

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 37-2473K
Date Received: 9/15/2003
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CHARLES L MATTHIESEN Phone: (208)726-8087
PO BOX 2540
KETCHUM ID 83340

2. Date of Priority: 06/24/1946

3. Source: DIP CREEK Trib. to: BIG WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	17E	24	SW NW	BLAINE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/15	10/15	0.12	21.7
FIRE PROTECTION	1/01	12/31	0.38	
FIRE PROTECTION STORAGE	1/01	12/31		25.1
AESTHETIC	1/01	12/31	0.38	58.9
AESTHETIC STORAGE	1/01	12/31		25.1
DIVERSION TO STORAGE	1/01	12/31	0.5	

7. Total Quantity Appropriated is:
0.5 C.F.S. and/or 105.7 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	17E	23	NE	SW	IRRIGATION	3.1
			SE	SE	IRRIGATION	1.5
			Section Acres		4.6	
05N	17E	24	NW	SW	IRRIGATION	1.6
			Section Acres		1.6	
			Total Acres		6.2	

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion under Right Nos.

37-02473A/B/C/D/E/F/G/H/J and K.

A measuring device of a type acceptable to the Department shall be installed and permanently maintained across Dip Creek at a point where the creek enters the right holders property located within NESE, S23, T05N, R17E.

The total diversion rate from the wells shall not exceed flow of Dip Creek measured at the point identified above and is further limited to those times when water is available to fill Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K.

Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K when combined shall not exceed a total combined rate of diversion of 0.86 cfs, a total combined annual volume of 175.0 af, nor the total combined irrigation of 26 acres.

Right No. 37-02473K is diverted and used for ponds and the surrounding irrigation within Dip Creek Ranch Subdivision.

Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

15. Basis of Claim: License

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: A37-02473
Date Received: 1/25/1989
Receipt No: C003883
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CHARLES L. MATTHIESEN 619-454-6636
Address: 6110 VISTA DE LA MESA
LA JOLLA, CA 92037

2. Date of Priority: JUN 24, 1946

3. Source: DIP CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	17E	23	SE	NE	NE		BLAINE

5. Description of diverting works:
EARTH DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	06/01	10/01	1.000		
GROUNDWATER RECHARGE	10/02	05/30	1.000		

7. Total Quantity Appropriated is:
1.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 50.0 Acre Feet Per Annum.

9. Non-irrigation uses:
GROUNDWATER RECHARGE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
05N	17E	23	SE	NE		GWR	
			NE	NW		IRR	15.0

A37-02473

Page 1

Date: 01/25/89

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FEB 23 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	17E	23	SE	NW		IRR	15.0
			NE	SW		IRR	20.0
						Section Acres	50.0
						Total Acres	50.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
NONE

14. Remarks:

DWR NOTE**P/U DESCRIPTION WAS OPPOSITE OF THAT CLAIMED;NWNE,15AC
SWNE,25 AC.; NWSE,15 AC. SEC. 23. GROUNDWATER RECHARGE WAS NOT
INCLUDED ON THE ORIGINAL LIC.

15. Basis of Claim: LICENSE
Water Right Number: 19866

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 _____ day
of _____ 19 _____

Notary Public

Seal

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

CIVIL CASE NUMBER:

39576

Ident. Number

A37-02473

Date Received

Receipt Number

C003883

RECEIVED

OCT 25 1988

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

- Name of Claimant (s) CHARLES L. MATTHIENEN Phone (619) 454-6636
Mailing Address 1010 VISTA de la MESA, LA JOLLA, CA Zip 92037
- Date of Priority (Only one (1) per claim) JUNE 24, 1946
- Source of water supply (a) DIP CREEK
which is tributary to (b) "SINKS"
- a. Location of existing point of diversion is: Township 5N Range 17E Section 23,
SE 1/4 of NE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of BLAINE
Additional points of diversion if any: _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
- Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

BASIC EARTH DITCHES, APPROX. 10" DEEP x 12" WIDE ARE
THE ONLY DIVERSION WORKS AND HAVE NOT BEEN ALTERED

COPY MICROFILMED
FEB 23 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 6-1 to 10-1 amount 1.0 or _____

For GROUND WATER RECHARGE purposes from 1-1 to 5-30 amount 1.0 or _____

For " " " purposes from 10-2 to 12-31 amount 1.0 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.0 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 50 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) DOMESTIC (TREES) & GROUND WATER RECHARGE

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
5N	17E	23				E 15				15 20									50

Total number of acres irrigated 50

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

12. Do you own the property listed above as place of use? Yes X 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. _____ or None ()

14. Remarks:

COPY

MICROFILMED

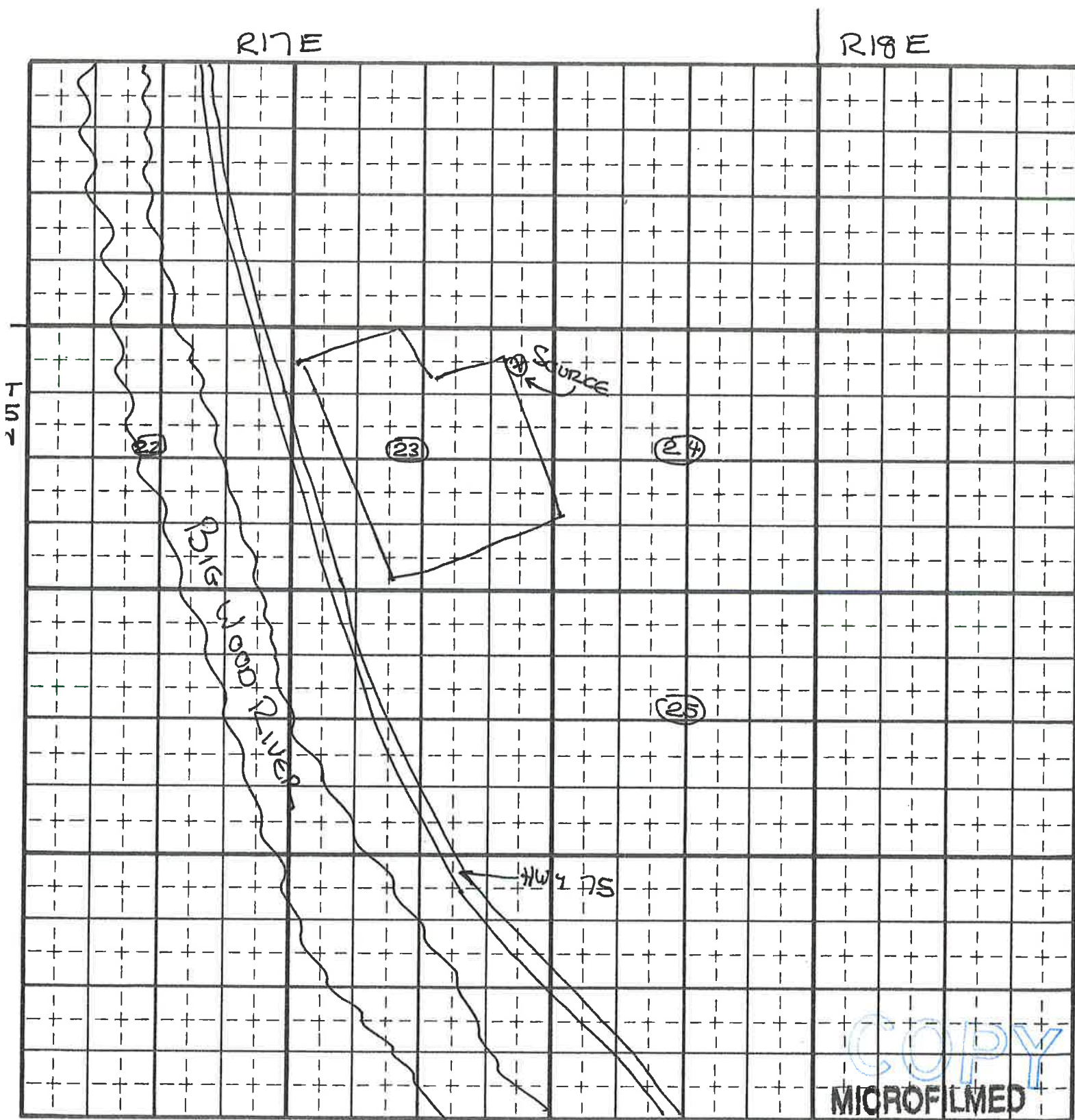
FEB 23 1993

Last Name MATTHIENSEN Ident No. _____

Copies: White -State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile



FEB 23 1993

Last Name MATTHIESEN Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 19866
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 X 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) Charles L. Mathiesen Date October 19, 1988

Date _____

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 _____

Title and Organization _____ Date _____

State of ~~Idaho~~ or CALIFORNIA)
County of SAN DIEGO) SS.

Subscribed and sworn (or affirmed) before me this 19TH day of OCTOBER 19 88

SEAL

Alec D. Deaton

Notary Public

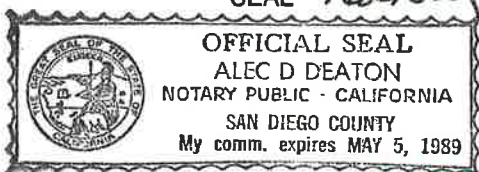
ALEC D. DEATON

Residing at 2266 FIFTH AVE SAN DIEGO CA 92101

My Commission Expires

5-5-89

Please Print Name



17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

COPY
MICROFILMED

FEB 23 1993

Last Name MATTHIEN Ident. Number _____

Copies White-State, Yellow-Claimant

10/27/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME

Matthew Sen

CLAIM ENT. NO.

A37-02473

DATE RECEIVED

10-25-88

CK # 1604

AMOUNT \$100

YES

NO

1. Is the name and address complete with zip code?

YES

NO

2. Is a priority date entered?

YES

NO

Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?

A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS.

3. (a) Is a source entered?

YES

NO

(b) Is a tributary to entered? (if required)

N/A

YES

NO

4. Is the legal description of the p.d. sufficient?

YES

NO

5. Is there a description of the diverting works?

YES

NO

6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.

YES

NO

Is the period of use included?

YES

NO

Is a quantity claimed for each use?

YES

NO

7. Is a total quantity claimed entered?

YES

NO

8. If required is a consumptive use entered?

N/A

YES

NO

Is the consumptive use correct?

N/A

YES

NO

9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.

N/A

YES

NO

10. Is (are) the place(s) of use and purpose(s) indicated?

YES

NO

11. Is (are) the county(ies) entered?

YES

NO

12. Is the ownership of p.u. checked?

YES

NO

13. Are other water rights listed or "none" indicated?

YES

NO

14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)

N/A

YES

NO

15. Is the basis of the claim indicated?

YES

NO

16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?)

YES

NO

Has the claim been signed, sealed, and dated by a notary?

YES

NO

Was this claim filed on time, or was an extension granted?

YES

NO

Is the fee enclosed correct?

Exempt

YES

NO

If this claim is based on an existing water right, has the identification number been entered?

N/A

YES

NO

Should this claim be receipted and data entered?

YES

NO

MICROFILMED

Claim checked by:

FEB 23 1993

Comments:

02/02/2007

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-2473K

NAME AND ADDRESS: CHARLES L MATTHIESEN
PO BOX 2540
KETCHUM ID 83340

SOURCE: DIP CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.500 CFS
105.700 AFY

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation purposes.

PRIORITY DATE: 06/24/1946

POINT OF DIVERSION:

T05N R17E S24 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.120 CFS 21.70 AFY
FIRE PROTECTION	01/01 12/31	0.380 CFS
FIRE PROTECTION STORAGE	01/01 12/31	25.10 AFY
AESTHETIC	01/01 12/31	0.380 CFS 58.90 AFY
AESTHETIC STORAGE	01/01 12/31	25.10 AFY
DIVERSION TO STORAGE	01/01 12/31	0.500 CFS

Right No. 37-2473K is used for ponds and the surrounding irrigation within Dip Creek Ranch Subdivision.

PLACE OF USE:

IRRIGATION in BLAINE County

T05N R17E S23	NESE	3.10	T05N R17E S23	SESE	1.50
T05N R17E S24	NWSW	1.60			

FIRE PROTECTION in BLAINE County

T05N R17E S23	NESE	T05N R17E S23	SESE
T05N R17E S24	NWSW		

AESTHETIC in BLAINE County

T05N R17E S23	NESE	T05N R17E S23	SESE
T05N R17E S24	NWSW		

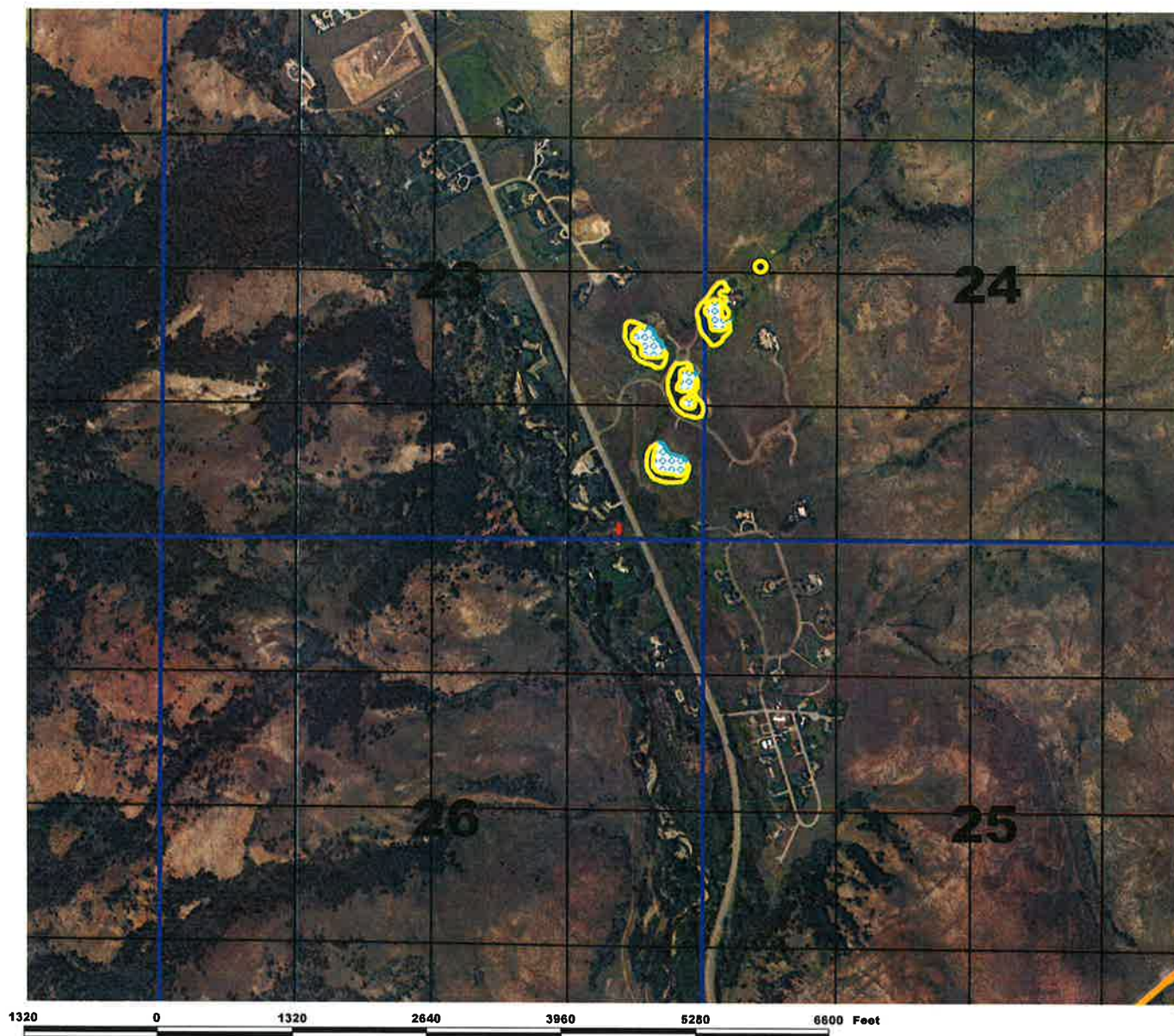
6.2 ACRES TOTAL

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

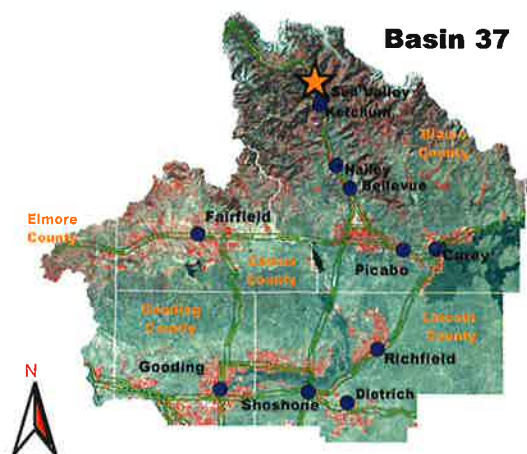
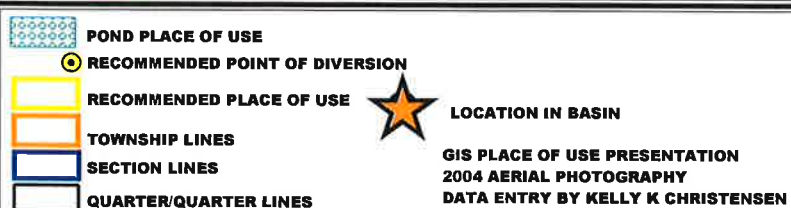
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

RECOMMENDED PLACE OF USE FOR 37-2473A



PLACE OF USE
TWP 5N, RNG 17E, SEC 23 & 24
Data entry on March 28, 2007



02/02/2007

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

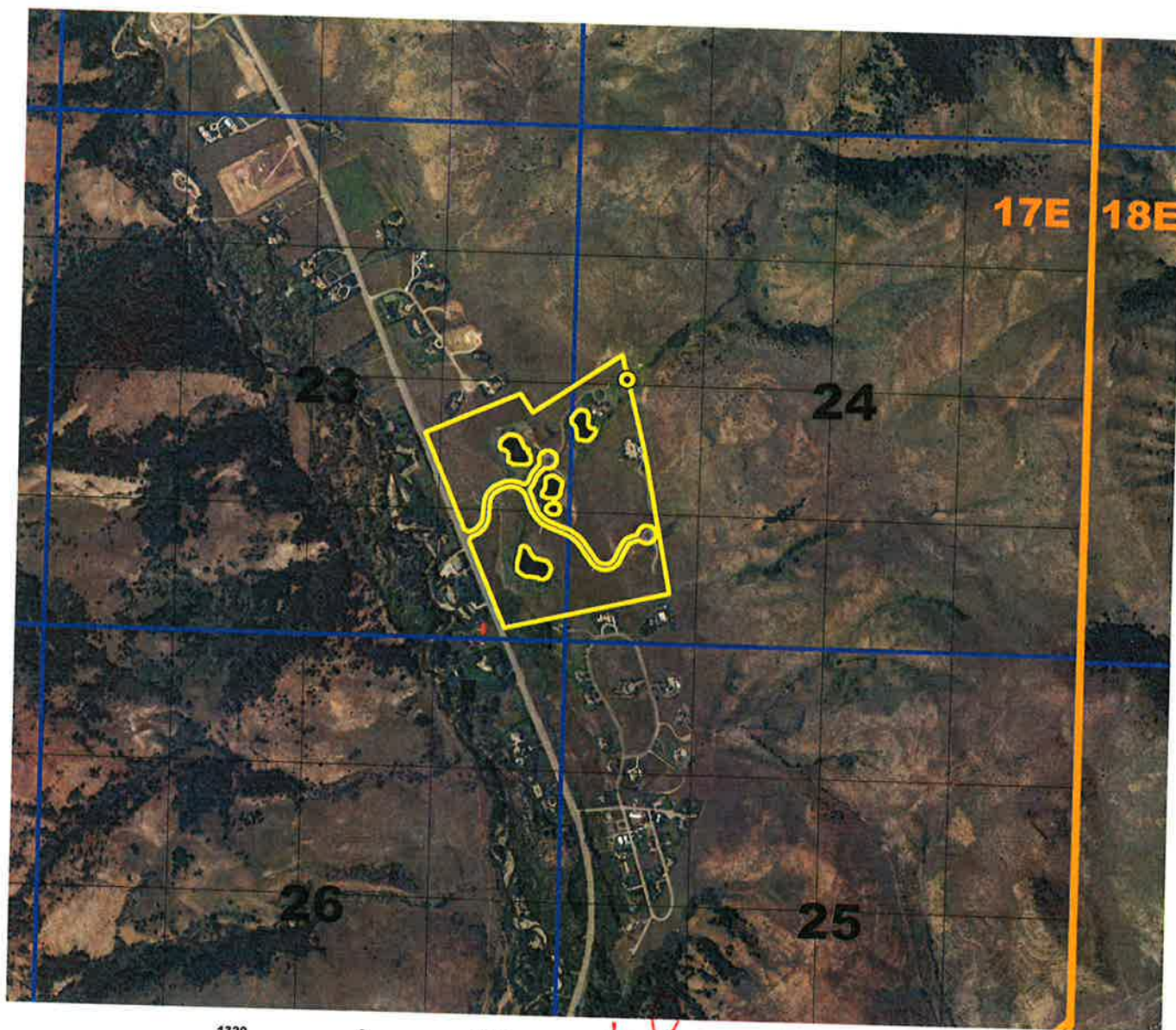
Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from the authorized point of diversion for this right.

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Idaho Department of Water Resources

RECOMMENDED PLACE OF USE FOR
37-2473A



1320 0 1320 2640 3960 5280 Feet

PLACE OF USE
TWP 5N, RNG 17E, SEC 23 & 24
Data entry on February 2, 2007

*Superseded
3-28-07
KKC*

Basin 37



● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

TOWNSHIP LINES

SECTION LINES

QUARTER/QUARTER LINES



LOCATION IN BASIN

GIS PLACE OF USE PRESENTATION
2004 AERIAL PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN

Sec 23

[illegible][illegible]

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-2473K

WATER RIGHT NUMBER: 37-2473K

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	J S FELDHUSEN
Current Owner	KETCHUM, ID 83340 CHARLES L MATTHIESEN PO BOX 2540 KETCHUM, ID 83340 (208)726-8087

Priority Date: 06/24/1946

Basis: License

Status: Active

Source

DIP CREEK

Tributary

BIG WOOD RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	0.120 CFS	21.70 AF
FIRE PROTECTION	1/01 to 12/31	0.380 CFS	
FIRE PROTECTION STORAGE	1/01 to 12/31		25.10 AF
AESTHETIC	1/01 to 12/31	0.380 CFS	58.90 AF
AESTHETIC STORAGE	1/01 to 12/31		25.10 AF
DIVERSION TO STORAGE	1/01 to 12/31	0.500 CFS	
	<u>Total Diversion:</u>	0.500 CFS	105.70 AF

Location of Point(s) of Diversion

DIP CREEK	SW1/4NW1/4	Sec. 24, Twp 05N, Rge 17E, B.M.
BLAINE County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	17E	23									3.1							1.5	4.6
05N	17E	24										1.6							1.6

Total Acres: 6.2

FIRE PROTECTION same as IRRIGATIONAESTHETIC same as IRRIGATIONConditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

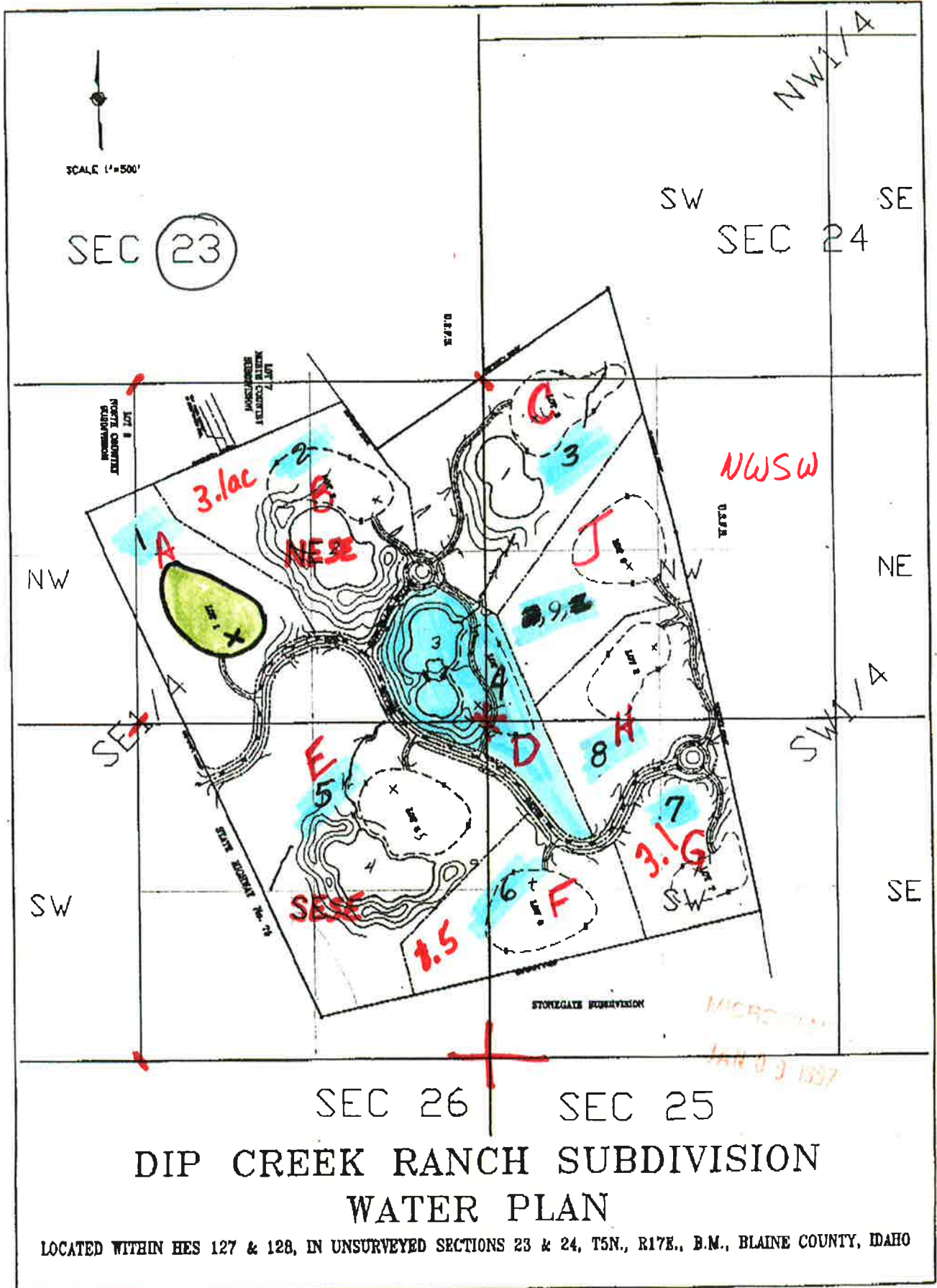
Water Right Report 37-2473K

1. T09 Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
2. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
3. R30 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.
4. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.
5. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion under Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K.
 A measuring device of a type acceptable to the Department shall be installed and permanently maintained across Dip Creek at a point where the creek enters the right holder's property located within NESE, S23, T05N, R17E.
 The total diversion rate from the wells shall not exceed flow of Dip Creek measured at the point identified above and is further limited to those times when water is available to fill Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K.
 Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K when combined shall not exceed a total combined rate of diversion of 0.86 cfs, a total combined annual volume of 175.0 af, nor the total combined irrigation of 26 acres.
 Right No. 37-02473K is diverted and used for ponds and the surrounding irrigation within Dip Creek Ranch Subdivision.

Remarks:Comments:

1. VAULT 1/16/1996 Extension of Time To Avoid Forfeiture
 Comment: Extension of Time To Avoid Forfeiture approved 03-27-96.
2. MBALDWIN 7/15/1996 TRANSFER NOS- 4867-4876
 Comment: Group of 10 transfer apps. filed on 5/31/96 to split water right no. 37-02473. Applicant is developing existing place of use into a subdivision and converting from surface water source (Dip Creek) to individual wells on each lot of proposed Dip Creek Ranch for 9 of the transfers. The 10th transfer pro- poses to divert water from Dip Creek for irrigation, aesthetic, fire protection, and groundwater recharge.
3. MBALDWIN 8/27/1996 CHANGE OF ADDRESS
 Comment: Per letter request from applicant received on 8/27/96, address change has been made on database for application for permit No. 37-08855 and pending transfer Nos. 4867-4876.
4. PSKAGGS 9/28/2000 ORDER GRANTING EXTENSION OF TIME TO COMPLETE TRANSFER 4876
 Comment: Dated 09-28-2000 extended the date of completion to 12-31-2001.

Place of Use & P/D= X





Dip Creek Subdivision - 2000

Irrig_area.shp

18.9 ac.

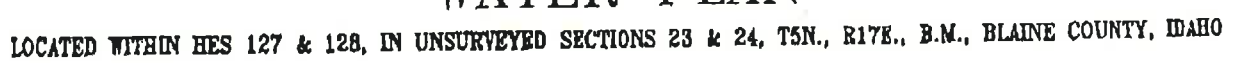
200 0 200 400 600 Feet

Photo: 2000 vertical



Brockway Engineering, PLLC
September 20, 2000

Place of Use & P/D= X



09/19/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-2473K

NAME AND ADDRESS: CHARLES L MATTHIESEN
PO BOX 2540
KETCHUM ID 83340

SOURCE: DIP CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.500 CFS
105.70 AFY

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation purposes.

PRIORITY DATE: 06/24/1946

POINT OF DIVERSION: T05N R17E S24 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.120 CFS 21.70 AFY
FIRE PROTECTION	01/01 12/31	0.380 CFS
FIRE PROTECTION STORAGE	01/01 12/31	25.10 AFY
AESTHETIC	01/01 12/31	0.380 CFS 58.90 AFY
AESTHETIC STORAGE	01/01 12/31	25.10 AFY
DIVERSION TO STORAGE	01/01 12/31	0.500 CFS

Right No. 37-2473K is used for ponds and the surrounding irrigation within Dip Creek Ranch Subdivision.

PLACE OF USE: IRRIGATION Within BLAINE County

T05N R17E S23	NESW	3.10	T05N R17E S23	SESE	1.50
T05N R17E S24	NWSW	1.60			

FIRE PROTECTION Within BLAINE County

T05N R17E S23	NESW	T05N R17E S23	SESE
T05N R17E S24	NWSW		

AESTHETIC Within BLAINE County

T05N R17E S23	NESW	T05N R17E S23	SESE
T05N R17E S24	NWSW		

6.2 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from the authorized point of diversion for this right.

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

The right holder shall accomplish the change authorized by this transfer by December 31, 2001.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

September 19, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

CHARLES L MATTHIESEN
PO BOX 2540
KETCHUM ID 83340

RE: Water Right 37-2473K

Dear Mr. Matthiesen:

IDWR is currently reviewing claims filed in the Snake River Basin Adjudication. During this review, IDWR noted a possible problem with Water Right 37-2473K, which authorizes the diversion of water from Dip Creek for use in and around some ponds in the Dip Creek Ranch Subdivision.

On Application for Transfer No. 4876, you indicated that the new place of use for the right would include the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 23, T5N, R17E, B.M. IDWR approved the transfer in accordance with your application. As you can see on the enclosed map, the place of use probably should have indicated the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 23, T5N, R17E, B.M., instead of the NE $\frac{1}{4}$ SW $\frac{1}{4}$.

To change the place of use for the water right, you must file another application for transfer. I have enclosed an application form for you to use.

If you have any questions, please call me at 208-287-4947, or email me at shelley.keen@idwr.idaho.gov.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

Enclosures



Idaho Department of Water Resources

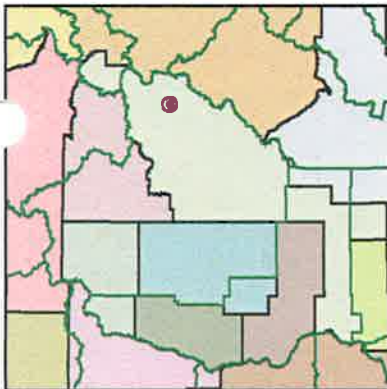
SRBA Recommendation:

37-2473K

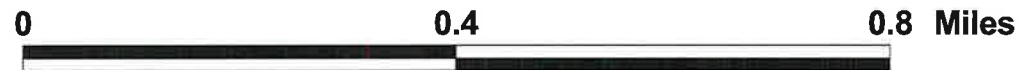
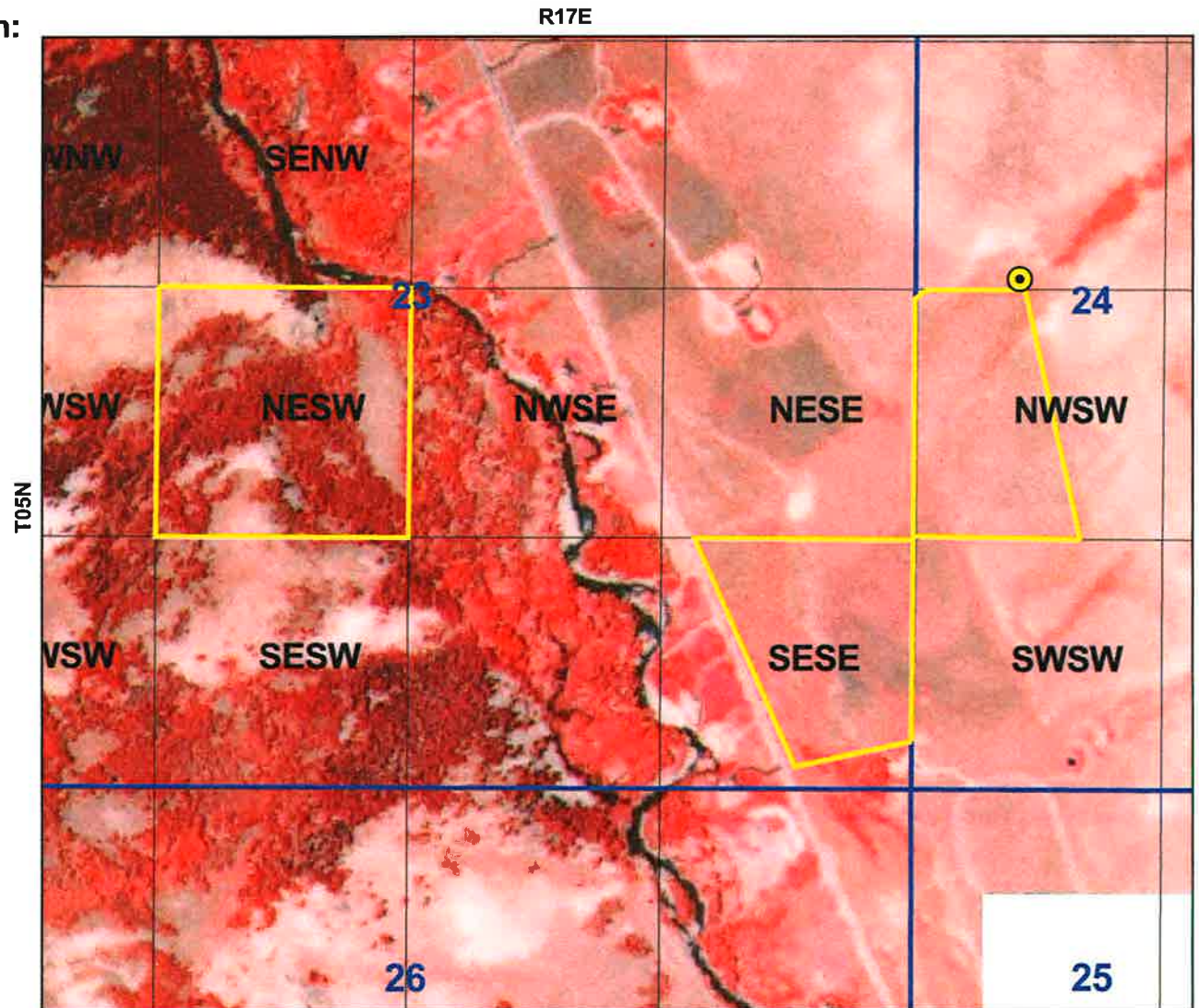
(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Blaine County
IDWR Basin 37



Prepared by E. NORQUES
On Tuesday, September 19, 2006
1987/88 Aerial Photography



Idaho Department of Water Resources

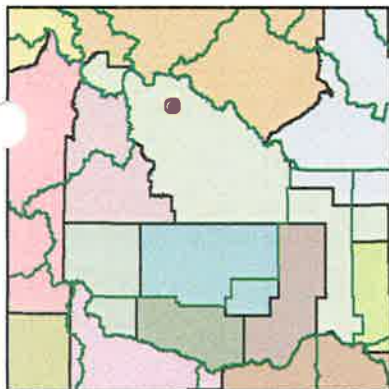
SRBA Recommendation:

37-2473K

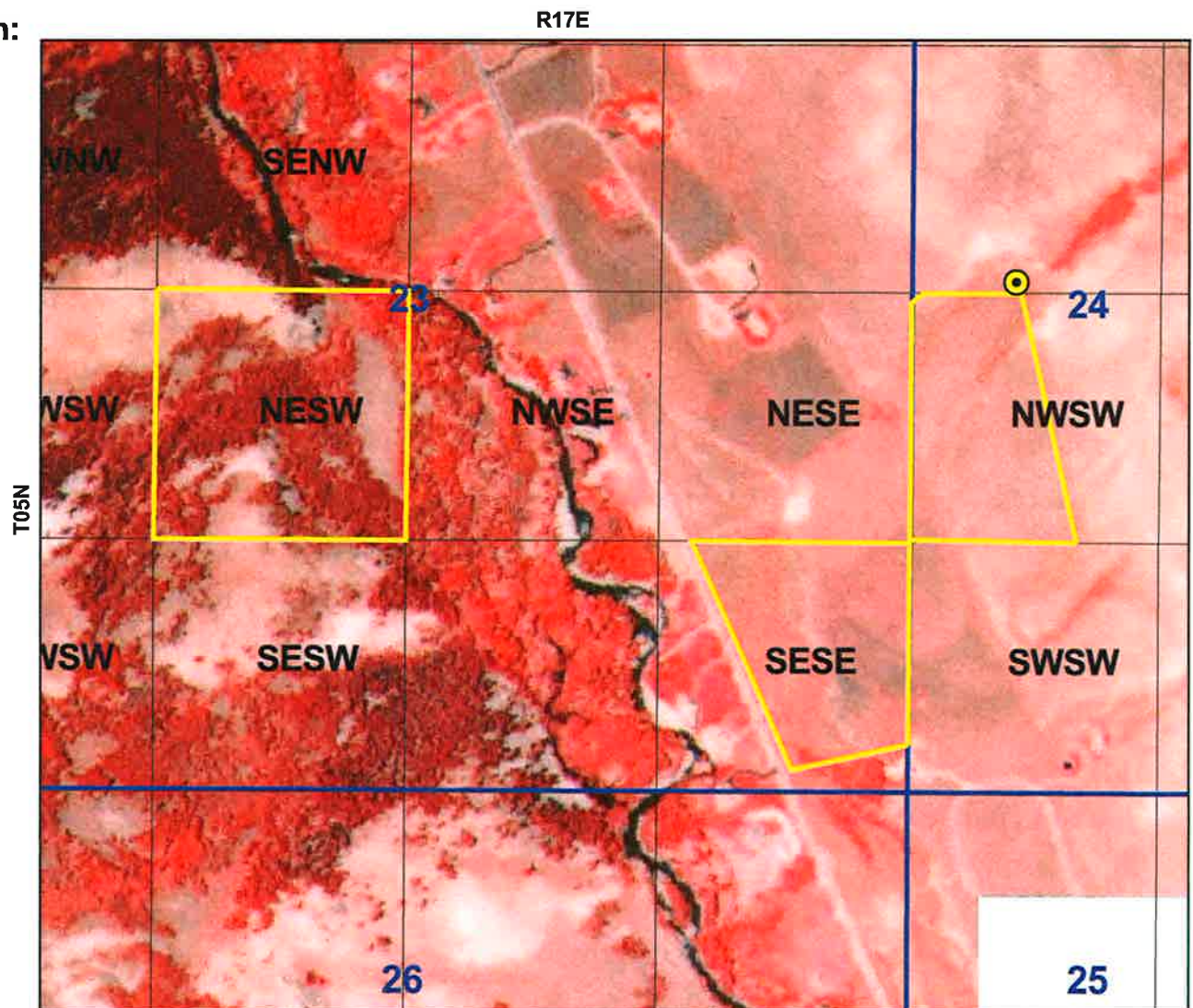
(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Blaine County
IDWR Basin 37



0 0.4 0.8 Miles

Prepared by E. NORQUES
On Tuesday, September 19, 2006
1987/88 Aerial Photography

MEMORANDUM

DATE: December 14, 2006

TO: SRBA Claim File 37-2473K

FROM: Shelley W. Keen *SWK*

RE: Notice of Error

I met with Charles Matthiessen in Sun Valley on 12/4/2006 to discuss the place of use for Right 37-2473K. Because of an error on the transfer application, Transfer 4876 put some of the place of use on a tract of land owned by the USFS. Mr. Matthiesen is preparing a new transfer application to correct the place of use description.

11/21/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 12/13/2006

Water right number: 37-2473K

CHARLES L. MATTHIESEN

PO BOX 2540

KETCHUM ID 83340

Telephone Number: (208)726-8087

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

PLACE OF USE IS NOT CORRECT

2. Describe the changes you wish to make in the proposed recommendation:

CORRECT LOCATION. SHELLEY KEEN HAS BEEN WORKING WITH ME TO MAKE THE CORRECTION WITH A NEW TRANSFER

3. Give a brief explanation as to why you disagree with these portions:

☐ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 12/12/2006

SIGNATURE:

Charles L. Matthiesen

Please print your name:

CHARLES L. MATTHIESEN

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

DEC 14 2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NOS. 4867/4868/4869/4870/4871/4872/4873/4874/4875 & 4876
WATER RIGHT NOS. 37-02473A/B/C/D/E/F/G/H/J & K
Priority: 06/24/1946

This is to certify that: **CHARLES L MATTHIESEN**
PO BOX 2540
KETCHUM ID 83340

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

TRANSFER NO. 4867
WATER RIGHT NO. 37-02473A

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NESE , Sec. 23, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 23	NESE 2.2			2.2
Total number of acres irrigated:				2.2

TRANSFER NO. 4868
WATER RIGHT NO. 37-02473B

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NESE , Sec. 23, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 23	NESE 2.2			2.2
Total number of acres irrigated:				2.2

**TRANSFER NOS. 4867/4868/4869/4870/4871/4872/4873/4874/4875 & 4876
WATER RIGHT NOS. 37-02473A/B/C/D/E/F/G/H/J & K**

**TRANSFER NO. 4869
WATER RIGHT NO. 37-02473C**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NWSW , Sec. 24, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 24	NWSW 2.2			2.2
Total number of acres irrigated:				2.2

**TRANSFER NO. 4870
WATER RIGHT NO. 37-02473D**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NESE , Sec. 23, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 23	NESE 1.1			1.1
24	NWSW 1.1			1.1
Total number of acres irrigated:				2.2

**TRANSFER NO. 4871
WATER RIGHT NO. 37-02473E**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

SESE , Sec. 23, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 23	SESE 2.2			2.2
Total number of acres irrigated:				2.2

**TRANSFER NOS. 4867/4868/4869/4870/4871/4872/4873/4874/4875 & 4876
WATER RIGHT NOS. 37-02473A/B/C/D/E/F/G/H/J & K**

**TRANSFER NO. 4872
WATER RIGHT NO. 37-02473F**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 24, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 24	SWSW 2.2			2.2
Total number of acres irrigated:				2.2

**TRANSFER NO. 4873
WATER RIGHT NO. 37-02473G**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 24, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 24	SWSW 2.2			2.2
Total number of acres irrigated:				2.2

**TRANSFER NO. 4874
WATER RIGHT NO. 37-02473H**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NWSW , Sec. 24, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 24	NWSW 2.2			2.2
Total number of acres irrigated:				2.2

**TRANSFER NOS. 4867/4868/4869/4870/4871/4872/4873/4874/4875 & 4876
WATER RIGHT NOS. 37-02473A/B/C/D/E/F/G/H/J & K**

**TRANSFER NO. 4875
WATER RIGHT NO. 37-02473J**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.04 CFS	7.7 AF

SOURCE: GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NWSW , Sec. 24, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 24	NWSW 2.2			2.2
Total number of acres irrigated:				2.2

GROUNDWATER SUBTOTAL:	0.36 CFS	69.3 AF
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**TRANSFER NO. 4876
WATER RIGHT NO. 37-02473K**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.12 CFS	21.7 AF
FIRE PROTECTION	01/01 to 12/31	0.38 CFS	
FIRE PROTECTION ST	01/01 to 12/31		25.1 AF
AESTHETIC	01/01 to 12/31	0.38 CFS	58.9 AF
AESTHETIC STORAGE	01/01 to 12/31		25.1 AF
DIVERSION TO STORA	01/01 to 12/31	0.50 CFS	
Totals		0.50 CFS	105.7 AF

SOURCE: DIP CREEK

TRIBUTARY OF: BIG WOOD RIVER

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 24, Township 05N, Range 17E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05N 17E 23	NESW 3.1	SESE 1.5		4.6
24	NWSW 1.6			1.6
Total number of acres irrigated:				6.2

PLACE OF USE: FIRE PROTECTION & AESTHETIC, same as IRRIGATION use

SURFACE WATER SUBTOTAL:	0.50 CFS	105.7 AF
TRANSFER TOTAL:	0.86 CFS	175.0 AF

TRANSFER NOS. 4867/4868/4869/4870/4871/4872/4873/4874/4875 & 4876
WATER RIGHT NOS. 37-02473A/B/C/D/E/F/G/H/J & K

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
- * 3. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
4. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
6. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
7. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion under Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K.
- * 8. A measuring device of a type acceptable to the Department shall be installed and permanently maintained across Dip Creek at a point where the creek enters the right holder's property located within NESE, S23, T05N, R17E.
- * 9. The total diversion rate from the wells shall not exceed flow of Dip Creek measured at the point identified above and is further limited to those times when water is available to fill Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K.
10. Right Nos. 37-02473A/B/C/D/E/F/G/H/J and K when combined shall not exceed a total combined rate of diversion of 0.86 cfs, a total combined annual volume of 175.0 af, nor the total combined irrigation of 26 acres.
11. Right No. 37-02473A is diverted and used within Lot 1, Dip Creek Ranch Subdivision.
12. Right No. 37-02473B is diverted and used within Lot 2, Dip Creek Ranch Subdivision.
13. Right No. 37-02473C is diverted and used within Lot 3, Dip Creek Ranch Subdivision.
14. Right No. 37-02473D is diverted and used within Lot 4, Dip Creek Ranch Subdivision.
15. Right No. 37-02473E is diverted and used within Lot 5, Dip Creek Ranch Subdivision.
16. Right No. 37-02473F is diverted and used within Lot 6, Dip Creek Ranch Subdivision.
17. Right No. 37-02473G is diverted and used within Lot 7, Dip Creek Ranch Subdivision.
18. Right No. 37-02473H is diverted and used within Lot 8, Dip Creek Ranch Subdivision.

Redundant?

TRANSFER NOS. 4867/4868/4869/4870/4871/4872/4873/4874/4875 & 4876
WATER RIGHT NOS. 37-02473A/B/C/D/E/F/G/H/J & K

CONDITIONS OF APPROVAL AND REMARKS

19. Right No. 37-02473J is diverted and used within Lot 9, Dip Creek Ranch Subdivision.
20. Right No. 37-02473K is diverted and used for ponds and the surrounding irrigation within Dip Creek Ranch Subdivision.

Dated this 31st day of December, 1996

J. Glen Saylor
Chief, Water Alloc. Bureau

RECEIVED

JUL 27 1995

Department of Water Resources
Southern Region

Water Right No. 37-02473

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho, 83720, with the statutory fee of \$100.00.

1. Name of water right holder: Charles L. Matthiesen.
2. Post office address: c/o James P. Speck, Hogue, Speck & Aanestad, P.O. Box 987, Ketchum, Idaho, 83340.
3. The right was obtained or is evidenced by:
 - a. License No. 37-02473.
 - b. Snake River Basin Adjudication Claim No. A37-02473.
4. Source of water: Dip Creek.
Tributary to: Sinks.
5. Date of priority: June 24, 1946.
6. Amount of water: 1.0 cfs.
7. Water is used for: Irrigation

MICROFILMED
NOV 22 1996

MICROFILMED
NOV 27 1996

8. Location of point of diversion:

Township	Range	Section	¼	¼	¼	Lot	County
5N	17E	23	SE	NE	NE		Blaine

9. Lands irrigated or place of use:

			NE			NW			SW			SE							
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	TOTA
5N	17E	23		15	20											15			50
TOTALS																			50.0

10. Give the last date when water was applied to beneficial use: 1990.

Length of extension of time requested: Until November 1, 2000.

11. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and the reasons for non-use: The diversion works were destroyed which has prevented the owner from diverting and beneficially using the full amount of the right for irrigation. The owner intends to develop the place of use into a low density residential subdivision, rebuild the diversion works and use the water right within the new subdivision. The schedule for obtaining the governmental approvals necessary for the new subdivision does not permit owner to beneficially use the full amount of the water right prior to the expiration of the five (5) year statutory forfeiture period. However, full resumption of use of the water right will take place during the requested period of extension.

MICROFILMED

NOV 22 1996

I hereby assert that noone will be injured by such extension. The information contained in this application is true to the best of my knowledge.

Charles L. Matthiesen
CHARLES L. MATTHIESEN

SUBSCRIBED AND SWORN TO before me this 24 day of July, 1995.

Arlene Bennett
Notary public for Idaho
Residing at Ketchikan, ID
Commission expires 7/18/2001

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application subject to the following conditions or reasons:

Witness my hand this _____ day of _____, 1995.

For Department Use Only

Received by JF Stanton Date 7-27-95 Time 9:30 am Preliminary check by CS
Fee \$ 100.00 Receipted by SS 5018327 Date 7-27-95 Publication prepared by mb
Published in Wood River Journal Dates 12/20 + 12/27/95
Publication approved by mb Date 12/29/95 Protests filed by _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for // Approval // Denial by Adm 1/12/96

EXTENSION OF TIME TO AVOID FORFEITURE

ANALYSIS SHEET

1. INITIAL REVIEW BY: CS
2. RIGHT NUMBER 37-02473 APPLICANT _____
3. TYPE OF RIGHT: ☐ Decree ☒ License ☐ Claim
4. Is reason for request extension given on application?
☒ Yes ☐ No (If No, return Application)

5. CHECK:

- (a) ☒ Source ☒ Priority ☒ Amount ☒ Purpose
☒ Period of Use
- (b) ☒ Description of Point(s) of Diversion
(c) ☒ Description of Place of Use
(d) ☒ Check for correct Signature, Notarization, Fee

6. OWNERSHIP OF RIGHT

Applicant's ownership confirmed by:

- (a) ☒ Copy of Tax Notice, Deed, or other _____
in file.
- (b) ☒ County Assessor records. Date Contacted 10/13/95
Rec. 1/12/96
7. Is the right in a Watermaster District? ☒ Yes ☐ No Dist. 37
(If Yes, send copy to Watermaster)

FINAL REVIEW IN REGION by ADN

- (a) Is Application published correctly? ☒ Yes ☐ No
- (b) Protest Received? ☐ Yes ☒ No

RECOMMENDED ACTION

☒ Approve
☐ Deny

Conditions: _____

Right appears to have
been forfeited.
See watermaster's comments
at 11/28/95 memo from
Corey Skinner.

MICROFILMED
NOV 22 1996

EXTENSION
APPLICATION FOR ~~TRANSFER~~ OF WATER RIGHT
NO. 37-02473

RECEIVED
JAN 12 1996
Department of Water Resources
Southern Region

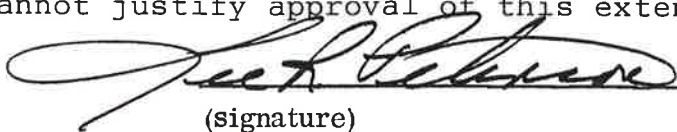
RECOMMENDATION OF WATERMASTER

I, Lee R. Peterson, watermaster of Big Wood River,
of Water District No. 37, County of Blaine, State of Idaho,
whose address is P O Box T, Shoshone, Idaho 83352
have read the attached copy of the application for transfer of water right for _____
Charles L Matthiesen, and to the best of my knowledge believe the
(name)
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: _____

OR

B. I do not endorse approval of the above numbered Application for ~~Transfer~~ Extension
requested for the following reasons: This right being a license with such a
Jr. priority date of June 24, 1946, in this particular area
by the time water is needed for irrigation the priority cut system
for decreed water rights would have already cut this particular right
off. By all appearances this system has not been in use for a number
Dated at Shoshone, Idaho, this 10 day of January 19 96.
of years and with no recordable proof of use or delivery of this water
by the watermaster, I cannot justify approval of this extension of time


(signature)

MICROFILMED
NOV 22 1996

Please use reverse side if needed.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

December 12, 1995

PHILIP E. BATT
Governor

KARL J. DREHER
Director

JAMES P SPECK ESQ
PO BOX 987
KETCHUM ID 83340

Re: Application for Extension of Time To Avoid Forfeiture, No. 37-02473 (Charles L. Matthiesen)

Dear Mr. Speck:

The Department of Water Resources acknowledges receipt of the application for extension of time to avoid forfeiture on behalf of Mr. Matthiesen as referenced above.

This office has scheduled advertising the application in the Wood River Journal for 12/20 & 12/27/95.

The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested you will be sent a copy of the protest.

The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely yours,

Corey Skinner, E.I.T.
Safety of Dams Engineer

cs:mb

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NOV 22 1996

December 12, 1995

LEE PETERSON WATERMASTER
WATER DISTRICT NO. 37
PO BOX T
SHOSHONE ID 83352

Re: Application for Extension of Time To Avoid Forfeiture,
(Matthiesen), WR# 37-02473

Dear Mr. Peterson:

Enclosed is a copy of an Application for Extension of Time To Avoid Forfeiture of a Water Right within your District, and Watermaster's Recommendation Form.

Section 42-222 of the IDAHO CODE requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation form and return it to this office.

Processing of the application can be completed in 20 days, therefore, your prompt response to this request will be appreciated.

If you have any questions about the application, please contact this office or the applicant.

Sincerely yours,

Corey Skinner, E.I.T.
Safety of Dams Engineer

cs:mb

Enclosures

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MEMORANDUM

TO: Matthiesen Application for Extension of Time to Avoid Forfeiture (37-02473) File

FROM: Corey Skinner *CS*

DATE: November 28, 1995

SUBJECT: Staff Review and Field Verification of Application

After collecting a variety of information, I have completed the staff review of the enclosed application for extension of time to avoid forfeiture of water right 37-02473, filed by Charles L. Matthiesen. My staff review of water right 37-02473 has revealed some interesting questions and discrepancies about this particular water right.

The enclosed extension of time application states that this particular water right was obtained by license number 37-02473 and SRBA claim A37-02473. The place of use listed on the application pretty much matches the place of use listed on the water right, other than the 20 and 25 acre discrepancy in the SWNE $\frac{1}{4}$ of section 23 (Township 05 North, Range 17 East). However, the place of use on the adjudication claim is "opposite" of what is recorded on the water right (NWNE claimed as NENW, etc.). The source of water for this water right is listed as Dip Creek, a small creek that flows from the hills on the east side of the Wood River Valley north of Ketchum. Using this information, I then began to research maps of the area to "check" the information submitted on the application.

The ortho quad maps, Amber Lakes (W73) and Griffin Butte (X23), of this particular area north of Ketchum did not show section boundaries for the particular Township and Range. I then "projected" the section boundaries onto copies of the Amber Lakes and Griffin Butte ortho quads from an adjoining quad, Rock Roll Canyon (W74). An ortho quad map in the case here in the office had had the section boundaries already projected on it by this method sometime in the past, but I went ahead and redid the process on clean copies in order to personally verify the work. My projections and the projections that had been made sometime in the past matched quite well. I have enclosed a copy of my results of this operation and will refer to this copy as "attachment A".

A check of other available maps supported the validity of "attachment A". An Idaho Transportation Department topographic map (Sun Valley, Idaho) had the section lines for the particular area "dashed in", and I have enclosed a copy that is labeled as "attachment B". I have also enclosed a copy of a Blaine County Planning and Zoning Platted Subdivisions topographic map with projected section lines, done sometime in the past, the copy of this map is labeled as "attachment C". In addition, I have

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enclosed a copy, labeled as "attachment D", of the Amber Lakes (W73) ortho photo quad with projected section lines, also done sometime in the past. The fact that the projected section lines of "attachments A-D" match with each other support the validity of "attachments A-D", and serve as verification of the location of section 23 on "attachments A-D".

An examination of "attachment A" reveals that there are some discrepancies with water right 37-02473. The most noticeable discrepancy is that according to "attachment A", and other maps, Dip Creek does not flow through section 23, other than a small portion of the SESE $\frac{1}{4}$ of section 23 west of Highway 75, labeled as Highway 93 on "attachment A". The original water right license, copy attached labeled as "attachment E", lists the source of water as Dip Creek, and the location of the point of diversion as being in the NENE $\frac{1}{4}$ of section 23. "Attachment A", and other maps, clearly show the location of Dip Creek being at least 1200 feet away from the closest portion of the NENE $\frac{1}{4}$ of section 23. The contour lines on "attachment A", and other contour maps, also show a distinct ridge between Dip Creek and the NENE $\frac{1}{4}$ of section 23.

Examining "attachment A" also brings up questions concerning the place of use for water right 37-02473. The original water right license, "attachment E", lists the place of use as the NWNE $\frac{1}{4}$ (15 acres), the SWNE $\frac{1}{4}$ (25 acres), and the NWSE $\frac{1}{4}$ (15 acres) of section 23. As can be seen on "attachment A", the location of Dip Creek in relation to this place of use leads one to believe that a fairly complicated pumping or ditch system would be necessary to divert water from Dip Creek to this place of use, much of which is located further up the Big Wood River Valley. In addition, the SRBA claim, A37-02473 filed by Charles Matthiesen (copy attached labeled as "attachment F"), lists the place of use as the SENE $\frac{1}{4}$ (GWR), the NENW $\frac{1}{4}$ (15 acres), the SENW $\frac{1}{4}$ (15 acres), and the NESW $\frac{1}{4}$ (20 acres). Examining "attachment A" reveals that it would be very difficult to irrigate very much if any of the ground listed as the place of use on the SRBA claim. This is due to this place of use being located further up the Big Wood River Valley from Dip Creek, across the Big Wood River, and/or across the valley and up a hillside. I assume that the legal descriptions for the place of use on the SRBA claim are "reversed" (NENW should be NWNE, SENW should be NWSE, etc.).

While in the area working on other projects, I have visited the property involved with this particular application three times (September 21, October 13, and November 22) in an attempt to clarify some of the discrepancies with water right 37-02473 and to determine its validity. In between visits, I have been searching for more information that could be used to help in clarifying this particular water right.

During the first visit on September 21, a brief stop on my way back from Challis, I was able to find Dip Creek, two Homestead Entry Survey Markers (HES corner 5 & HES corner 6), a jeep trail near Dip Creek that is shown on "attachment A", and the National

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Forest boundary indicated by signs on a fenceline(s). I was unable to find the small pond/reservoir on Dip Creek that is shown on "attachment A". It was also observed that Dip Creek did not flow along the path indicated on "attachment A", and other maps. Dip Creek is shown on "attachment A", and other maps, as winding to the south, picking up any additional flow from an intermittent stream in the SWSW $\frac{1}{4}$ of section 24, and winding back to the west, crossing the highway and entering the Big Wood River. However, I observed that Dip Creek flowed directly out of the canyon, without winding to the south, where it found its way to a jeep trail/road, not shown on any maps, flowed down the road and eventually sank into the ground far short of reaching the highway. I did not observe any land that had been irrigated recently or any obvious points of diversion along Dip Creek. A slow drive down the highway back towards Ketchum did not reveal any signs of any water crossing the highway in the area where Dip Creek is shown as crossing the highway on "attachment A", and other maps.

After this brief field visit, I was able to obtain a copy of another map from the Blaine County Assessor's Office that shows the Homestead Entry Corners and various lot boundaries. I have enclosed a copy of this map and labeled it as "attachment G". The HES corners are numbered on "attachment G", and the two large lots are shown as being owned by Mr. Matthiesen. The Commitment for Title Insurance submitted by James Speck (copy in application file) as proof of ownership describes the land that Mr. Matthiesen plans to develop. This description agrees with the lots that are shown to be owned by Mr. Matthiesen on "attachment G". The southeast boundary for North Country Subdivision is also shown on "attachment G". By comparing the description of the place of use for water right 37-02473, "attachment C", and "attachment G", it appears that the property that Mr. Matthiesen owns and plans to develop does not even overlap the described place of use on the water right and the application for extension of time to avoid forfeiture.

While in the area on other projects on October 13th, I again stopped and visited the property involved with this application. I took a few photographs during this visit and once again did not observe any land that had been irrigated recently. Dip Creek was observed to be flowing down the jeep trail/road and sinking into the ground far short of reaching the highway as noted before. During this visit I observed an abandoned ditch, large sage was growing in the ditch, that ran perpendicular to Dip Creek. However, this ditch (shown in photos #6, #7, and #8) ran to the north, which is further up the valley and uphill from Dip Creek. It appeared to me that this ditch carried water from further up the Big Wood River Valley, possibly from Eagle Creek, down to the area near Dip Creek.

After this visit, I obtained a copy of the Engineer's Report for beneficial use for water right 37-02473, copy enclosed labeled as "attachment H". This report describes the diverting works as a dirt dam and reservoir "used to accumulate water for an irrigating head". A small pond/reservoir was shown on Dip Creek on

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"attachment A", and other maps, but during my previous visits it was observed that no pond/reservoir, or dam, existed in the field as shown on the maps. The Engineer's Report map, part of "attachment H", shows the reservoir on Dip Creek and the place of use as being located east of Highway 93, now Highway 75. The map also shows a ditch between Eagle Creek and Dip Creek, the abandoned ditch I observed on my October 13th visit, that would carry water from Eagle Creek, downhill, to the Dip Creek area. A dashed line that probably represents a ditch that ran to the south in order to supply Dip Creek water to the place of use is also shown on the map.

Since the Engineer's Report, "attachment H", describes the diverting works as a dam and reservoir, I looked through the old dam files in the office and found a file on Dip Creek Dam (D37-2473). A letter in the dam file, copy enclosed labeled as "attachment I", from the forest service states that Dip Creek Dam was successfully breached during September 1978. If the dam and reservoir were considered the diverting works in the Engineer's Report for beneficial use, and the dam was breached in 1978 and no longer exists, it appears to me that the water right may have been abandoned.

While in the area working on other projects on November 22nd, I again visited the property to take additional photographs to accurately document what exists in the field, and to try to find the ditch that may have been indicated on the Engineer's Report map. Upon visiting the site, I found things to be as observed during my previous visits. However, I did find portions of some old ditches (shown in photos #9 - #14) that at one time probably carried water that had been diverted from Dip Creek. However, the ditches appeared abandoned, sage and other large growth existed in the ditches, the ditches were not continuous (silted in, buried, etc.), and two structures (possibly headgates) were buried and silted in. These structures are shown in photographs #15 - #18.

I have enclosed an approximate sketch of what I observed during my field investigations of the property involved with this application. This sketch, labeled as "attachment J", is not to scale and should only be used to help clarify the information in this memorandum, in particular "relative" locations of areas shown in the attached photographs, labeled as "attachments K-S".

In addition I have enclosed a copy of a photograph, attached and labeled as "attachment T" that was taken from the Dip Creek Dam (D37-2473) file. This photograph, taken in June 1977, shows the area below Dip Creek Dam. Prominent features in the photograph match those that are shown in the photographs that I took of the area. This old photograph shows a few cattle in the area that is currently owned by Mr. Matthiesen. When I walked through this property during my field visits, I never observed any signs that the property had been farmed, in particular, there was no volunteer growth from previous crops. The presence of the cattle in the old photograph, and the lack of evidence indicating that the property

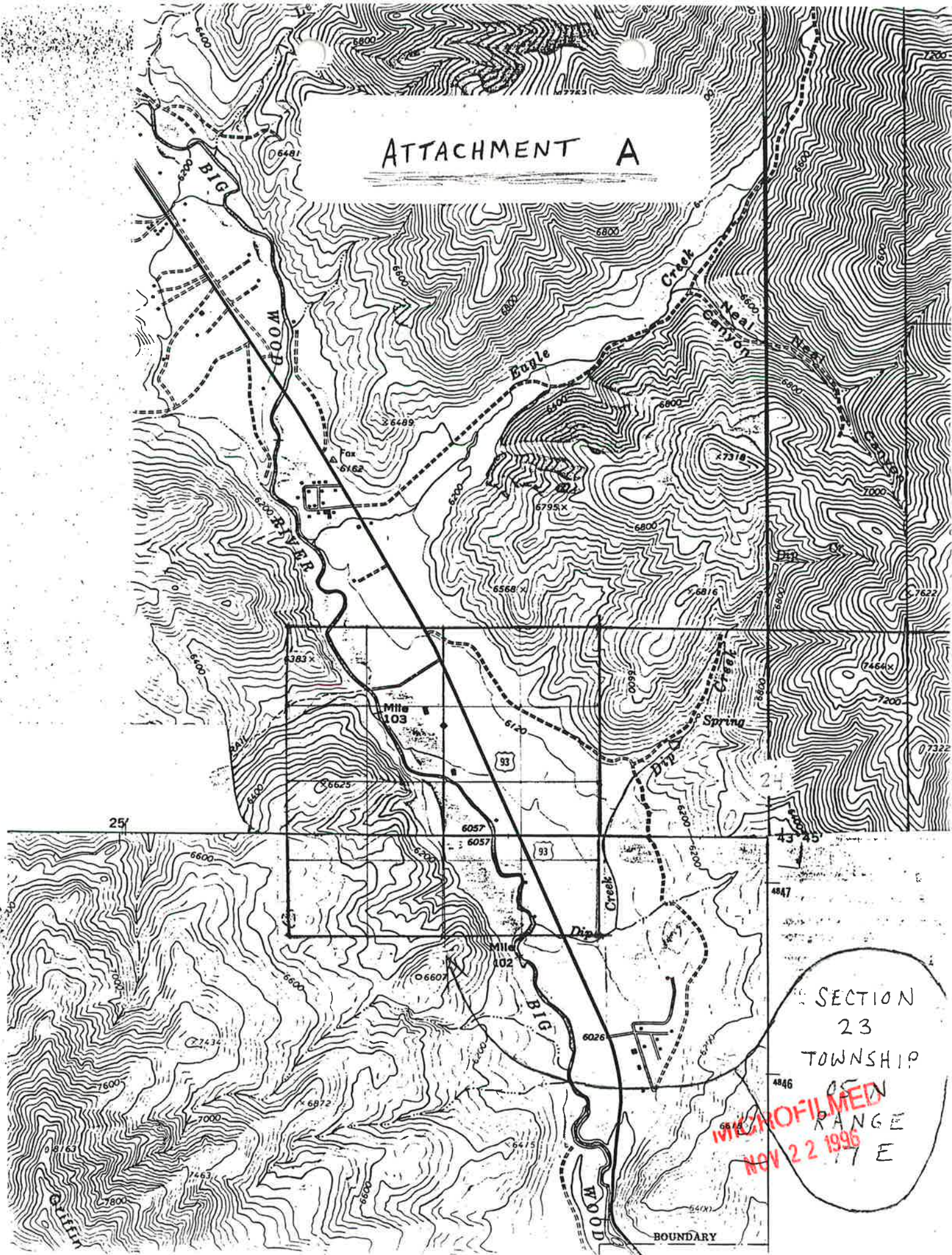
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had been farmed, leads me to suspect that the property may have been pastureland at one time. Assuming that the old irrigation water right out of Dip Creek was used to irrigate pasture for cattle or other livestock on this property may be a valid assumption. While walking through this area during my visits, I observed no signs (tracks, trails, manure, etc.) of livestock being on the property. In addition, as can be seen in the photographs, "attachments K-S", the abundant presence of tall grass on the property indicate that it has not been grazed in the recent past. If the property was once used for livestock pasture, it has not had livestock on it for quite some time.

In summary, there are a lot of questions and discrepancies concerning the validity of water right 37-02473. The fact that the water right is recorded wrong, the point of diversion is recorded as being over a ridge and up the valley from Dip Creek and the place of use is recorded as being up the valley or across the highway from Dip Creek on property not owned by the applicant, leads one to question its validity. Assuming the water right is just recorded wrong, and actually exists in the field and has been used on the property owned by Mr. Matthiesen brings up additional questions concerning its validity. The dam, breached in 1978, was considered the diverting works on the Engineer's Report and no longer exists. Any ditches that could have been possible diversion points from Dip Creek appear incapable of carrying water and all observed ditches on the property have not been used for quite some time. The property does not appear to have been irrigated in the recent past as indicated by the sage brush growing on the property and the lack of a delivery system. It appears to me that the application for extension of time to avoid forfeiture for water right 37-02473 should not be approved because the water right does not appear valid.

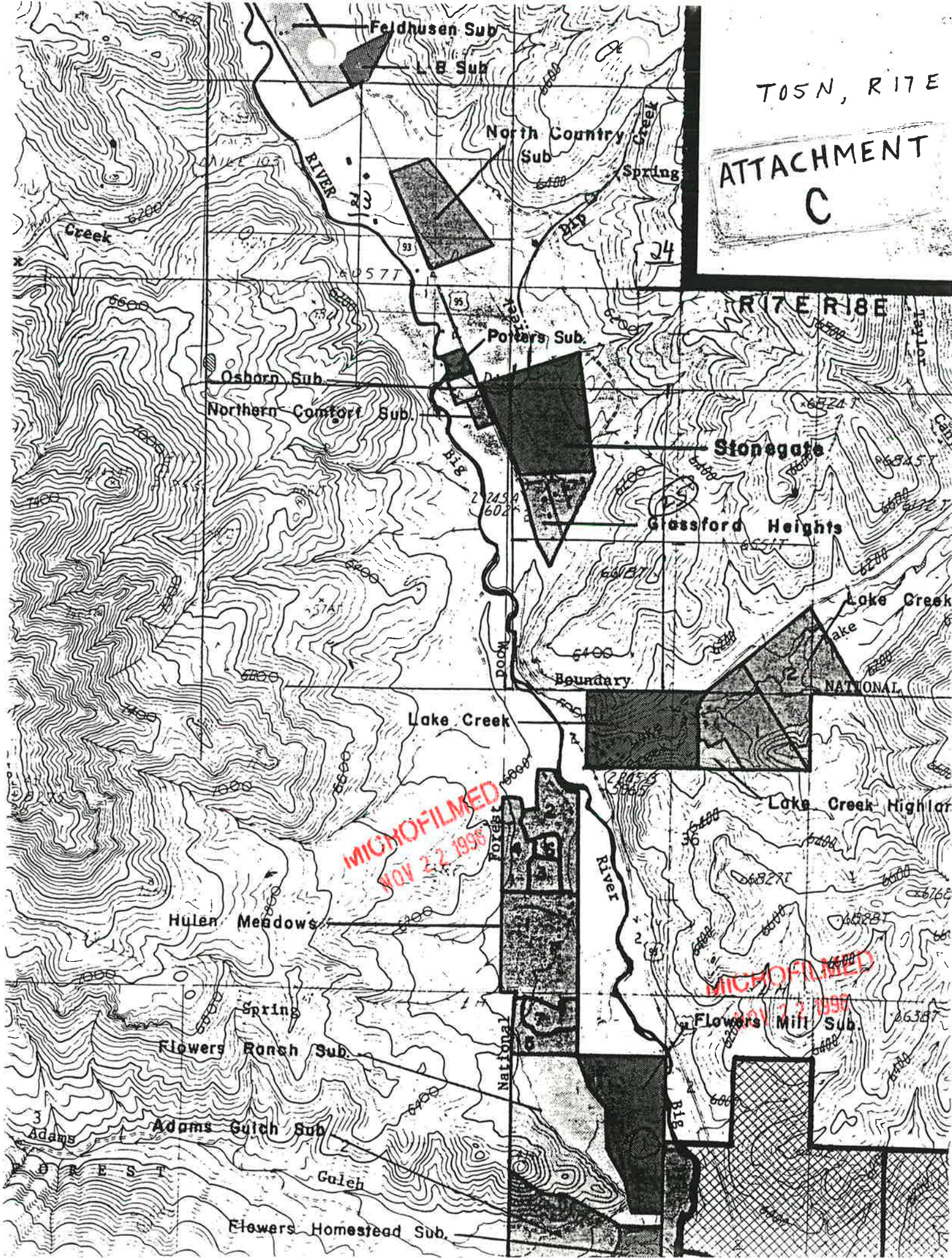
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ATTACHMENT A



T05N, R17E

ATTACHMENT
C





1 MILE
000 7000 FEET
1 KILOMETER

Sec 23
T5N R17E



QUADRANGLE LOCATION

ATTACHMENT
D

AMBER LAKES, IDAHO
N4345-W11422.5/7.5

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ARDS
IF. 94025

COOR ORIGINAL

ATTACHMENT E

State of Idaho License and Certificate of Water Right

Water License No. 19868 Amount \$200.00
Water District No. 1 Priority June 24, 1946

THIS IS TO CERTIFY that J. S. FELDISEN of Ketchum, Idaho made application for a permit to appropriate the public waters of the State of Idaho, dated June 24, 1946; that Permit No. 19868 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 100 second foot, was issued thereunder on June 15, 1947, showing that said works were completed on the 14th day of June, 1947, and that on the 18th day of July, 1948, J. S. FELDISEN of Ketchum, Idaho made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of Dry Creek, a tributary of Hone (since before /, for the purpose of irrigation and domestic uses, under Use Permit No. 19868 of the Department of Reclamation; that said right to the use of said waters has been perfected in accordance with the law of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 8 of Licenses at page 4869 on the 17th day of April, 1950.

The right hereby confirmed, dates from June 24, 1946. The Point of Diversion is located in the NE 1/4, Sec. 23, T. 17 N., R. 17 E., S. 4 M., Blaine County, Idaho. That the amount of water to which such right is hereby confirmed, for the purpose aforesaid, is limited to an amount actually needed and actually used for said purposes, and shall not exceed One foot cubic foot per second. The description and location of user:

Tract	Range	Section	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
NW 1/4	17 E.	23	NW 1/4	15	15
SW 1/4			SW 1/4	20	20
NE 1/4			NE 1/4	10	10
SE 1/4			SE 1/4	20	20
Number of Acres Actually Irrigated					50

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or plots hereinafter described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 17th day of April, 1950.

MARK R. KULP
State Reclamation Engineer

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ATTACHMENT F

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: A37-02473
Date Received: 1/25/1989
Receipt No: C003883
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: CHARLES L. MATTHIESEN 619-454-6636
Address: 6110 VISTA DE LA MESA
LA JOLLA, CA 92037

2. Date of Priority: JUN 24, 1946

3. Source: DIP CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	17E	23	SE	NE	NE		BLAINE

5. Description of diverting works:
EARTH DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	06/01	10/01	1.000		
GROUNDWATER RECHARGE	10/02	05/30	1.000		

7. Total Quantity Appropriated is:
1.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 50.0 Acre Feet Per Annum.

9. Non-irrigation uses:
GROUNDWATER RECHARGE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
05N	17E	23	SE	NE		GWR	
			NE	NW		IRR	15.0

A37-02473

Page 1

Date: 01/25/89

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10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	17E	23	SE	NW		IRR	15.0
			NE	SW		IRR	20.0
					Section Acres		50.0
					Total Acres		50.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
NONE

14. Remarks:
DWR NOTE**P/U DESCRIPTION WAS OPPOSITE OF THAT CLAIMED: NWNE, 15AC
SWNE, 25 AC.; NWSE, 15 AC. SEC. 23. GROUNDWATER RECHARGE WAS NOT
INCLUDED ON THE ORIGINAL LIC.

15. Basis of Claim: LICENSE
Water Right Number: 19866

ATTACHMENT F cont.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEMCIVIL CASE NUMBER: 39576
Ident. Number A37-02473
Date Received
Receipt Number C003883

RECEIVED

OCT 25 1988

Department of Water Resources
Southern Region OfficeNOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) CHARLES L. MATTHIESEN Phone (619) 454-6636
Mailing Address LOLLIVISTA de la MESA, LA JOLLA, CA Zip 92037
2. Date of Priority (Only one (1) per claim) JUNE 24, 1946
3. Source of water supply (a) DIP CREEK
which is tributary to (b) "SINKS"
4. a. Location of existing point of diversion is: Township 5N Range 17E Section 23,
SE 1/4 of NE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of BLAINE
Additional points of diversion if any: _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

BASIC EARTH DITCHES, APPROX. 10" DEEP x 12" WIDE ARE
THE ONLY DIVERSION WORKS AND HAVE NOT BEEN ALTERED

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 6-1 to 10-1 amount 1.0 or _____For GROUND WATER RECHARGE purposes from 1-1 to 5-30 amount 1.0 or _____For " " " purposes from 10-2 to 12-31 amount 1.0 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.0 (cfs) and/or (b) _____ (acre feet)8. Total consumptive use claimed is 50 acre feet per annum.9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) DOMESTIC (TREES) & GROUND WATER RECHARGE

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>5N</u>	<u>17E</u>	<u>23</u>				<u>E</u>	<u>15</u>			<u>15</u>	<u>20</u>								<u>50</u>

Total number of acres irrigated 5011. In which county (ies) are lands listed above as place of use located? BLAINE12. Do you own the property listed above as place of use? Yes X 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.
_____ or None ()

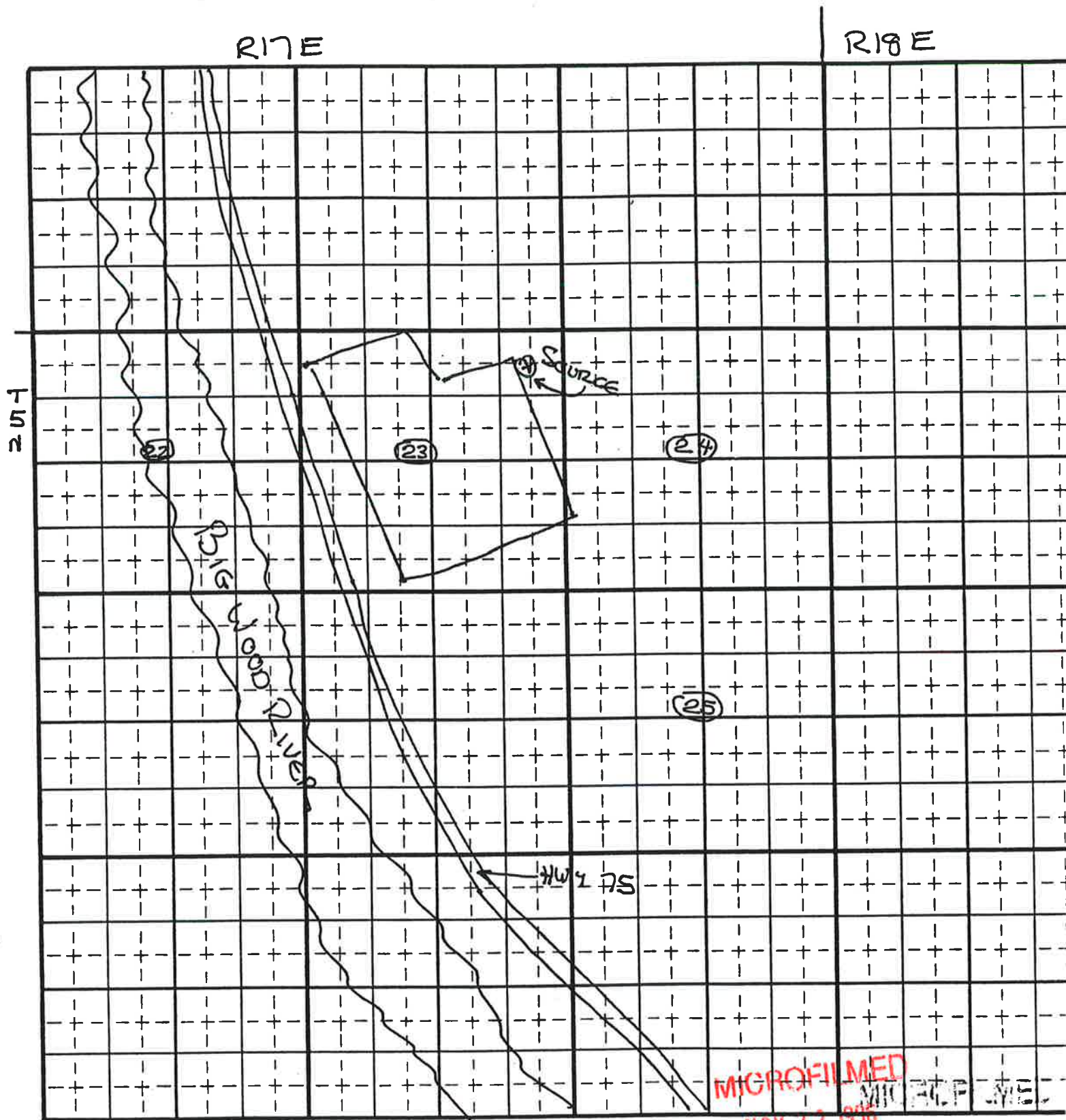
14. Remarks:

MICROFILMED
NOV 22 1996Last Name MATTHIENSEN Ident No. _____

Copies: White -State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile



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FEB 23 1996

Last Name

MATTHIESEN

Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 19866
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 X 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) Charles J. Mathiesen Date October 19, 1988

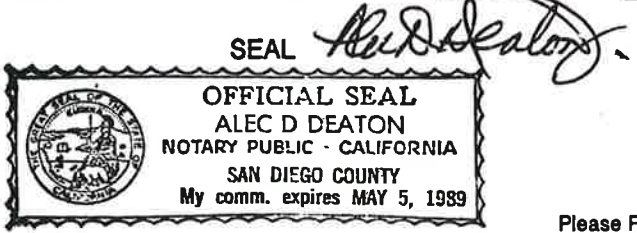
Date _____

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 _____
Title and Organization _____ Date _____

State of ~~Idaho~~ or CALIFORNIA)
County of SAN DIEGO) SS.

Subscribed and sworn (or affirmed) before me this 19TH day of OCTOBER 19 88



Notary Public ALEC D. DEATON
Residing at 2266 FIFTH AVE SAN DIEGO CA 9210
My Commission Expires 5-5-89
Please Print Name

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

Signature _____
Address _____
Date _____

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FEB 13 1997

Last Name MATTHIASEN Ident. Number _____

10/27/1988 S

CLAIMANT'S NAME Matt Jensen CL 7 DENT. NO. A37-02473

DATE RECEIVED 10-25-88 CK # 1604 AMOUNT \$ 100 YES NO

- 1. Is the name and address complete with zip code? YES
- 2. Is a priority date entered? YES

Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?
A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS.

- 3. (a) Is a source entered? YES
- (b) Is a tributary to entered? (if required) N/A
- 4. Is the legal description of the p.d. sufficient? YES
- 5. Is there a description of the diverting works? YES
- 6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. YES
- Is the period of use included? YES
- Is a quantity claimed for each use? YES
- 7. Is a total quantity claimed entered? YES
- 8. If required is a consumptive use entered? N/A
- Is the consumptive use correct? N/A
- 9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. N/A
- 10. Is (are) the place(s) of use and purpose(s) indicated? YES
- 11. Is (are) the county(ies) entered? YES
- 12. Is the ownership of p.u. checked? YES
- 13. Are other water rights listed or "none" indicated? YES
- 14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A
- 15. Is the basis of the claim indicated? YES
- 16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?) YES
- Has the claim been signed, sealed, and dated by a notary? YES
- Was this claim filed on time, or was an extension granted? YES
- Is the fee enclosed correct? Exempt
- If this claim is based on an existing water right, has the identification number been entered? N/A
- Should this claim be receipted and data entered? YES

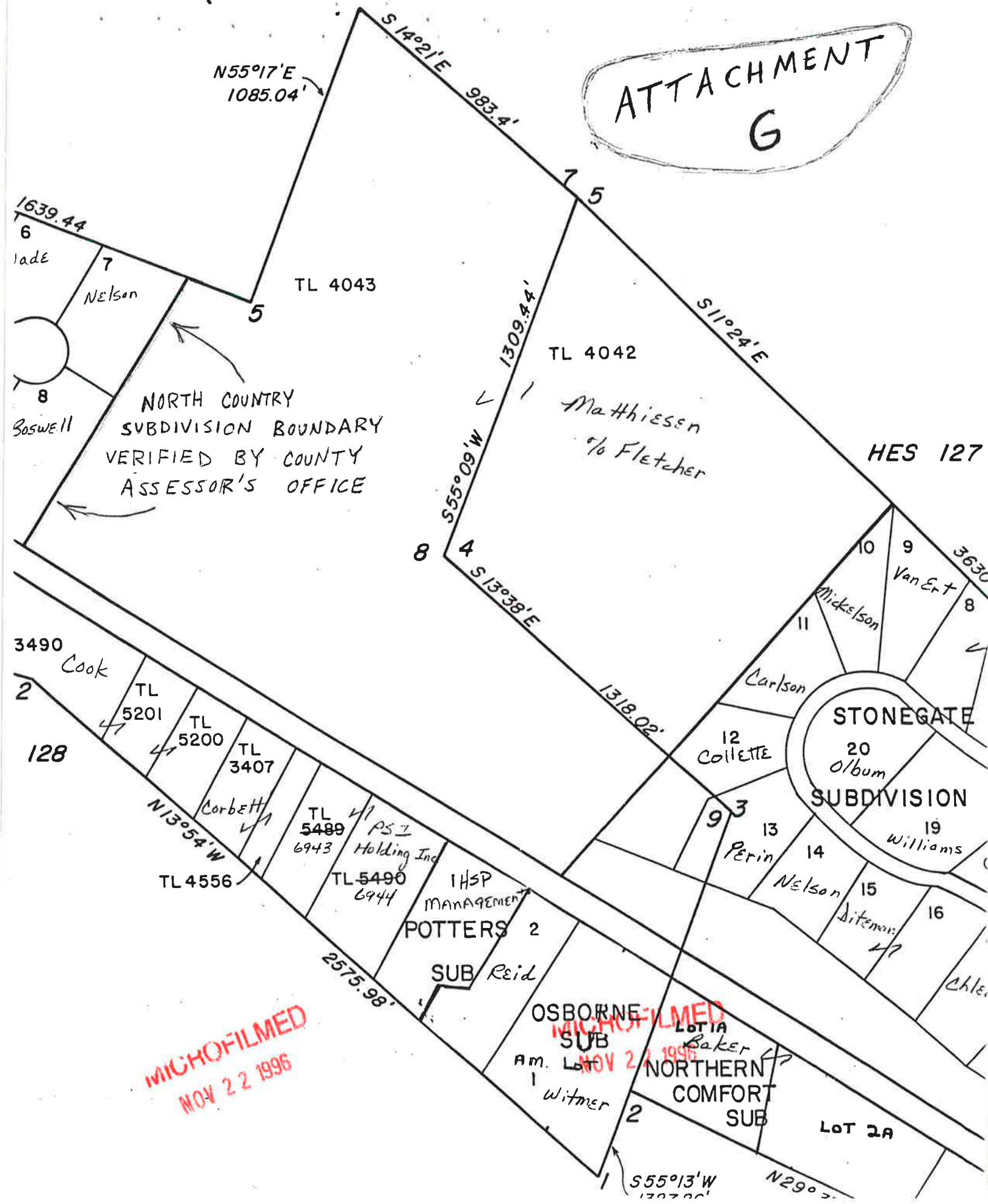
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Claim checked by: [Signature]

Comments: _____

ATTACHMENT
G



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STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 19866

This proof is for beneficial use

In Water District No. _____

1. Name of applicant W. S. Feldhusen, Ketchum, Idaho2. Source of water supply: Dip Creek,3. Location of point of diversion: Is in the NE 1/4 NE 1/4 of Section 23
T. 5 N. R. 17 E. County of Blaine

4. Describe works as they exist, giving dimensions and capacities of same:

The dirt dam built in 1946-1947 is about 18 feet high, 100 feet long, and has an 8 foot top width. The concrete spillway is 3 feet deep and 12 feet wide. The outlet is a 12 inch corrugated pipe with a vertical stem gate and catwalk on the upstream toe. The reservoir area is about 75 feet by 200 feet. The reservoir is used to accumulate water for an irrigating head.

5. Water is used for: Irrigation and domestic purposes6. State whether or not water has been turned into works of diversion: Yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):
NE 1/4, SE 1/4, Section 23, Township 5 North, Range 17 East, B. M.

(Attach map or sketch showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Big Wood River

Remarks:

POOR ORIGINAL

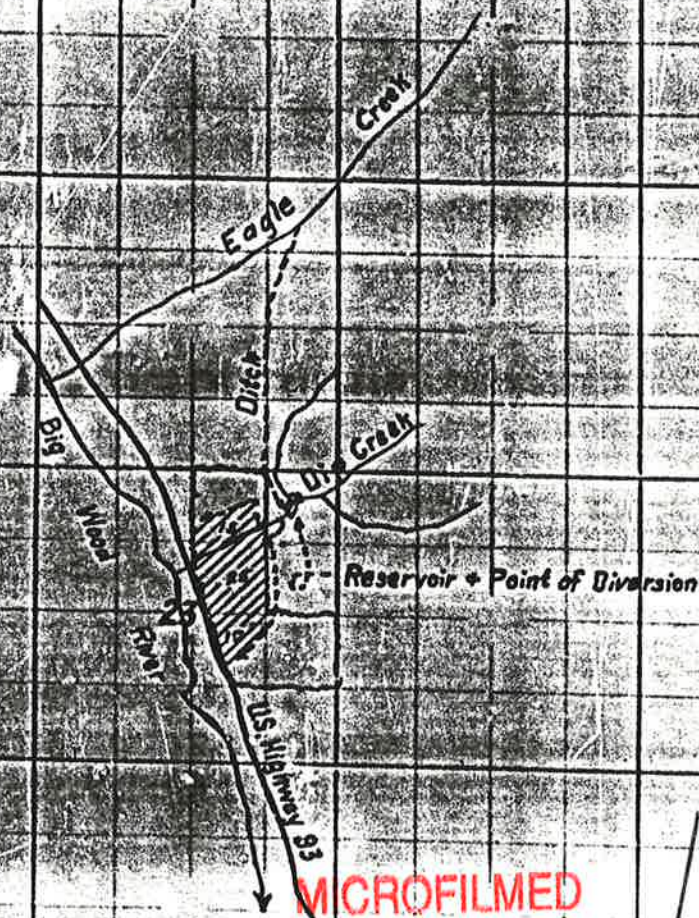
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NOV 22 1996This examination was made on the 17 day of June, 1943

(Signed)

F. A. Tolman

Examiner.

ATTACHMENT
H cont.



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NOV 22 1996

POOR ORIGINAL

19866

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Sawtooth National Forest
1525 Addison Avenue East
Twin Falls, Idaho 83301

ATTACHMENT
I

2720/7530
November 21, 1978



Mr. Allen Merritt
Water Resource Analyst
State of Idaho
Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301

Dear Allen:

In my letter of October 3, 1977, I indicated that we would prepare and implement a plan to breach the Dip Creek Dam.

This is to advise you that the dam was successfully breached during September 1978.

Sincerely,

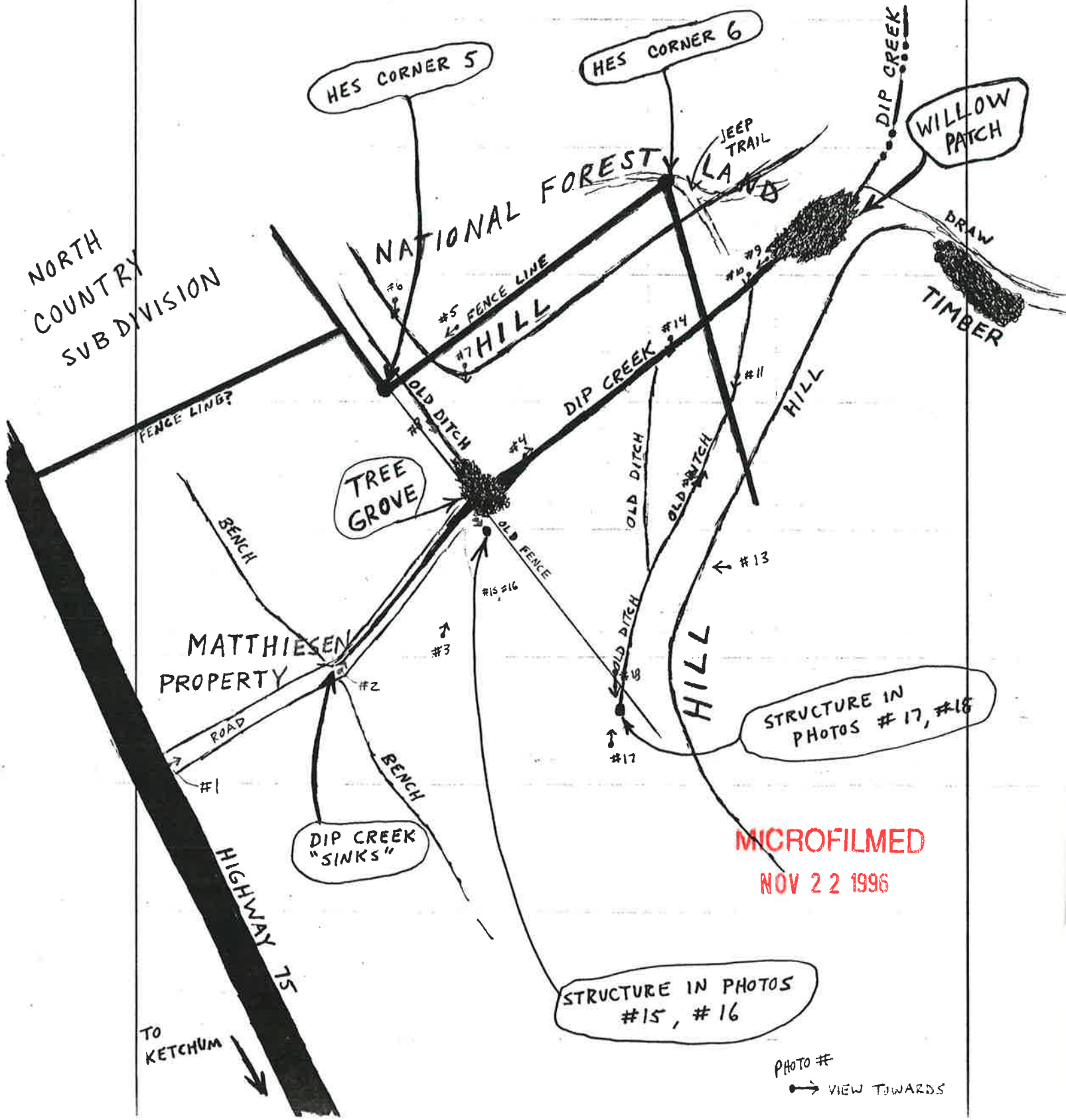
for
E. A. FOURNIER
Forest Supervisor

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ATTACHMENT J

"NOT TO SCALE"

≈ N ↑





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

ATTACHMENT K

PHILIP E. BATT
Governor

KARL J. DREHER
Director

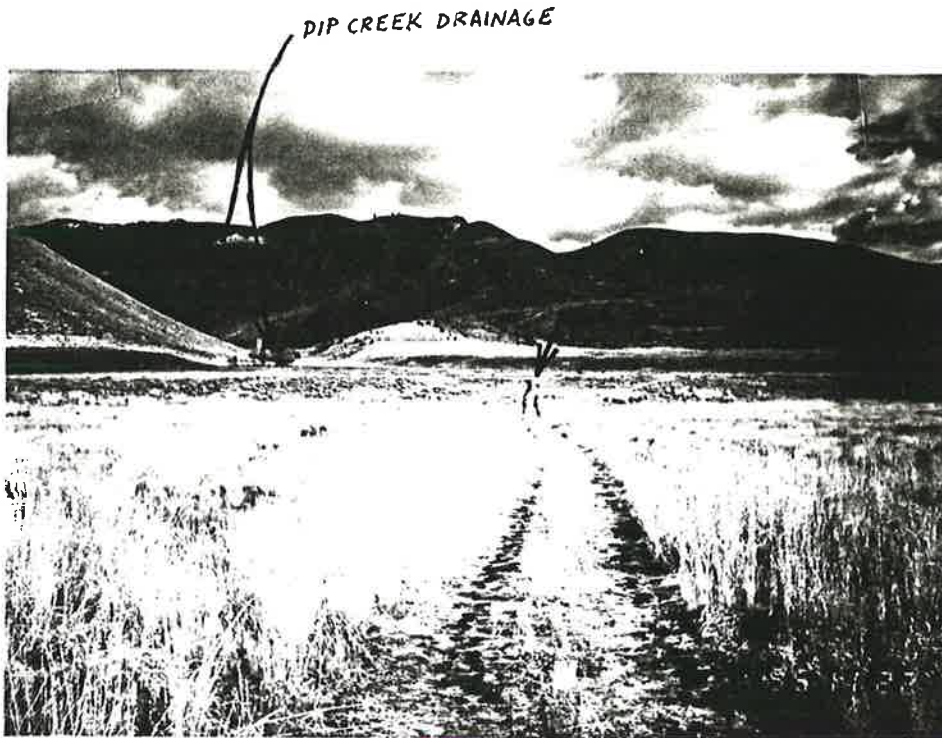


PHOTO #1 TAKEN 11/22/95

PHOTO #1 TAKEN FROM FENCE ALONG HIGHWAY 75 LOOKING ACROSS MATTHIESEN PROPERTY TOWARDS DIP CREEK DRAINAGE. ARROW IN CENTER OF PHOTO #1 INDICATES WHERE DIP CREEK SINKS INTO GROUND. APPROXIMATE LOCATION OF "SINKS" EXIST WHERE ROAD IN PHOTO #1 "TIPS OUT" ON SMALL BENCH AT ARROW LOCATION. ARROW ALSO INDICATES LOCATION WHERE PHOTO #2 WAS TAKEN FROM.

NOTE SOME BRUSH GROWTH IN AREA SHOWN IN PHOTO #1.



PHOTO #2 TAKEN 11/22/95

PHOTO #2 TAKEN FROM ARROW LOCATION IN PHOTO #1. PHOTO #2 IS A VIEW LOOKING TOWARDS THE "TREE GROVE" AND TOWARDS THE DIP CREEK DRAINAGE. WATER IN ROAD IS WHAT REMAINS OF DIP CREEK JUST BEFORE IT SINKS ENTIRELY INTO THE GROUND.

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ATTACHMENT L

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Governor

KARL J. DREHER
Director

"TREE GROVE"

DIP CREEK DRAINAGE AND "WILLOW PATCH"



PHOTO #3, TAKEN 10/13/95, SHOWING
"TREE GROVE" AND DIP CREEK
DRAINAGE. PHOTO #3 TAKEN EAST
OF WHERE PHOTO #2 WAS TAKEN.
NOTE SAGE BRUSH AND CLIPBOARD
IN CENTER OF PHOTO #3.

PHOTO #3 TAKEN 10/13/95

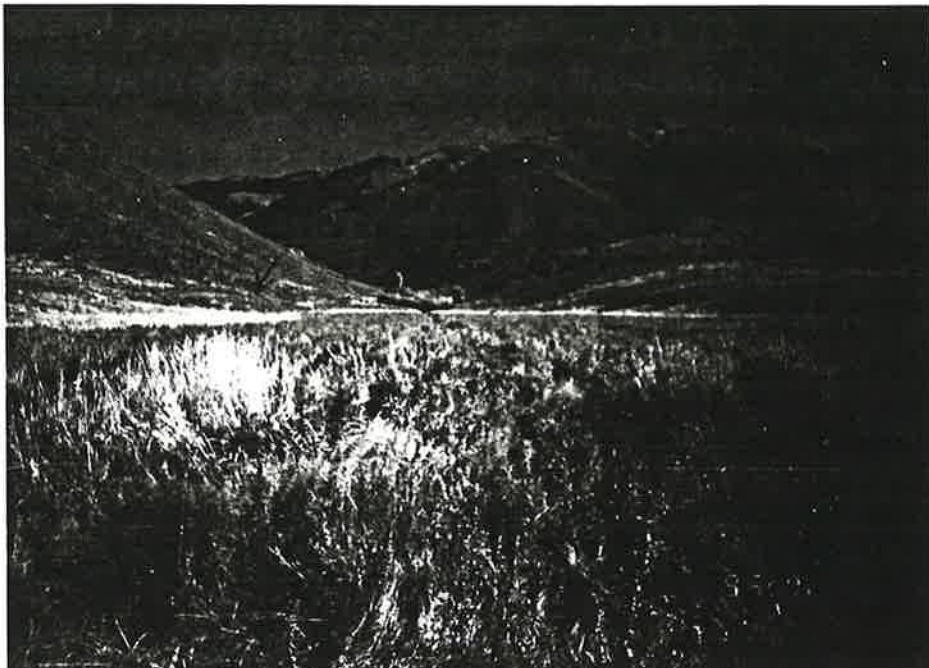


PHOTO #4 TAKEN LOOKING UP
DIP CREEK TOWARDS THE "WILLOW
PATCH" AND DIP CREEK DRAINAGE.
PHOTO #4 TAKEN JUST UPSTREAM
OF THE "TREE GROVE". ARROW
INDICATES APPROXIMATE LOCATION
OF HES CORNER #6.

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PHOTO #4 TAKEN 10/13/95

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ATTACHMENT M

PHILIP E. BATT
Governor

KARL J. DREHER
Director



PHOTO # 5 TAKEN 10/13/95

PHOTO # 5 TAKEN ALONG FENCE-
LINE BETWEEN HES CORNERS 5 & 6
PHOTO # 5 TAKEN LOOKING TOWARDS
HES CORNER # 5, CORNER # 5 IS JUST
BELOW HILL (SEE PHOTO # 6) AND IS
NOT VISIBLE IN PHOTO # 5. HOUSE
INDICATED BY ARROW IS PART OF
NORTH COUNTRY SUBDIVISION.

HES CORNER # 5



PHOTO # 6 SHOWING AREA BELOW
HILL IN PHOTO # 5. NOTE HES
CORNER AT FENCE CORNER AND
YELLOW SIGN JUST TO THE RIGHT
OF FENCE CORNER. YELLOW SIGN INDICATE
FOREST LAND BOUNDARY. PHOTO # 6
WAS TAKEN ON THE FOREST SIDE OF
THE FENCE. ARROWS INDICATE LOCATION
OF "DITCH" SHOWN IN PHOTOS
7 AND # 8.

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PHOTO # 6 TAKEN 10/13/95

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ATTACHMENT N

PHILIP E. BATT
Governor

KARL J. DREHER
Director

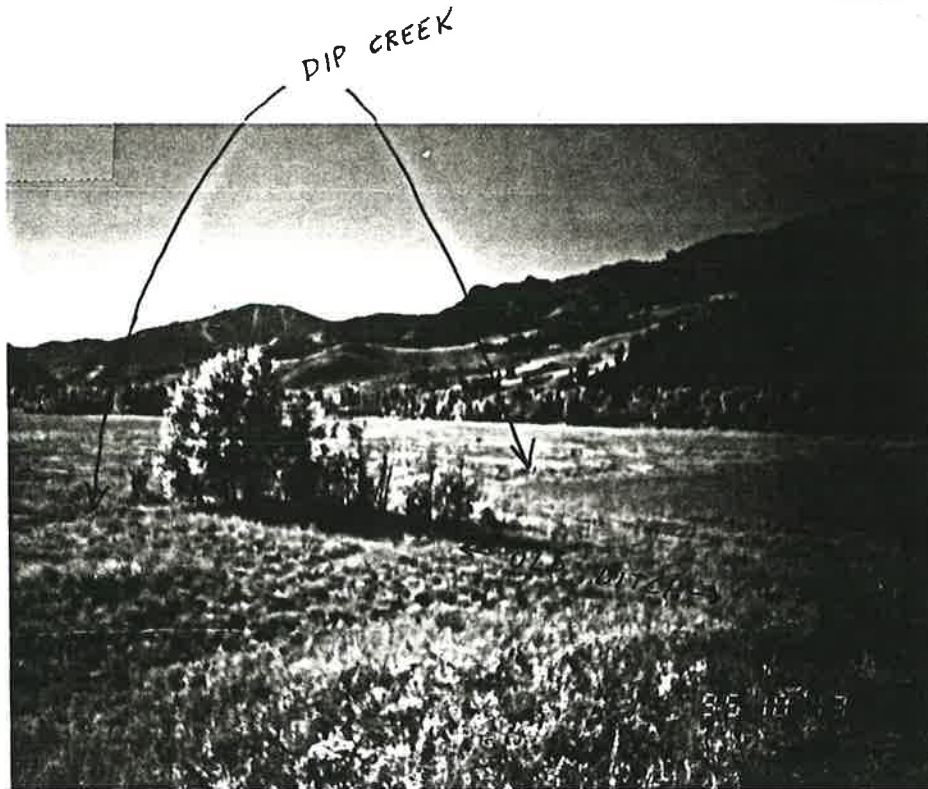


PHOTO # 7 TAKEN FROM HILL
LOOKING SOUTHWEST TOWARDS THE
"TREE GROVE" SHOWING DIP CREEK
AND THE OLD DITCH THAT IS SHOWN IN
PHOTOS # 6 AND # 8. WHITE SPOT
IN CIRCLED AREA IS VEHICLE
MARKING THE LOCATION OF WHERE
PHOTO # 1 WAS TAKEN FROM.

PHOTO # 7 TAKEN 10/13/95



PHOTO # 8 SHOWING BRUSH
GROWTH IN THE OLD DITCH
SHOWN IN PHOTOS # 6 AND # 7.
NOTE CLIPBOARD IN CIRCLE
SHOWING SIZE OF BRUSH AND
MARKING DITCH LOCATION.

PHOTO # 8 TAKEN 11/22/95

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ATTACHMENT O

PHILIP E. BATT
Governor

KARL J. DREHER
Director

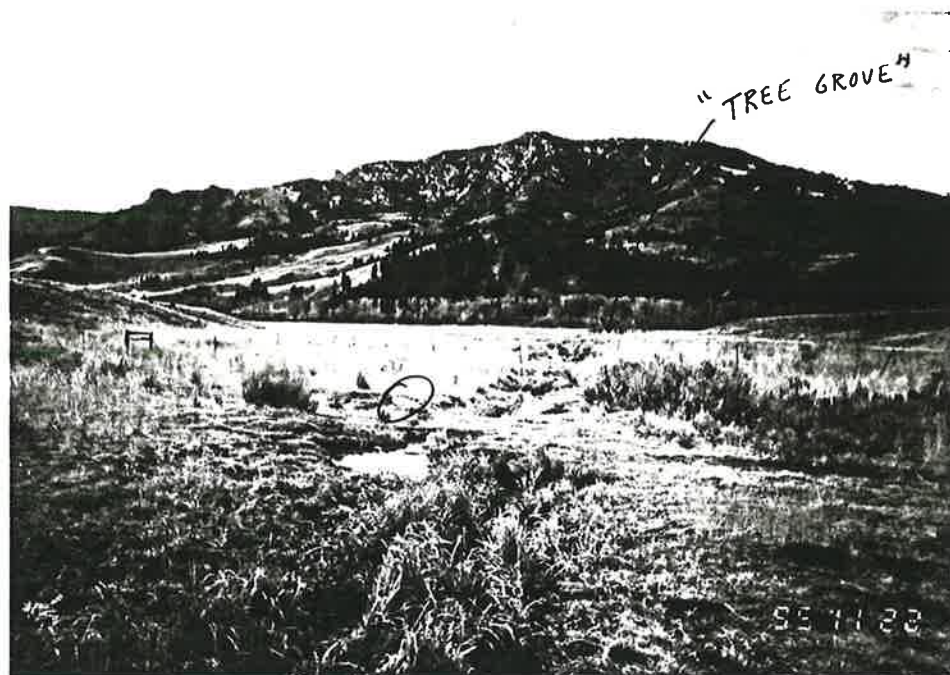


PHOTO # 9 TAKEN 11/22/95

PHOTO # 9 LOOKING DOWN
DIP CREEK TOWARDS THE
"TREE GROVE." FENCELINE IN
PHOTO IS NATIONAL FOREST LAND
BOUNDARY. PHOTO # 9 TAKEN FROM
FOREST SIDE OF FENCE. HES
CORNER # 6 IS ALONG FENCELINE
TO THE RIGHT OF PHOTO # 9.

CLIPBOARD IN CIRCLE IS IN
THE SAME LOCATION AS CLIP-
BOARD SHOWN BELOW IN
PHOTO # 10.

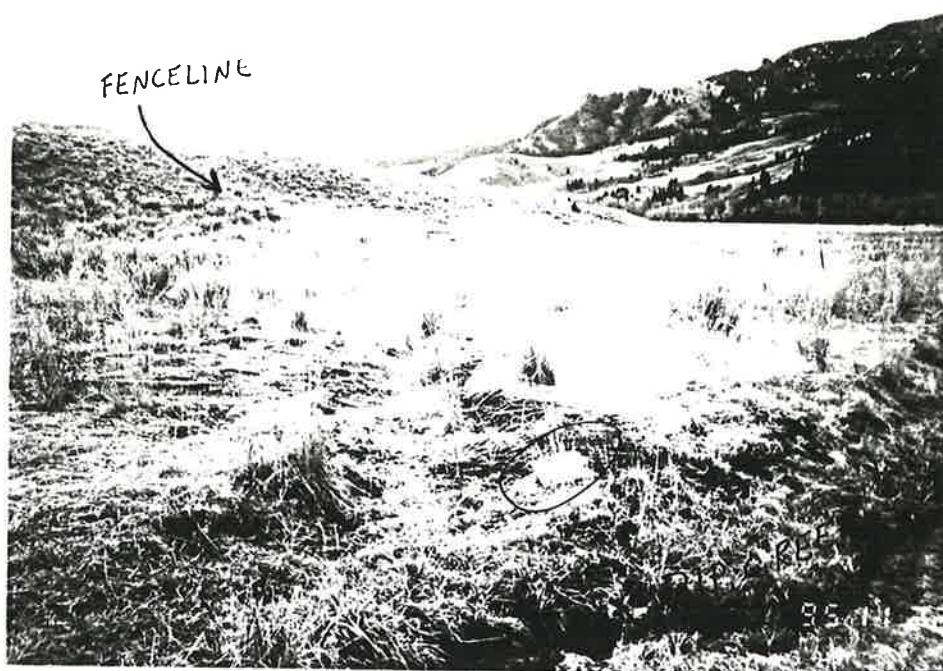


PHOTO # 10 TAKEN 11/22/95

PHOTO # 10 LOOKING DOWN
AN OLD DITCH THAT MAY HAVE
BEEN AN OLD DIVERSION.
CLIPBOARD (CIRCLED) IS IN SAME
LOCATION AS CLIPBOARD IN
PHOTO # 9.

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ATTACHMENT P

PHILIP E. BATT
Governor

KARL J. DREHER
Director



PHOTO #11 LOOKING DOWN
SAME OLD DITCH SHOWN IN
PHOTO #10. NOTE GROWTH
IN DITCH. CLIPBOARD,
CIRCLED, INDICATES DITCH
LOCATION.

PHOTO #11 TAKEN 11/22/95



PHOTO #12, FURTHER
DOWNSTREAM, BUT LOOKING UP
SAME DITCH SHOWN IN PHOTOS
#10 AND #11. NOTE GROWTH
IN DITCH. CLIPBOARD, CIRCLED,
INDICATES DITCH LOCATION.

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PHOTO #12 TAKEN 11/22/95

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ATTACHMENT Q

PHILIP E. BATT
Governor

KARL J. DREHER
Director

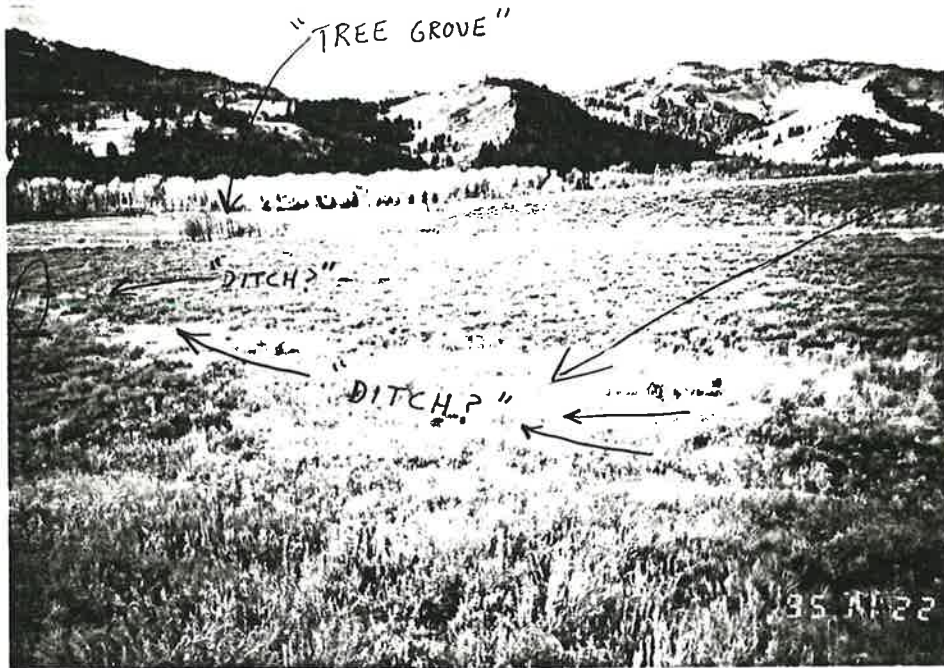


PHOTO # 13 TAKEN 11/22/95

PHOTO # 13, SHOWING AREA SOUTH OF DIP CREEK. LIGHT COLORED AREA IN CENTER OF PHOTO IS WHAT REMAINS OF "DITCH" SHOWN IN PHOTO # 12. BETWEEN THIS AREA AND THE "TREE GROVE" IS PORTIONS OF THE "DITCH" SHOWN IN PHOTO # 14. THESE TWO DITCHES (PHOTO # 14 AND PHOTO # 12) JOIN IN THE CIRCLED AREA OF PHOTO # 13, AND EVENTUALLY END UP AT THE STRUCTURE SHOWN IN PHOTOS # 17 AND # 18.



PHOTO # 14 TAKEN 11/22/95
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PHOTO # 14 LOOKING DOWN DIP CREEK. CLIPBOARD, CIRCLED, MARKS LOCATION OF A "DITCH" THAT MAY HAVE ONCE DIVERTED WATER FROM DIP CREEK. NOTE LARGE GROWTH IN "DITCH".

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PHOTO # 15 TAKEN 11/22/95

ATTACHMENT R

PHILIP E. BATT
Governor

KARL J. DREHER
Director

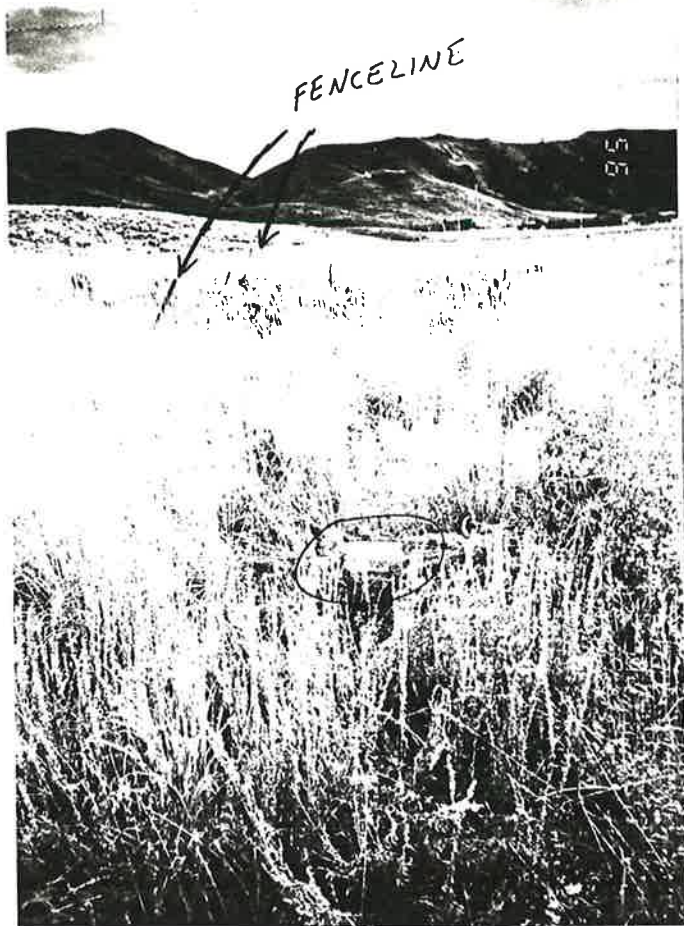


PHOTO # 15, TAKEN A FEW
YARDS SOUTH OF THE "TREE GROVE"
LOOKING TOWARDS THE SOUTH.
CIRCLED AREA IS CLIPBOARD MARKING
THE LOCATION OF A POSSIBLE OLD
IRRIGATION STRUCTURE (HEADGATE?)

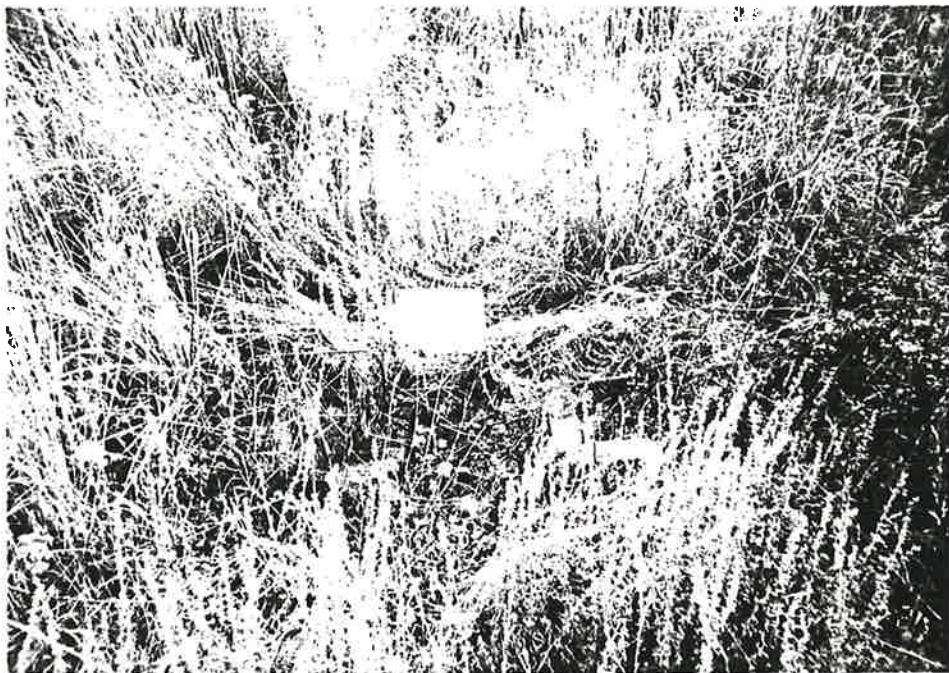


PHOTO #16, SHOWING A CLOSE
UP VIEW OF THE STRUCTURE
SHOWN IN PHOTO #15. NOTE
STRUCTURE IS ESSENTIALLY
BURIED AND INOPERABLE.
NO NOTICEABLE "DITCHES" WERE
OBSERVED IN THIS AREA.

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PHOTO #16 TAKEN 11/22/95

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PHOTO # 17 TAKEN 11/22/95

ATTACHMENT S

PHILIP E. BATT
Governor

KARL J. DREHER
Director

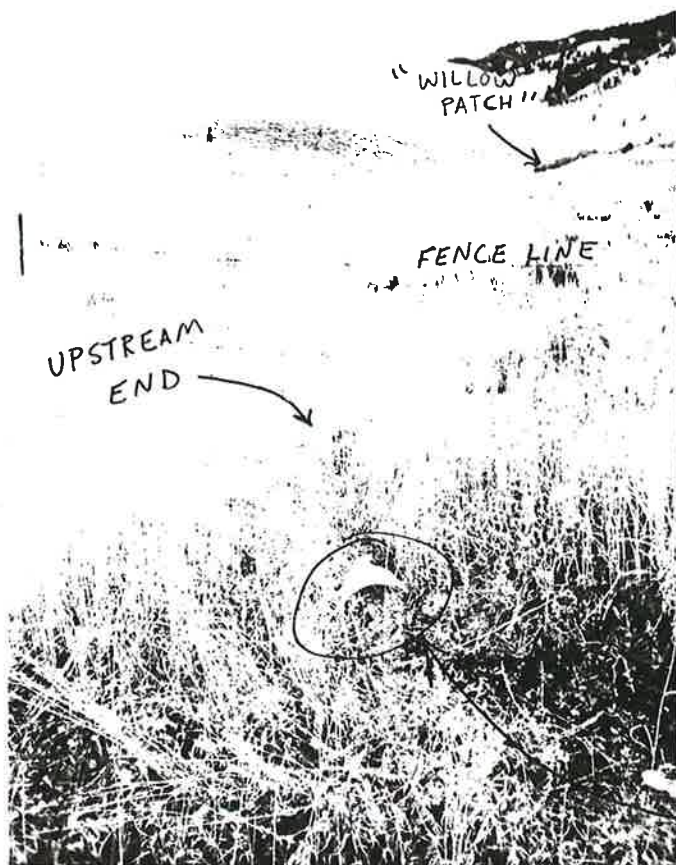


PHOTO #17 SHOWING OLD IRRIGATION STRUCTURE (POSSIBLE COLLECTION BOX, HEADGATE, OR CULVERT). WHAT REMAINED OF ANY UPHILL DITCHES SEEMED TO CONGREGATE AT THIS STRUCTURE. DUE TO VEGETATION AND THE PIPE BEING PLUGGED BY OLD SEDIMENT, THE STRUCTURE WAS INOPERABLE. FENCE LINE IS SAME FENCE LINE SHOWN IN PHOTO #15, ONLY FURTHER SOUTH.

NOTE PIPE PLUGGED BY SEDIMENT.

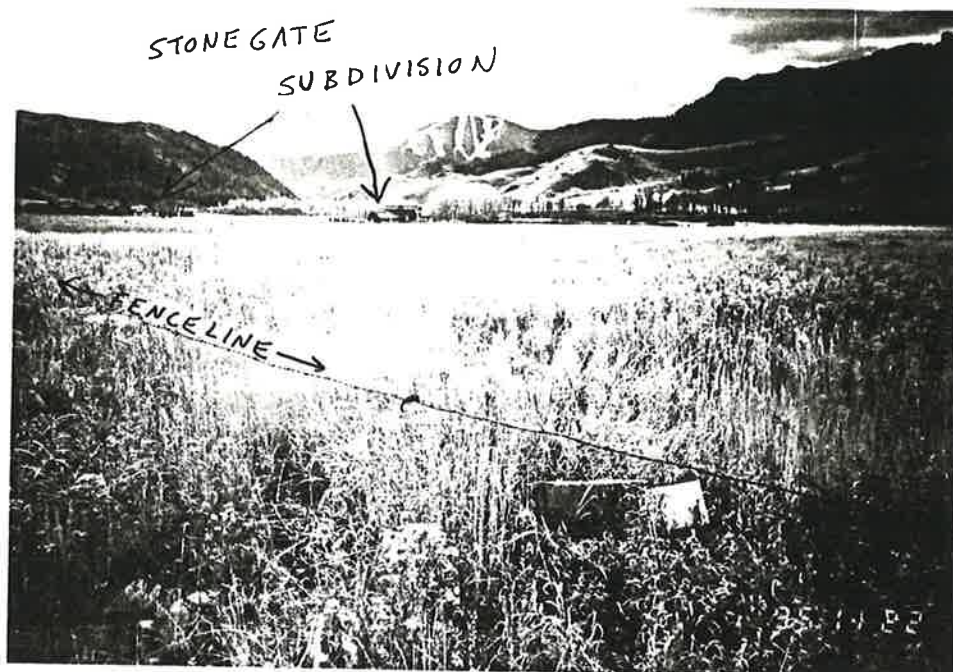


PHOTO #18 SHOWS UPSTREAM END OF STRUCTURE SHOWN IN PHOTO #17. I REMOVED SOME OF THE VEGETATION AROUND THE STRUCTURE TO MAKE IT VISIBLE FROM THIS SIDE. NEEDLESS TO SAY THIS STRUCTURE HAD NOT BEEN USED FOR A LONG TIME.

PHOTO #18 TAKEN 11/22/95

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Attachment T

Copy of photo in Dip
Creek Dam file (D37-2473)
showing "Downstream Development"

photo taken June, 1977

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fenceline



MEMORANDUM

To: File 37-02473
From: L. Glen Saxton *LS*
RE: MEETING WITH CHUCK BROCKWAY
Date: March 20, 1996

RECEIVED
MAR 22 1996
Department of Water Resources
Southern Region

On this date, I met with Chuck Brockway, Jed Gray and Charles Matthiesen relative to a planned subdivision development north of Ketchum. They described their plans and discussed and inquired how related water right filings should be submitted to the department.

During the discussion I learned the following:

1. The general plan is to subdivide some land adjacent to Dip Creek into nine (9) lots ranging in size from 5 to 22 acres each.
2. Individual wells will be constructed on each lot under the domestic exemption described in Section 42-111, Idaho Code. One-half acre on each lot likely will be irrigated under the domestic use exemption.
3. The developer plans to file an application for transfer on License No. 37-02473 which was issued in the amount of 1 cfs of water from Dip Creek, proposing to change its use from irrigation to aesthetics, recreation and irrigation. They plan to diverted Dip Creek water through several ponds and to submit hydrologic balance information to show that the rate, consumptive volume and total volume of water to be diverted under the transfer from Dip Creek will not be enlarged. Evaporation from the ponds will be accounted for.
3. The developer plans to convey a portion of right 37-02473 to each of the land owners allowing the owners to irrigate up to about 2 acres with a portion of the Dip Creek water to be diverted from their individual wells for a total of about 19.8 acres. I explained that they would have to show that Dip Creek was flowing in an amount equal to or exceeding the water diverted from the wells and likely would require a measuring device to be constructed on the Dip Creek stream channel. The department has approved a similar proposal to this in the past for the New Deer Creek facility near Hailey.
4. The ponds will be lined with a total of about 6 irrigated acres adjacent to the ponds which will be irrigated with water from the ponds. Water from the last

137-02473

pond will be allowed to sink in the general vicinity where Dip Creek has always sunk. Note that the license shows that Dip Creek sinks.

5. The developer will also submit an application for permit proposing a non-consumptive use of ground water to maintain fresh water in the ponds. This would be achieved by drilling a well near the lowest pond, pumping the water to the uppermost pond and allowing the water travel through all of the ponds and eventually sink near the lowest pond. Evaporation loss would be made up by reduced consumptive use of the Dip Creek surface water right.

I suggested that Brockway or some other appropriate individual visit with the Twin Falls office about the proposal so that the advertisement can be prepared in a manner which hopefully will clearly explain the proposal of the applicant. I further suggested that the application for permit and application for transfer be submitted as a package to the regional office.

Brockway submitted two (2) affidavits relative to past water use and a map of the planned development.

Brockway seemed to think the applications would be submitted to IDWR in about two (2) weeks.

c: S. Region
Allen Merritt
S. Region - Adj Bureau.

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AFFIDAVIT

RECEIVED

MAR 20 1996

Department of Water Resources

State of Idaho)
)
County of Blaine) ss.

I, Charles L. Matthiesen, being duly sworn, depose and state as follows:

1. Attached to this Affidavit as Exhibit A is an aerial photograph on which engineers have drawn the boundary lines of Tax Lots 4042 and 4043 in Blaine County, Idaho. Attached to this Affidavit as Exhibit B is a copy of the November, 1994 Commitment for Title Insurance for this property containing its legal description.

2. I have reviewed the Memorandum by Corey Skinner dated November 28, 1995 concerning my Application for Extension of Time to Avoid Forfeiture for Water Right No. 37-02473 (the "Application"). I am submitting this Affidavit and the Affidavit of John H. McDonald in support of the Application and to refute Mr. Skinner's conclusions.

3. I purchased the property in 1971 from John Feldhusen. The sale included Water Right No. 37-02473 for 1 cfs from Dip Creek for irrigation of the property. Since I lived out of state, I made arrangements with John McDonald, a close friend of my father-in-law, to maintain the property. Our verbal agreement allowed him to use the property and Dip Creek water right to grow hay and graze horses. In return, John would maintain the fences and the irrigation system, and use the Dip Creek water right. During our summer vacations, My wife and I would usually bring our children to visit their grandparents in Ketchum. These visits would allow me to see John and visit the property.

4. In 1977, a representative of the United States Forest Service ("USFS") contacted me

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to determine if I would object to their removal of the water storage dam on Dip Creek, explaining that they had problems with littering. I had suspected for some time that people were trespassing on my property to gain access to the Dip Creek reservoir. I did not understand how important the reservoir was to my ability to control the flow of Dip Creek during the Summer months and, therefore, did not object to this request. I was also not aware of the correspondence between Mr. Feldhusen and the Forest Service concerning the reservoir removal.

5. After 1991 when John stopped using the property, I was not able to locate someone else to work on the property. Without the reservoir to control the Dip Creek flows and store water, no one was interested. However, I have continued to use the Dip Creek water right. On my summer visits to Ketchum I have used shovels to maintain the main diversion channel that starts at the East boundary of the property and travels West for approximately 1,000 feet (marked "1" on Exhibit A). This channel holds the full flow of Dip Creek. At the termination of the main channel, the water can be diverted to three different areas. A channel leading West allows irrigation of Parcel N depicted on Exhibit A. A channel heading South allows irrigation of Parcel S depicted on Exhibit A. A channel heading North allows irrigation of an area of approximately 5 acres around and including the "tree grove" described in the Skinner Memorandum. During each visit I would concentrate on diverting water to one or more of the three areas.

6. My last major irrigation was during the summer of 1994. I made several trips to the area (May, July, August) and a number of visits to the property. The majority of my time was spent diverting water onto Parcel N. The cement diversion units were in disrepair (there was little value in replacing and repairing them because they did not fit into my long term plans). I used small, shovel dug earth dams to control the flow of the water into the lateral irrigation channels. By removing old

and building new dams on the main channel I was able to divert water into all of the lateral irrigation channels.

7. The heavy snow pack during the winter of 1994 & 1995 caused a large spring runoff which traveled down the main channel, continued west and eroded most of the earth channels I had constructed during the previous year.

8. During the summer of 1995, I did not divert water to Parcel N or Parcel S. The water was only used to flood irrigate the area around the "tree grove". This caused the state of disrepair that Mr. Skinner found in the fall of 1995.

DATED this 19 day of MARCH, 1996.

Charles L. Matthiesen
CHARLES L. MATTHIESEN

SUBSCRIBED AND SWORN TO this 19th day of March, 1996.

J. P. Seal
Notary Public for Idaho
Residing at East Fork, ID
My Commission expires 1/27/97

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NOV 22 1996



November 17, 1994

HAND DELIVER

Blaine County
c/o Sun Valley Associates
Attn: Jed Gray

RE: Our Order No. 20508
MATTHIESEN, Charles L.
H.E.S. 127 & 128

Dear Jed:

Attached is the Title Insurance Commitment relative to the above numbered order.

Copies of any of the Exceptions under Schedule B, Section 2 of the Commitment will be furnished upon request.

For further information regarding this report please contact:

SAWTOOTH TITLE COMPANY
171 West 6th Street
P.O. Box 188
Ketchum, ID 83340
PHONE: (208) 726-4595
TOLL FREE PHONE: 1-800-837-4595
FAX: (208) 726-1062

TITLE OFFICER: Sandy Hall and/or Missy Anderson

Very truly yours,

SAWTOOTH TITLE COMPANY

Heldi
Heldi M. Howsden
Title Assistant

/hmi

Attachment(s)

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EXHIBIT B

SAWTOOTH TITLE COMPANY**INFORMATION**

The Title Insurance Commitment is a legal contract between you and the company. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The Policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy.

The Company will give you a sample of the Policy form, if you ask.

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT.

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AGREEMENT TO ISSUE POLICY	1
SCHEDULE A	
1. Commitment Date	2
2. Policies to be Issued, Amounts and Proposed Insureds	2
3. Interest in the Land and Owner	2
4. Description of the Land	2
SCHEDULE B-1 -- Requirements	3
SCHEDULE B-2 -- Exceptions	4
CONDITIONS	other side of 1

YOU SHOULD READ THE COMMITMENT VERY CAREFULLY.

If you have any questions about the Commitment, please contact

SAWTOOTH TITLE COMPANY

208-726-4595

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COMMITMENT FOR TITLE INSURANCE

ISSUED BY

First American Title Insurance Company

AGREEMENT TO ISSUE POLICY

We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:

The Provisions in Schedule A.

The Requirements in Schedule B-1.

The Exceptions in Schedule B-2.

The Conditions on the other side of this page 1.

This Commitment is not valid without SCHEDULE A and Sections 1 and 2 of SCHEDULE B.

First American Title Insurance Company

BY *Parker S. Kennedy* PRESIDENT

ATTEST *Mark L. Amerson* SECRETARY

BY *William Anderson* COUNTERSIGNED

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SCHEDULE A

1. Commitment Date: November 16, 1994 at 8:00 a.m.
Order No. 20508

2.	Policy or Policies to be Issued:	Policy Amount	Premium
(X)	Standard Owners Policy Form 1402.92 (10/17/92) Proposed Insured: BLAINE COUNTY	\$10,000.00	\$150.00
0	Loan Policy Form 1056.92 (10/17/92) Proposed Insured:	\$	\$
0	Endorsements		\$

3. Fee simple interest in the land described in this Commitment is owned, at the Commitment Date, by:

CHARLES L. MATTHIESEN, subject to the community interest of his spouse, if married on August 18, 1980, the date of acquiring title, as to an undivided 1/2 interest and CHARLES L. MATTHIESEN, as his sole and separate property, as to an undivided 1/2 interest

4. The land referred to in this Commitment is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

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EXHIBIT "A"

TOWNSHIP 5 NORTH, RANGE 17 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

H.E.S. 127 & H.E.S. 128: A parcel of land more particularly described as follows:

**COMMENCING at corner 6 of H.E.S. 128 and said corner being the TRUE POINT OF BEGINNING; thence
S. 14° 14' 03" E., 978.99 feet along the easterly boundary of said H.E.S. 128; thence
S. 11° 11' 41" E., 1,503.34 feet along the easterly boundary of said H.E.S. 127; thence
S. 76° 39' 20" W., 1,712.13 feet to the westerly boundary of U.S. Highway 93; thence
N. 23° 28' 22" W., 2,153.17 feet along said westerly boundary of U.S. Highway 93;
thence
N. 68° 35' 32" E., 1,057.18 feet to the easterly boundary of said H.E.S. 128; thence
S. 34° 38' 11" E., 227.86 feet along the easterly boundary of said H.E.S. 128 to corner
6 of said H.E.S. 128; thence
N. 55° 33' 32" E., 1,081.41 feet along the northwesterly boundary of said H.E.S. 128
to the TRUE POINT OF BEGINNING.**

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NOV 22 1996

Order No. 20508

SCHEDULE B - Section 1**Requirements**

The following requirements must be met:

- (a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
- (b) Pay us the premiums, fees and charges for the policy.
- (c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- (d) You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
- (e) Release(s) or Reconveyance(s) of Item(s) N/A
- (f) Other

(g) You must give us the following information:

- 1. Any off record leases, surveys, etc.
- 2. Other

IMPORTANT: If this transaction fails to close and/or this commitment is cancelled, a fee will be due and owing, which fee complies with the rates currently on file with the Department of Insurance, State of Idaho. We will consider the party who ordered this commitment, and/or the party benefiting from it, responsible for payment unless notified in writing within 30 days to the contrary.

NOTE: Copies of any of the Exceptions listed in Schedule B, Section 2 will be furnished upon request.

MICROFILMED**MAY 22 1996**

Order No. 20508

SCHEDULE B - Section 2**Exceptions**

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

PART 1:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interest or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. Unpatented mining claims; reservations or exceptions in patents and state deeds or in acts authorizing the issuance thereto; water rights, claims, or title to water.
6. Any lien, or right to a lien for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. General taxes for the year 1994, a lien in the amount of \$10,548.58, of which the first half are due and payable on or before December 20, 1994 and the second half are due and payable on or before June 20, 1995. (Parcel #05N170238120)

The following numbered exceptions -0- will be eliminated in an ALTA Extended Coverage Policy.

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MAR 20 1996

Department of Water Resources

AFFIDAVIT

State of Idaho)
)
County of Blaine) ss.

I, John H. McDonald, being duly sworn, depose and state as follows:

1. I have been a resident of Blaine County, Idaho since February, 1969. Since June, 1973, I have been postmaster of the United States Post Office in Ketchum, Idaho.

2. Attached to this Affidavit as Exhibit A is an aerial photograph on which engineers have drawn the boundary lines of Tax Lots 4042 and 4043 in Blaine County, Idaho owned by Charles L. Matthiesen. From 1970 until 1986 or 1987, pursuant to verbal agreements with Mr. Matthiesen and the prior owner, I irrigated and raised hay crops and pastured twenty to twenty-four horses on this property. The water used to irrigate the property came from Dip Creek via gravity flow ditches. Until 1978, Dip Creek was dammed to form a small reservoir on the United States Forset Service ("USFS") lands east of the property. This created a more reliable supply of water throughout the irrigation season and also provided a means of controlling the diversion. From the outlet of the reservoir, water flowed down a ditch (marked "1" on Exhibit A) to just east of the old fence line along the eastern boundaries of Parcels N and S as I have outlined on the photograph. Water was then delivered to Parcel N via a feed ditch (marked "2" on Exhibit A) which ran north approximately thirty (30) yards and then turned west along the south edge of Parcel N. This feed ditch is not the old Eagle Creek delivery ditch which hasn't been used for many years. From the feed ditch, water was turned into the laterals running north, which can be seen in Exhibit A. Another feed ditch (marked as "3" on Exhibit A) delivered water to the laterals running south in Parcel S. Flood

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3/15/96 4:34 pm

irrigation methods were used to irrigate all of these lands. The use of the water from Dip Creek was never regulated by the Watermaster.

3. Every year until 1986 or 1987 hay crops were taken off both Parcels N and S. In good water years, I also irrigated and took hay crops off the land between these two parcels.

4. After the USFS removed the Dip Creek dam in 1978, there was no way to control the silt that would wash down Dip Creek in the spring and build up in the irrigation delivery ditches. The problem gradually worsened. Thus, from 1986 or 1987 until 1991, I continued to irrigate Parcels N and S for pasture for my horses, but no longer raised hay crops.

5. I have first hand knowledge of everything described in this Affidavit and, if necessary, am willing and able to provide sworn testimony in court on these matters.

Dated this 19 day of March, 1996.


JOHN H. MCDONALD

SUBSCRIBED AND SWORN TO this 19th day of March, 1996.


Notary Public for _____
Residing at _____
My Commission expires 2/15/97

RUBY A. BECKER
NOTARY PUBLIC
STATE OF IDAHO

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EXHIBIT A

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NOV 22 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

1J A37-02473

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 28, 1996

Charles L. Matthiesen
c/o James P. Speck
HOGUE SPECK & AANESTAD
P.O. Box 987
Ketchum, ID 83340

RECEIVED

APR 01 1996

Department of Water Resources
Southern Region

RE: Water Right No. 37-02473

Dear License Holder:

I have enclosed an approved copy of the Application for Extension of Time to Avoid Forfeiture of a Water Right for the above referenced license. Please note that resumption of water for a beneficial use shall occur on or before **November 1, 2000**.

Please notify the Department as soon as you resume use. If you have not notified the Department sixty (60) days prior to November 1, 2000, the Department will notify you by certified mail of the need to do so.

Please contact me at (208)327-7953 if you have any questions concerning this matter.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: Southern Region, Allen Merritt

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JUL 27 1995

Department of Water Resources
Southern Region

Water Right No. 37-02473

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho, 83720, with the statutory fee of \$100.00.

1. Name of water right holder: Charles L. Matthiesen.
2. Post office address: c/o James P. Speck, Hogue, Speck & Aanestad, P.O. Box 987, Ketchum, Idaho, 83340.
3. The right was obtained or is evidenced by:
 - a. License No. 37-02473.
 - b. Snake River Basin Adjudication Claim No. A37-02473.
4. Source of water: Dip Creek.
Tributary to: Sinks.
5. Date of priority: June 24, 1946.
6. Amount of water: 1.0 cfs.
7. Water is used for: Irrigation

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8. Location of point of diversion:

Township	Range	Section	¼	¼	¼	Lot	County
5N	17E	23	SE	NE	NE		Blaine

9. Lands irrigated or place of use:

			NE		NW		SW		SE											
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	TOTA	
5N	17E	23		15	20											15			50	
TOTALS																			50.0	

10. Give the last date when water was applied to beneficial use: 1990.

Length of extension of time requested: Until November 1, 2000.

11. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and the reasons for non-use: The diversion works were destroyed which has prevented the owner from diverting and beneficially using the full amount of the right for irrigation. The owner intends to develop the place of use into a low density residential subdivision, rebuild the diversion works and use the water right within the new subdivision. The schedule for obtaining the governmental approvals necessary for the new subdivision does not permit owner to beneficially use the full amount of the water right prior to the expiration of the five (5) year statutory forfeiture period. However, full resumption of use of the water right will take place during the requested period of extension.

I hereby assert that noone will be injured by such extension. The information contained in this application is true to the best of my knowledge.

Charles L. Matthiesen

CHARLES L. MATTHIESEN

SUBSCRIBED AND SWORN TO before me this 24 day of July, 1995.

Aue Rene Bennett

Notary public for Idaho

Residing at Ketchikan, ID

Commission expires 7/18/2001

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby APPROVE said application subject to the following conditions or reasons:

Resumption of water to beneficial use shall occur on or before November 1, 2000.

Approval of this extension does not preclude the determination of the validity of this right in the Snake River Basin Adjudication or in any other administrative hearing procedure before the department.

Witness my hand this 27th day of March, 1996.

J. Glen Saylor

Chief, Water Allocation Bureau

For Department Use Only

Received by JF Stanton Date 7-27-95 Time 9:30 am Preliminary check by CS
Fee \$ 100.00 Receipted by SS 5018329 Date 7-27-95 Publication prepared by MB
Published in Wood River Journal Dates 12/20 + 12/27/95
Publication approved by MB Date 12/29/95 Protests filed by _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for // Approval (// Denial) by AD 1/12/96

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