership. Easements are recorded in order to put all property owners on notice of the easement and the benefits and burdens associated with it. I have had our office manager check the records of the Kootenai County Recorder and she was unable to find any easements over the City's property for the benefit of any of the property owners that are currently diverting water from Spring Branch Creek, or their predecessors.

A license, unlike an easement, does not run with the land. A license is specific to the individual to whom it was granted and is revocable at will by the grantor. If it hasn't already been revoked, it automatically extinguishes when the licensee dies. It cannot be assigned. Although, a license is not typically recorded because it doesn't run with the land, our office manager also checked the county records to see if the licenses granted by the Rathdrum City council in 1975 were recorded. She was unable to find any recorded licenses.

In this case, although the water rights associated with a parcel of property transferred to the new owner when the land was conveyed, the right to enter upon the City property to divert the water didn't transfer to the new property owner. The new property owner has the right granted by Idaho Department of Water Resources to divert the water from Spring Branch Creek, but does not have the right to enter upon City property to accomplish that diversion. If the city council wishes to grant that right, I recommend that easements be granted to those property owners that are still diverting water from Spring Branch Creek.

DATE	INSTRUMENT NO.	TYPE OF DOC/ SOURCE OF INFO	GRANTOR	GRANTEE	ACRES	C
<u>Priority date</u> 01-01-1880		IDWR- water right to divert water from Spring Branch Creek	prob US Gov't or Frederick Post	Rathdrum Village	unsure but prob 160 ac+	
10-09-1907	40874 see comment	Deed to land	Ruby Sherwood	W.S. Gill, etux	unsure- 40-160 acres at this point	
12-02-1907	Permit No. 3037 (date 08-24-1907) Doc No. 32420 see comment	Book 28 of Deeds pg 387 04-09-1908	J. Nystrom/ID & WA RR	W.S. Gill, etux	spring of water... streams flowing from...	
SIGNED 05-03-1966 FILED 06-09-1966	488393 see comment	Bk 206, pg 486	Ralph T. Gray and Phyllis Gray	David A. Goodwin and Jeneene Goodwin & Vernon W. Goodwin and Violet M. Goodwin	unsure	
06-01-1970 Priority Date	WR No. 95-0949 SPRING Decreed 04-19-1989 -from Notice of Water right claim..."services 2 households" non irrigation see comment	IDWR WR Report from Linda Werner 09/29/2018	Hansen Sr. and wife had this water right	Bob and Sandy Jones applied for this in 2009. This was transferred to Jones 05-16-1990	spring located on 1.81 acres owned by Hansen Sr.	
(11-11-1970 *not sure what this date is connected to)	573181 for WD Bk 242, pg 353 see comment	DATE: SIGNED 10-29-1970 FILED 11-30-1970 WD bk 242 pg 353 KC Recorder's office	Goodwin	Hansen Sr.	4.72	
01-00-1971	WR No. 95-0951 see comment	hand drawn map by IDWR field inspector in 1971. I received from IDWR- Northern office	95-0951 owned by Graisys. Pump house for diversion works on Kempton's prop	Hansen Sr. 1/3 developer... in btwn Kempton and Graisys	—	

DATE	INSTRUMENT NO.	TYPE OF DOC/ SOURCE OF INFO	GRANTOR	GRANTEE	ACRES	C
05-14-1971	WR No. 95-4360 SPRING BRANCH CREEK surface water for irrigation see comment	IDWR, this is the priority date for water claim 95-4360 used by Hansen Sr.	Hansen Sr. and wife had this water right	Bob and Sandy Jones applied for this in 2009	1.85 ac +/-	
10-26-1971	Application #318 Kootenai Co see comment	Building Permit Application (Quonset shop)/KC Recorders Office	Owner/ contractor: Earl Huckabay Owner: Hansen Sr.?	—	shop on 1.48 Ac +/- Tax #8048	
03-20-1972	see comment	bk 255, pg 358 found on Real Property Valuation Summary from Assessor's office	owner? Hansen Jr. or Hansen Sr.	—	—	
08-19-1975	see comment	Council meeting minutes 1975 - Mayor Bob Jones signed. I received doc from Kevin Jump	City of Rathdrum	Granting permission for Graisy, Kempton, Hansen to appropriate Spring Branch creek water	—	
01-19-1978 REVISED- 01-31-1978	No. 2328 see comment	Survey found at KC Recorder's Office- Jonas Puskorius	Private survey paid for by Hansen Sr. I think	property owned by Hansen Sr.	4.72 *before he owned Lollis and Rust prop	
*doc has date of transmission 06-09-1998						
APPLIED 2-17-1978 PERMIT APPROVED 2-23-1978	Permit No. 0015 see comment	Individual Sewage Disposal Installation Permit- Panhandle Health District	propert owned by Hansen Jr. (that we own now)	—	permit states "owns propert y behind the lot"	
03-08-1978	763082 see comment	WD Bk 290, pg 107	Hansen Sr.	Hansen Jr.	1.42	

DATE	INSTRUMENT NO.	TYPE OF DOC/ SOURCE OF INFO	GRANTOR	GRANTEE	ACRES	C
Inspection APPROVED 11-09-1978 COVERED 11-13-1978	Permit No. 0015	Individual Sewage Disposal Installation Permit- Panhandle Health District	this would have been property that Hansen Jr. was building on	—	1.42	
01-05-1979		WD bk 290, pg 107 found on Real Property Valuation Summary from Assesor's office		Hansen Jr.	1.42	
TRIAL 09-15 to 18- 1980	868486 see comment	Case No. 41731 JUDGEMENT 02-12-1981	Rust	Hansen Sr.	—	
04-22-1985	1005636 see comment	Deed of Trust Bk 196, pg 379	Hansen Jr., etux	<— LEGAL OWNERS	unsure	
11-19-1986	1065709 see comment	Declaration of Homestead	—	—	2.902	
EXECUTED 12-30-1986 FILED & RECORDED 03-06-1987	1077146 see comment	Deed to Well and Grant of Easement	Lynn R. Baker Purcell fka Lynn R. Baker	Hansen Jr. and wife		
09-15-1987	1096438 see comment	Deed of Trust Bk 218, pg 10	Hansen Sr., etux Trustees	<— LEGAL OWNERS	unsure	
09-09-1988	1182401 see comment	Grant of Share in Water System and Grant of Easement	Hansen Sr. and wife	Hansen Jr. and wife		
DECREED 04-19-1989 ENTERED 04-20-1989	1151154 see comment	KC Recorders Office Transcript of Final Decree	IDWR	All WR applicants listed by name		
08-16-1989	1157729 and 1157730 see comment	QCD *recorded at the request of Hansen Jr.	Hansen Sr. etux	Hansen Family Trust	Parcel No.'s 2220 and 2200	
10-12-1989	1163484	QCD	Hansen Sr.	Hansen Family Trust	?	

DATE	INSTRUMENT NO.	TYPE OF DOC/ SOURCE OF INFO	GRANTOR	GRANTEE	ACRES	C
05-11-1990	1182402	Deed to well and Grant of Easement (#14 in Schedule B) = Title exempt from liability	Hansen Jr.	Hansen Sr., Trustee and Successor Trustee...		
05-16-1990 and filed	1183795	WD	O. Earl Hansen	Robert F. Jones and Sandra Jones	*look at EXHIBIT "A" legal descriptions of parcels ...there are "EXCEPTING" parcels	
05-29-1990	see comment **1183796** this document was executed 05-16-1990 also. I found it when looking at PFHD file and looks like No. 3795 but handwriting specifies 2200 (parcel #)...a separate prop Jones bought from Hansen Sr. "ALL WATER..." x'd out	"ALL WATER, WELL AND SPRING RIGHTS TO BE TRANSFERRED TO THE BUYERS (Jones)" "GRANTOR TRANSFERS TO BUYERS DEED TO WELL AND GRANT OF EASEMENT RECORDED MAY 11, 1990 UNDER INST. NO. 1182402"	(Hansen Sr.) and Violet L. Hansen, Trustees and Successor Trustees of Hansen Family Trust			
10-01-1990	1200372	Deed of Reconveyance	KC Title Co	Hansen Sr., etux <— LEGAL OWNERS	unsure	
01-31-1991	1208498	Deed of Reconveyance	KC Title Co	Hansen Jr., etux <— LEGAL OWNERS	unsure	
02-08-1991	1208499	WD KC Recorder's Office	Hansen Jr and wife	Conrad Renburg and wife	find this	
06-25-1993	1310230 **listed on our Schedule B paperwork see comment	WD KC Recorder's Office ORDER NO. 18818	Christine Brooten	Jones, etux	road & utilities	
SENT 11-00-1994 SIGNED 12-02-1994 ENTERED 12-28-1994	none see comment	CHANGE OF ADDRESS REQUEST/KC Assessor's Office mailed to Renburg				

DATE	INSTRUMENT NO.	TYPE OF DOC/ SOURCE OF INFO	GRANTOR	GRANTEE	ACRES	C
04-12-1996	1442351	QCD KC Recorder's office	Jones, etux	Jones, etux	unsure	
	see comment					
07-00-1997		info from Sandy via text on 05-01-2019				
06-09-1998	see comment	refers to Puskorius survey				
04-29-1999	1586591	QCD KC Recorder's office	Jones, etux	Renburg, etux	find this	
	see comment					
04-29-1999	1586592	QCD KC Recorder's office	Renburg, etux	Jones, etux	find this	
	see comment					
05-13-1999	see comment	map from IDWR in 2009			ONLY Jones acres	
06-03-1999	1592023	WD KC Recorder's Office	Renburg, etux	Caroline Fairbanks & Howell B H/ W	find this	
	see comment					
06-20-2003	1808459	WD KC Recorder's Office	Fairbanks, etux	Patrick & Helga Fox	find this	
06-07-2010		Memo re water diversion from Spring Branch Creek	From: Mason & Stricklin, LLP Lawyers (City Atty)	To: Mayor and City Council (2010)		
05-00-2018	see comment					
06-13-2018	see comment					
06-14-2018	find this	WD/KC Recorder's office	Fox, etux	Kingsbury, etux	2.902	
	see comment					
07-01-2018	see comment					
09-11-2018	see comment					
10-00-2018	see comment	phone convo btw me and Jan Hansen 435-674-7324				

DATE	INSTRUMENT NO.	TYPE OF DOC/ SOURCE OF INFO	GRANTOR	GRANTEE	ACRES	C
07-00-2019	Public Records Information Request for Spring Branch Creek see comment	phone (June) email and mail communications btw me and Kevin Jump, PE Public Works Director				
07-11-2019		personal visit by Renburg's				

City of Rathdrum
8047 W. Main Street
Rathdrum, ID 83858
WWW.RATHDRUM.ORG



Public Works Department
P 208.687.2700
F 208.687.1377

July 31, 2019

Ms. Erin Kingsbury
17116 N. Reservoir Road
Rathdrum, ID 83858

**Re: Public Records Information Request
Spring Branch Creek**

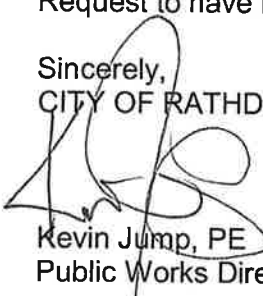
Dear Ms. Kingsbury:

We did some additional research on your Public Records Information Request which sought information pertaining to the City of Rathdrum granting access to nearby residents for the diversion of water from Spring Branch Creek.

For your reference, I'm attaching a memo, dated June 7, 2010, from our City Attorney, Mason & Stricklin, LLP, which speaks towards water rights/claims of adjoining properties obtaining or diverting water from Spring Branch Creek. I'm also attaching a photocopy of a section of the Rathdrum City Council minutes, from an August 19, 1975 meeting, in which a license was authorized for the utilization of water from Spring Branch Creek.

By providing the attached documents, I hereby consider your Public Records Information Request to have been satisfied.

Sincerely,
CITY OF RATHDRUM



Kevin Jump, PE
Public Works Director

Enclosures

City of Rathdrum
8047 W. Main Street
Rathdrum, ID 83858
WWW.RATHDRUM.ORG



Public Works Department
P 208.687.2700
F 208.687.1377

July 22, 2019

Ms. Erin Kingsbury
17116 N. Reservoir Road
Rathdrum, ID 83858

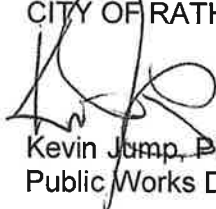
**Re: Public Records Information Request
Spring Branch**

Dear Ms. Kingsbury:

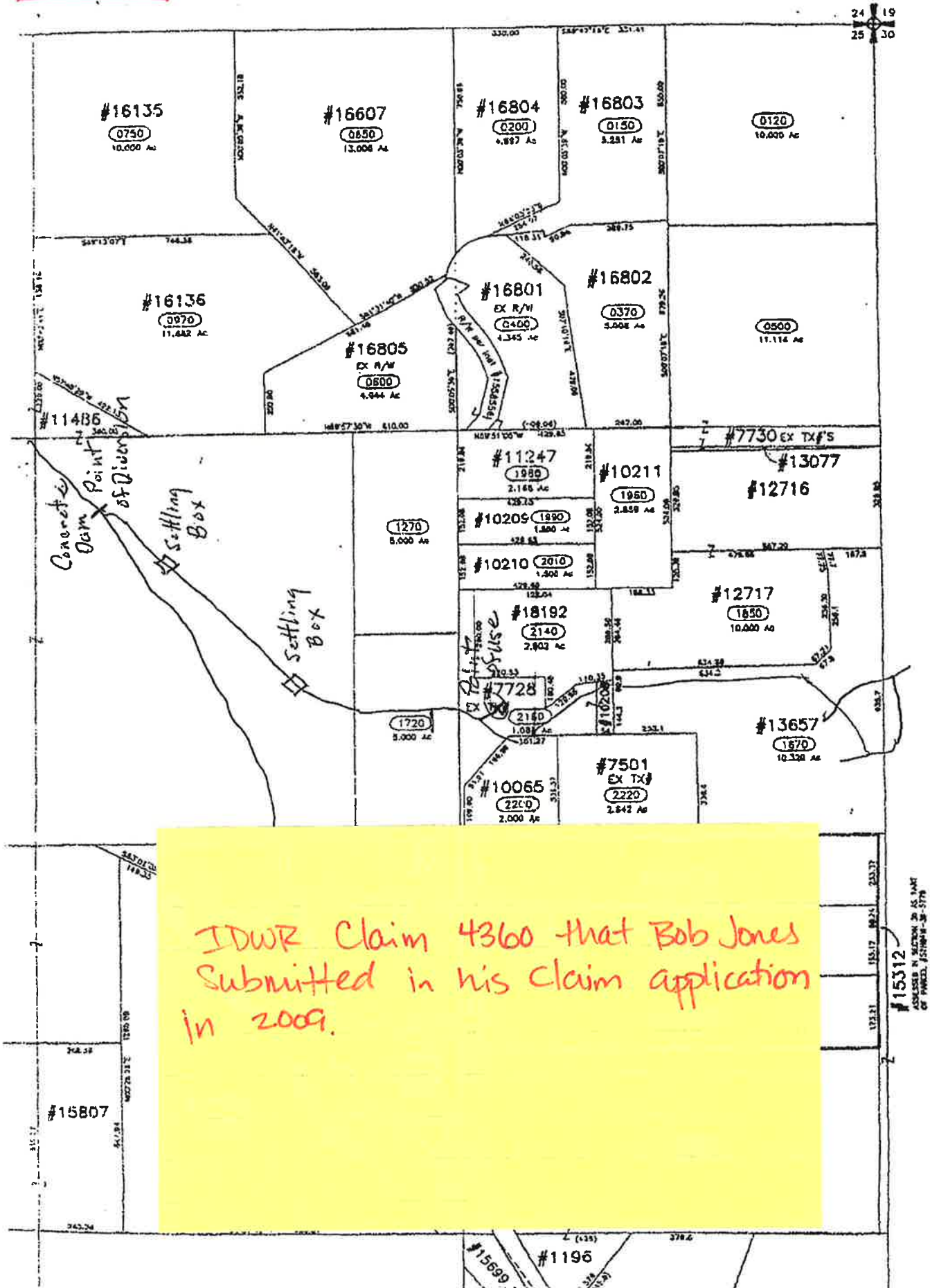
We received your Public Records Information Request which seeks any information pertaining to the City of Rathdrum granting access to nearby residents for the diversion of water from Spring Branch.

At this time, I'm neither sure if any such documentation exists nor if such access/rights were granted. However, we're going to research this matter further and provide you with our findings in the next 5-to-10 business days.

Sincerely,
CITY OF RATHDRUM



Kevin Jump, PE
Public Works Director



IDWR Claim 4360 that Bob Jones Submitted in his Claim application in 2009.

#15312
ASSESSED IN SECTION 30 AS 1/4 AC
OF PARCEL #5278014-30-5778

GRAVITY FLOW PIPELINE

JAN 1971

95-0951

GRISY

1050'

1"

HENSEN

200'

2"

KEMPTON

400'

2"

Kempton's

Pump House

will be moved by

5-15-71

UPPER

Box

COUNTY ROAD

CITY
WATERSHED

SLACK CREEK

42

FIELD EXAMINATION OF CSRBA WATER RIGHT CLAIM

Claim Identification Number: 95-948, 95-951, ^{Peterston} (95-798) [?] 95-4360, 95-7593 Jones

Date of Examination: 9/20/2018

Approximate Time of Examination: 0830-1130

IDWR Field Staff: Kaila Savage

Point of Contact: Pete Bredeson (Attorney for City of Rathdrum) who put me in contact with Kevin Jump (Public Works Director)

Examination Location: Spring Branch Creek

Purpose of Visit: Locate accurate Point of Diversion locations

Field Examination Notes:

I went out to confirm the Point of Diversion for the five Water Rights listed above, and verify they were located on Spring Branch Creek as claimed. Two of the five claimants (95-4360 & 95-7593) sent in a map with their claims describing the water delivery system to their property. I was able to locate the concrete dam and one of the settling boxes as described on the claimant's maps. I was unable to locate the settling box that is shown at the lowest point on the water system just before the water is sent to the Places of Use.

Jones⁺? I think

Use to build
Case on 4360
goes back in
Peterson file

Located on Peterson
prop? or the
one on Jones
property that
Jones says
PFHD destroyed
during work
on Reservoir Rd

The water system:

Concrete Dam/ Point of Diversion



Pipe coming out of the dam wall



Settling Box



52N05W252140

FAIRBANKS, CAROLINE L. ETVR

149000

512

ADMINISTRATIVE INFORMATION

PARCEL NUMBER

52N05W252140

Parent Parcel Number

Property Address

149000

Neighborhood

1204 RURAL SPIRIT LAKE AREA

Property Class

512 512- Rural residential tracts

TAXING DISTRICT INFORMATION

Jurisdiction 28

Area 001

District 078000

OWNERSHIP

FAIRBANKS, CAROLINE L. ETVR

Tax ID 149000

TRANSFER OF OWNERSHIP

Printed 10/18/99

Card No. 1

of 1

17000 N RESERVOIR RD
RAITHURUM, ID 83858

52N05W25

TAX #11068

Date

RESIDENTIAL

VALUATION RECORD

Assessment Year 1997 Worksheet
Reason for change 20

VALUATION	L	22930	28960
0	B	173916	178850
	T	196846	207810
VALUATION	L	22930	28960
0	B	173920	178850
	T	196850	207810

LAND DATA AND CALCULATIONS

Site Description
Topography: Low
Public Utilities: All
Street or Road: Unimproved
Neighborhood: Improving
Zoning: Legal Acres: 1.4180

Land Type	Rating	Measured	Table	Prod. Factor	Depth Factor	Base	Adjusted	Extended	Influence	Value
Rural Land	0.4180					1.00	3500.00	3500.00	1460	1460
View Homestead	1.0000					1.00	27500.00	27500.00	27500	27500

IMP: Improvement Information
LAND: Land Information
AA
M: Maintenance
RY00: Reval
UCW-10/99

This was prop that shop
business by Glenn Sad on -
2 day later
lot size increases
for Fairbanks?
USE this to build
case on
This + next pg = 3.32 acres
4360
3.32
2.00
1.32

148,830 sq. ft.
1679 ft. = 3.42 ac.
use as evidence for
4360

Supplemental Cards
TOTAL LAND VALUE

28960

28960

2N05W252140

FAIRBANKS, CAROLINE L. ETVR

149000

512

ADMINISTRATIVE INFORMATION

PARCEL NUMBER
52N05W252140
Parent Parcel Number

OWNERSHIP
FAIRBANKS, CAROLINE L. ETVR
17000 N RESERVOIR RD
RATHDRUM, ID 83858

Property Address
149000

52N05W25
TRX #11068

Neighborhood
1201 52N04W AREA

Property Class
512 512- Rural residential tracts

TAXING DISTRICT INFORMATION

Jurisdiction 28

Area 001

District 078000

Tax ID 149000

TRANSFER OF OWNERSHIP
Date

Printed 10/20/99 Card No. 1

of 1

RESIDENTIAL

VALUATION RECORD

Assessment Year 1997
Reason for Change 20
Worksheet

Site Description
Topography: Low
Public Utilities: All

VALUATION	L	22930	34160
0	B	173916	178850
	T	196846	213010
VALUATION	L	22930	34160
0	B	173920	178850
	T	196850	213010

LAND DATA AND CALCULATIONS

Street or Road: Unpaved
Neighborhood: Improving
Zoning: Legal Acres: 2.9020

Land Type	Rating Soil ID -or- Actual Frontage	Measured Effective Frontage	Table Effective Depth	Prod. Factor -or- Depth Factor	Base Rate	Adjusted Rate	Extended Value	Influence Factor	Value
Rural Land		1.9020		1.00	3500.00	3500.00	6660		6660
View Homestead	VSITE	1.0000		1.00	27500.00	27500.00	27500		27500

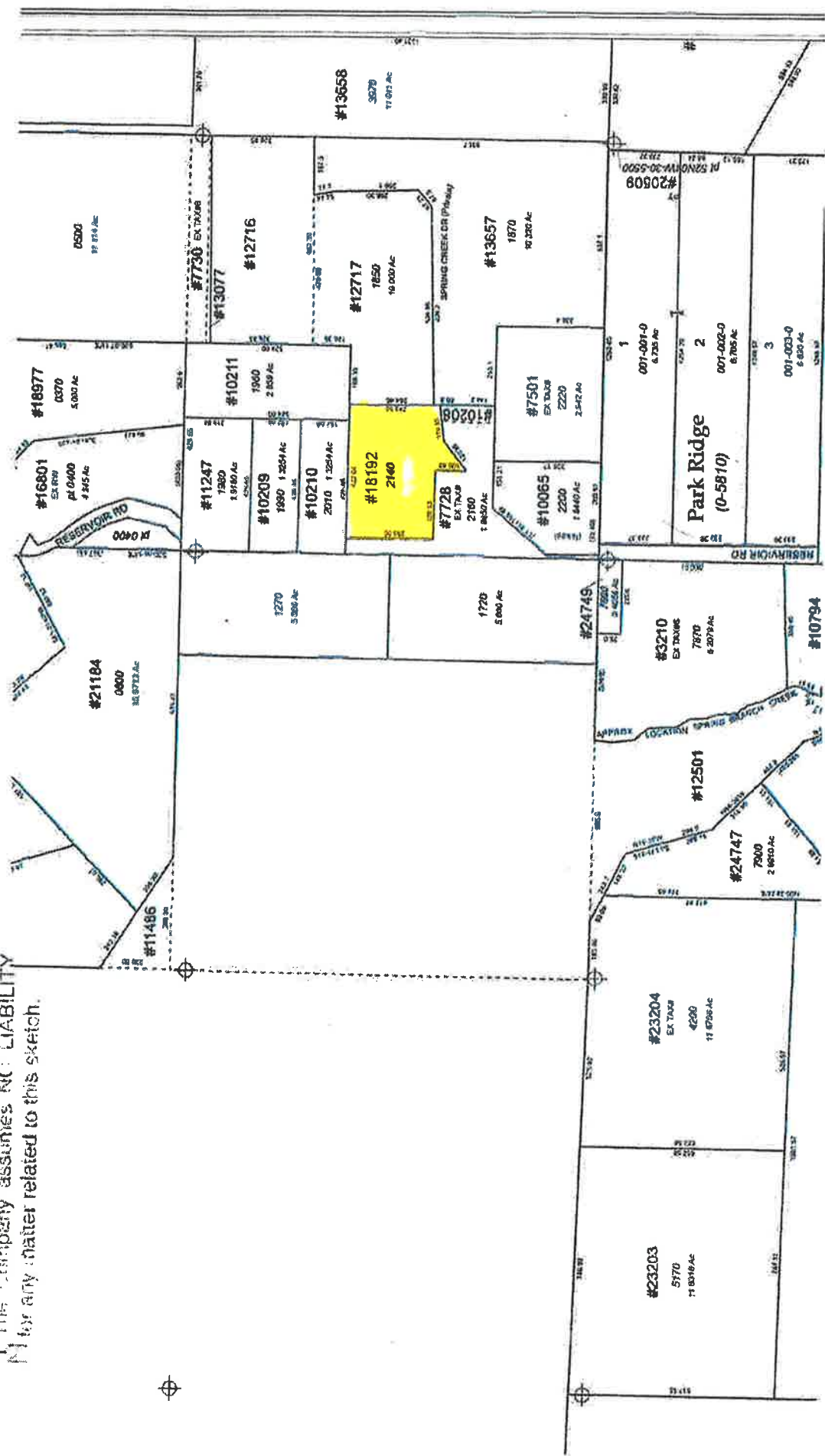
IMP: Improvement Information
LAND: Land Information
AA
M: Maintenance
RY00: Reval
JCM-10/99

34160

Supplemental Cards
TOTAL LAND VALUE

34160

This sketch is provided, without charge, for your information. It is not intended to show all matters related to the property. The company assumes NO LIABILITY for any matter related to this sketch.

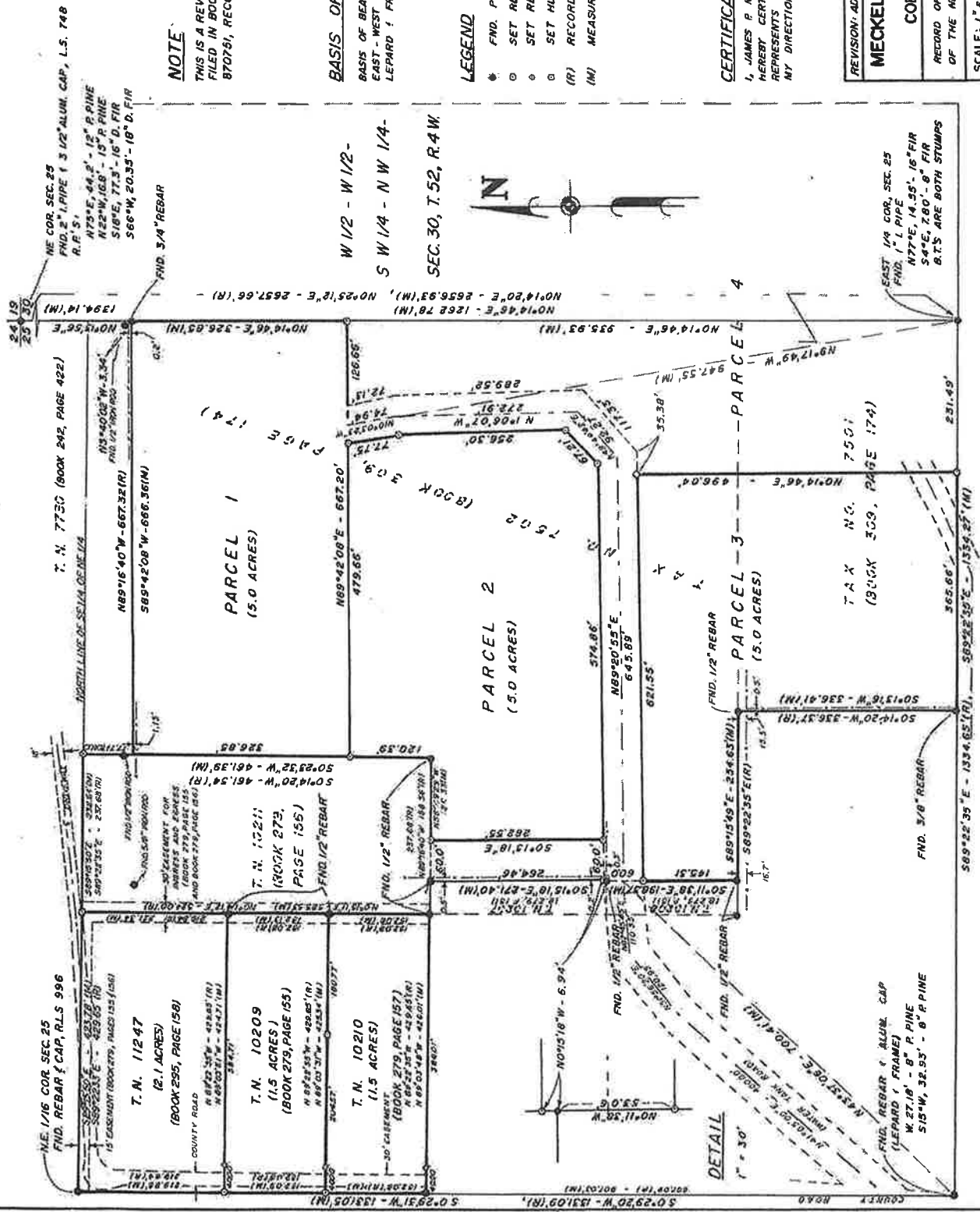


S25-52N-5W

RECORD OF SURVEY

OF A PORTION OF THE SE 1/4 OF SEC. 25, T.52 N., R.5 W., B.M., KOOTENAI CO., IDAHO

Book 6 pg. 5



NOTE

THIS IS A REVISION OF THAT RECORD OF SURVEY FILED IN BOOK 2, PAGE 292, INSTRUMENT NO. 870751, RECORDS OF KOOTENAI COUNTY, IDAHO.

BASIS OF BEARING

BASIS OF BEARING IS S89°22'35\"

LEGEND

- FND. POINT AS SHOWN
- SET REBAR & CAP
- SET REBAR
- SET HUB
- (R) RECORD
- (M) MEASURED



CERTIFICATE OF SURVEY

I, JAMES P. MECKEL, RE/RLS. 3451, STATE OF IDAHO, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION.

REVISION: ADD T.N. 10209-10210	DATE: 5-14-86	BY: K.LACY
MECKEL ENGINEERING AND SURVEYING		
402 IDAHO AVENUE		
COEUR D'ALENE, IDAHO 83814		
RECORD OF SURVEY OF A PORTION OF THE SE 1/4 OF THE NE 1/4 OF SEC. 25, T.52 N., R.5 W., B.M.		
SCALE: 1" = 100'	DRN.: PH	NO. 81-2
DATE: 1-22-81	CKD: JPH	86-27

Kootenai County, Idaho



WARNING IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES CONTAINED HEREIN.

Revisions

1. JB
V-25-0750 & 0770 redistricted for lot line adj. (09)
D redistricted as 18170-142 & comb w/ 0770 (09)
D redistricted as 18170-142 & comb w/ 0770 (09)
70 & 0775 comb w/ 0250 & redistricted as Tax#22134 (09)
2. JB
V-25-0700 now includes Tax #22146 (not previously depicted
-sided map) (09)
3. ET
V-25-0700 comb w/ 170, 4200 and 41570 as Tax #22204-
70 redistricted as Tax#22205 8200 out of 4200
205 (13)
4. GJC
NOSM-25-1890, 2010, 2180 and 2200 out to RW as CAT19
(13)
5. GP
V-25-0700 redistricted as Tax#23508 (14)
6. GP
V-25-0850 redistricted as geographic description (14)
7. GP
NOSM-25-3700, 4200, 7950 & 0250 out to RW as CAT19 (15)
8. GP
NOSM-25-3700 redistricted as Tax#24750 (17)
V-25-1800 redistricted as Tax#24746 (17)
V-25-1800 redistricted as Tax#24747 (17)
V-25-1810 & 0330 map adj. (17)
9. ET
V-25-0750 & 0970 redistricted as Tax#4990 & #24897 (16)

Notes:

Notes have been calculated by computer, however, sufficient information has been available. Area shown is by lot line. Right-of-Way, where applicable, has been indicated. Distances and curve lengths less than 50' may not be shown. Dimensions in parentheses denote record and/or plat lot dimensions.

NOTES: ROADS SHOWN ARE BASED ON ADDRESSABLE ROAD INFORMATION AND MAY OR MAY NOT BE PUBLIC.

1. Sub-code and Parcel ID# are C-3010 and 021000-C. Resulting PIN = C-3010-021000-C

2. Sub-code and Parcel ID# are C-3010 and 021000-C. Resulting PIN = C-3010-021000-C

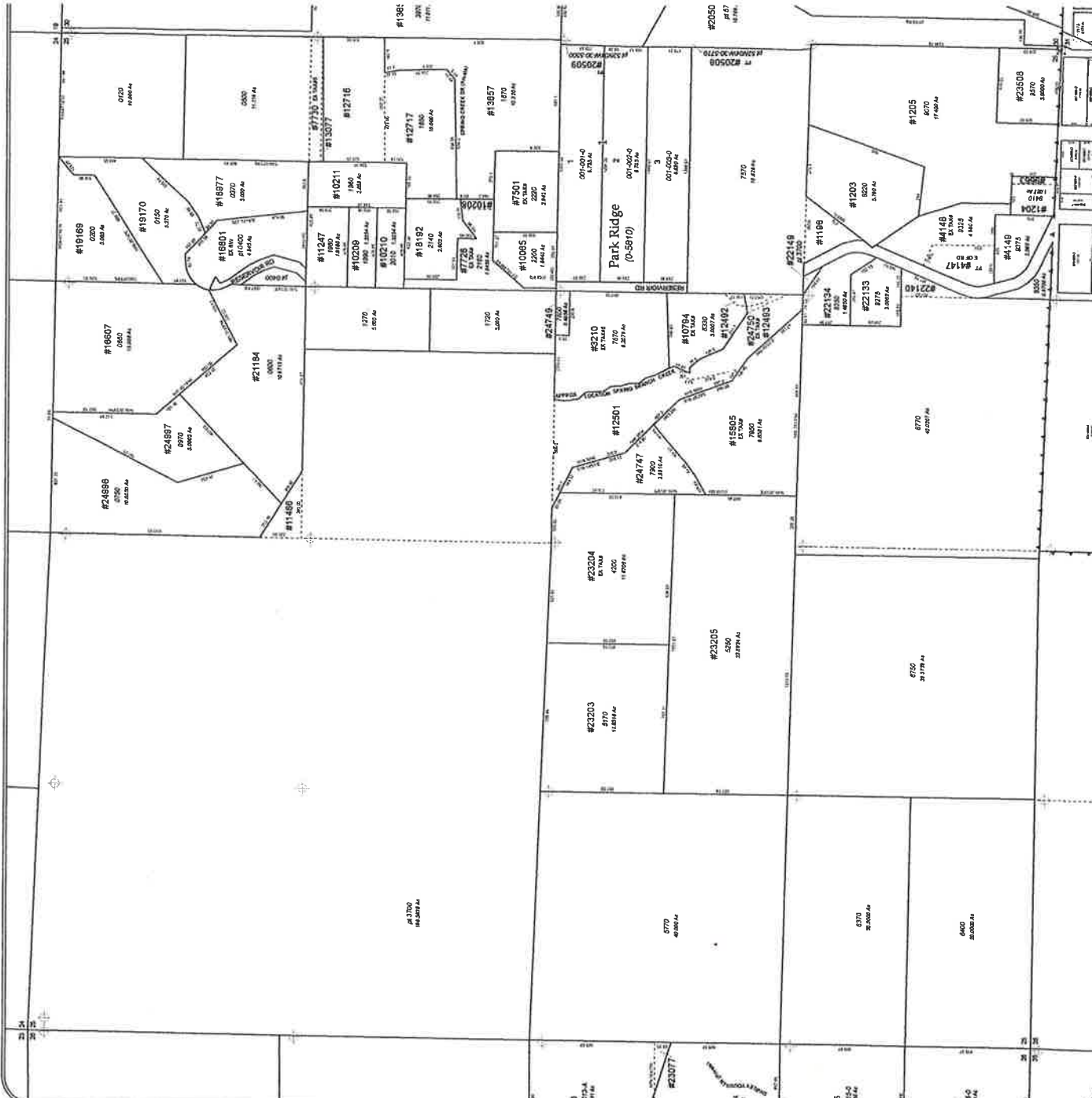
3. Sub-code and Parcel ID# are C-3010 and 021000-C. Resulting PIN = C-3010-021000-C

Legend

- 157 Sub-code
- 1-A Parcel ID# (PIN)
- Legal Areas
- Road RW
- Private Roads
- City Limits
- Plat Boundaries
- GODB_Corners
- GODB_Lines
- Railroad

52N05W25

Sec. 25 Twp 52 N. R. 5 W. B. M.









9844 - A 154 VIEW - RAT



1841150

NEIGHBOR

PUMP
HOSE
PIPE
WINGS
STITCHING
UP
PLUGS
END.

UP PIPES FORCE

GRASS

DECK
HOUSE

GRASS WILLOW

GARDEN
AREA

TRUIT
TREES

ROAD

