

u A  
RECEIVED  
JAN 13 2007  
DEPARTMENT OF  
WATER RESOURCES

**FREEMAN B. DUNCAN**  
**Attorney at Law**  
**P.O. Box 1629**  
**Post Falls, ID 83877-1629**  
**(208) 773-8720**

January 16, 2007

Ms. Cynthia Bridge-Clark  
Idaho Department of Water Resources  
322 E. Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

Re: Idaho Department of Environmental Quality/Water rights

Dear Ms. Clark:

For the last six years, I have been serving as a special deputy attorney general representing the Idaho Department of Environmental Quality (DEQ), with land transfer issues associated with the Super Fund site in Shoshone County, Idaho. Under the federal super fund laws, the State of Idaho is to receive title to approximately 1600 acres of land within the boundaries of the super fund site to assist with the future costs of operating and maintaining the remediation efforts installed by the Environmental Protection Agency (EPA). This is basically property seized by EPA from Bunker Hill (Bunker Limited Partnership) as one of the main responsible parties for the pollution. The Idaho Legislature designated DEQ as the title holder for the acreage. My job has been to coordinate the transfer of title from EPA to DEQ, and the subsequent transfer from DEQ to third parties to create economic development and O & M revenue. We are close to receiving title to all of the acreage, and have begun transferring title to third parties. Now comes the water rights issue.

Properties that are now vested in DEQ have established water rights out of Government Creek (copies attached). I have been working with Bob Haynes in your Coeur d'Alene Office about the best way to handle and document the transfer of the water rights. Since DEQ is basically going to be a short term property owner and does not intend

to personally use the water, Bob suggested that I explore the ability to transfer the water rights to the water bank so that the rights are not forfeited. That makes a lot of sense to me, but I will readily admit that I know very little about water rights and even less about the water bank. Bob suggested that I make contact with you. I would welcome any information you can give me, and copies of any necessary forms.

While DEQ does not have any actual use for the water, the water has been used by both EPA and local government entities for dust control and industrial purposes since the original seizure by EPA. EPA's use is close to ended, but local government entities desire to continue to use our water rights. My client has also been approached by Eagle Crest (the developer of a major golf course complex on 560 acres of 1600 acres) with a request to use the water rights for both dust control and irrigation during the construction of the course. This will require a substantial investment by them to improve the existing diversion point and diversion system. Obviously, they are reluctant to make this investment and my client is reluctant to allow them to make the improvements if it will affect the validity of the water rights. Again, a need to better understand how the water bank process works.

With this introduction to the situation and my lack of knowledge concerning how to proceed in this matter, I look forward to hearing from you.

Sincerely



Freeman B. Duncan

Cc: client  
John Karpenko, Meckel Engineering

RECEIVED

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

JUL 1 1983

CLAIM TO A WATER RIGHT

Department of Water Resources  
Northern District Office

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that BUNKER LIMITED PARTNERSHIP  
(Name of Claimant)  
P. O. Box 29, Kellogg, Idaho 83837 Telephone No. (208) 784-1261  
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1899

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)  
Government Creek tributary to S. Fork of Coeur d'Alene River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>3 CFS</u>	Use <u>Industrial</u>	Period of Use From <u>1-1-</u>	To <u>12-31</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) 3 CFS TOTAL QUANTITY USED.  
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)  
SE ¼ SE ¼, Sec. 10 Twp. 48N Rge. 2E B.M., County of Shoshone  
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Diversion dam, 8" pipeline to 20,000 gallon tank, 10" pipeline to Zinc Plant.  
(See narrative supplement), Smelter and Mine.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
48N	2E	2												X					
48N	2E	2	X																
48N	2E	1				X													
48N	3E	6						X											

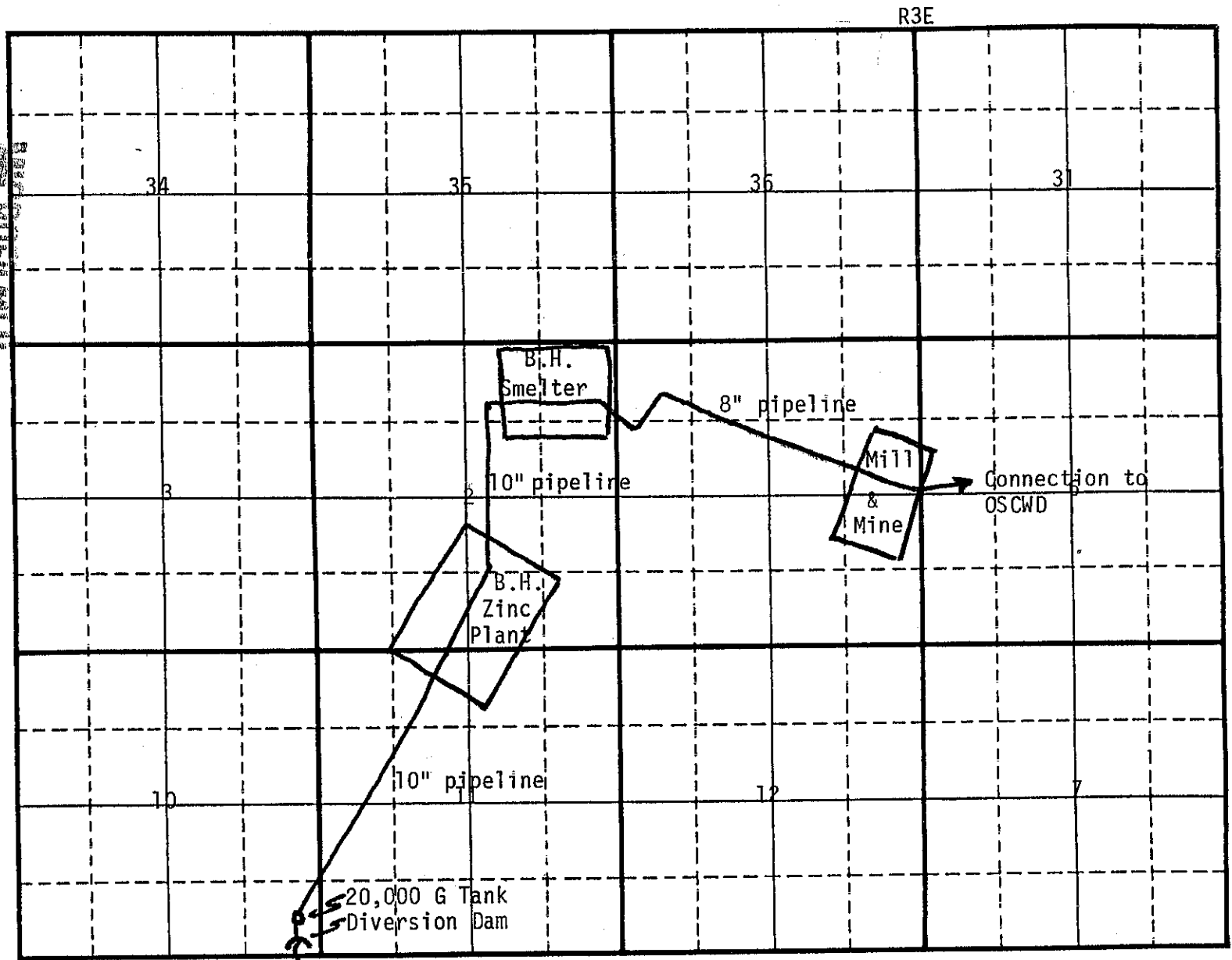
No. of acres

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Industrial  
Use being used for employee sanitation, non-contact cooling, contact cooling,  
Boiler feed water, process dilution, yard washdown and fire protection, as well  
as supply to Central Shoshone Water District.

NOTE: Include here the type and number of stock watered: None

(7) If you are claiming water as a member of an organization, list name of organization: Bunker Limited Partnership.

(8) Remarks See attached letter, record copies and drawings for additional information and history of this water usage.



Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho )  
County of Shoshone ) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 24<sup>th</sup> day of June

[Signature]  
(Claimant)  
1983

Rose Mandak  
Notary Public  
Residing at Kellogg, Idaho

My commission expires 11-18-86

FOR DEPARTMENT USE ONLY

Received by <u>AB</u>	Date <u>6/28/83</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>AB</u>	Date <u>6/28/83</u>	(28396)	claimant by:	
\$20.00 fee received by <u>AB</u>	Date <u>6/28/83</u>			
Published in <u>Kellogg Eve News</u>				
Dates <u>8/30/83</u>				

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that BUNKER LIMITED PARTNERSHIP  
(Name of Claimant)  
P. O. Box 29, Kellogg, Idaho 83837 Telephone No. (208) 784-1261  
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1899

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)  
Government Creek tributary to S. Fork of Coeur d'Alene River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	<u>7 CFS</u>	Use	<u>Industrial</u>	Period of Use From <u>1-1-</u>	To <u>12-31</u>
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

(4) 7 CFS TOTAL QUANTITY USED.  
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)  
SE ¼ SW ¼, Sec. 2 Twp. 48N Rge. 2E B.M., County of Shoshone  
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Diversion Gate in 6' x 6' concrete lined ditch diverting stream flow into a reservoir measuring 125' x 125' and holding 1.7 million gallons.  
The water is pumped or flows from this reservoir to its various uses.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
48N	2E	2												X					
48N	2E	2	X																

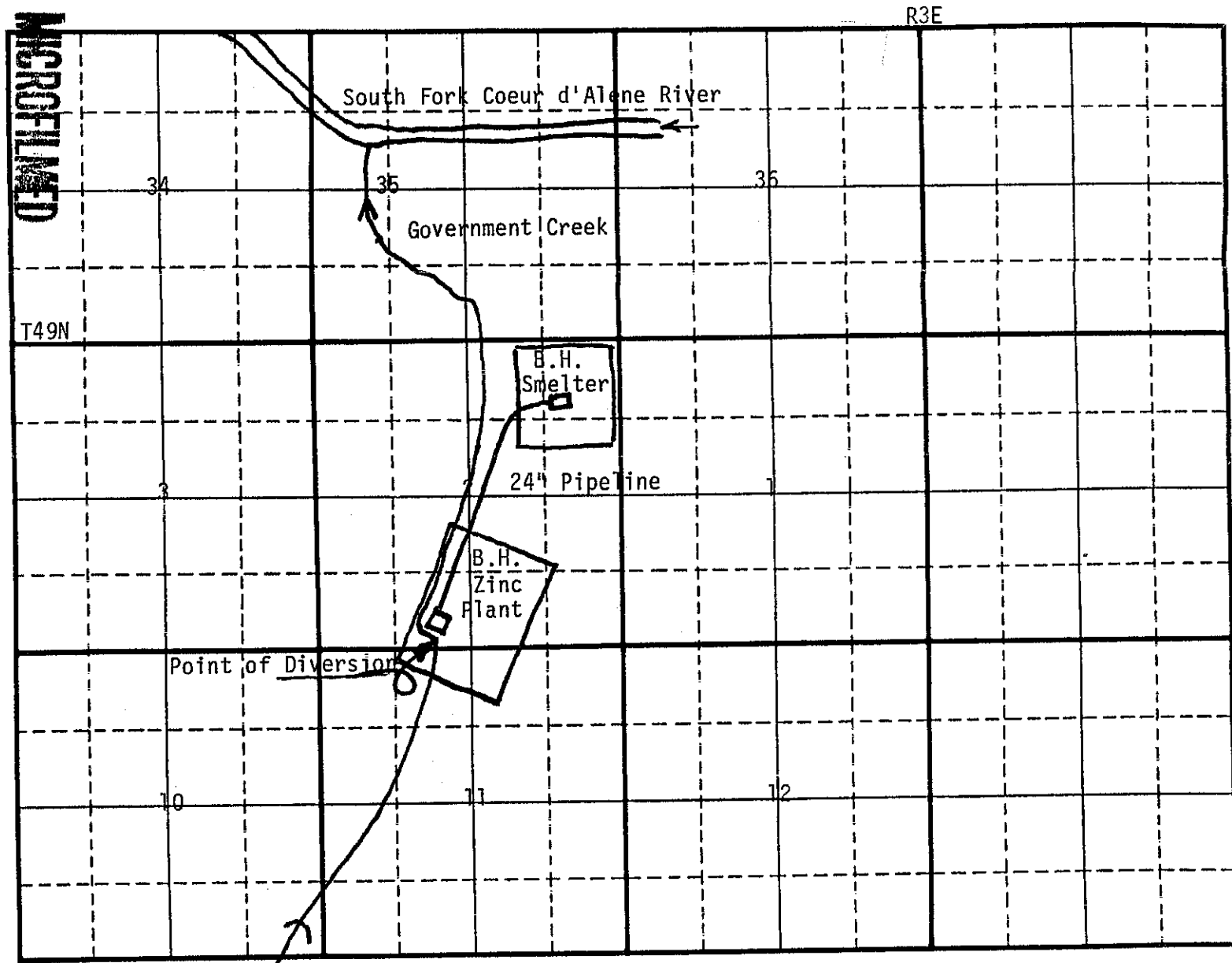
No. of acres

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Industrial  
use being used for contact and non contact cooling, process dilution system, yard wash  
down and fire protection.

NOTE: Include here the type and number of stock watered: none

(7) If you are claiming water as a member of an organization, list name of organization: Bunker Limited Partnership

(8) Remarks \_\_\_\_\_



Scale: 2 Inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho )

County of Shoshone )

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 24<sup>th</sup> day of June

*[Signature]*  
(Claimant)  
1983

*[Signature]*  
Notary Public  
Residing at Kellogg, Idaho

My commission expires 11-18-86

FOR DEPARTMENT USE ONLY

Received by <i>LB</i>	Date <i>6/28/83</i>	Exception filed by:	Forwarded to	Date
Prelim. check by <i>LB</i>	Date <i>6/28/83</i>		claimant by:	
\$20.00 fee received by <i>LB</i>	Date <i>6/28/83 (28396)</i>			
Published in <i>Kellogg, Even News</i>				
Dates <i>7-20, 27-83</i>				