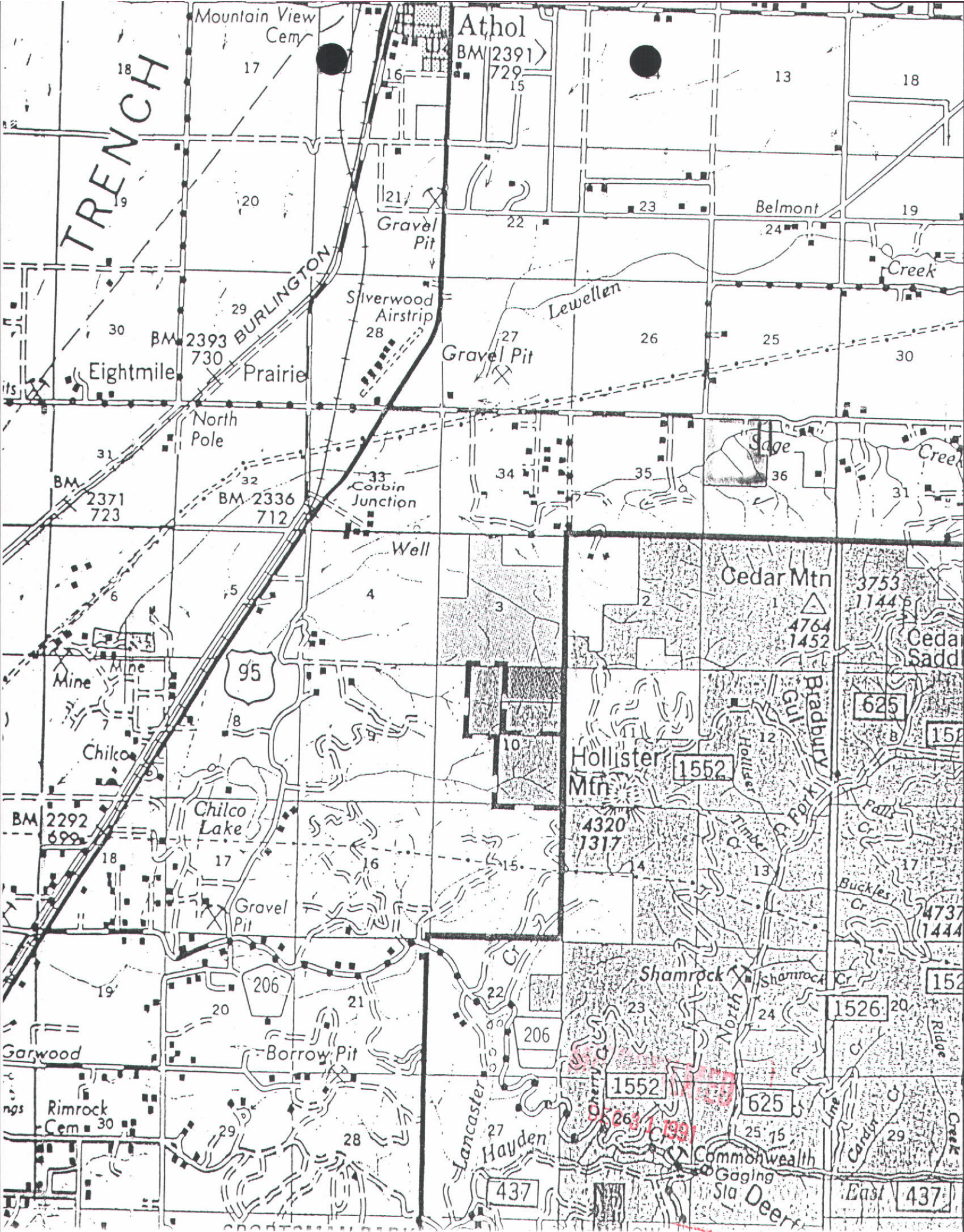




690
AFFIDAVIT OF PUBLICATION—COEUR D'ALENE PRESS
(WEEKLY)
JUN 9 1969

STATE OF IDAHO, }
County of Kootenai, } ss.

Department of Reclamation

Callie Painter
deposes and says:

That affiant is now, and at all times herein mentioned has been, a citizen of the United States and a resident of Kootenai County, State of Idaho, over the age of 21 years and not a party to, nor interested in the event of, the above entitled matter, and the printer (principal clerk) of the "Coeur d'Alene Press", during all of the times herein mentioned being a legal daily newspaper, of Coeur d'Alene, Kootenai County, Idaho, as defined by Idaho Code Sec. 60-106 to Sec. 60-108 both inclusive, and Chapter 121 Idaho Session Laws of 1949, and acts amendatory thereof and correlated thereto, and qualified thereunder to publish to the same effect as a weekly

newspaper on Wednesdays; and that the

Notice of Claim B.A. Water Right
No. 96-4003

of which a printed copy is annexed hereto, was published in all the regular Wednesday weekly issues of said newspaper for *two* consecutive weeks, commencing

on the *29* day of *May*, 196*9*, and ending on the *5* day of *June*, 196*9*.

Callie Painter
Subscribed and sworn to, before me, this *5* day of *June*

196*9*.

Patrick King
Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho.

**NOTICE OF CLAIM
TO A WATER RIGHT**
No. 96-4003

Notice is hereby given that Milan and Maria Fiala, Rt. 1, Box 92, Athol, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 1 cubic feet per second of water from unnamed stream tributary to Sage Creek with point of diversion in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 36, T. 53 N., R. 3 W., B.M. in Kootenai County; the water is claimed to be used from May 1 to October 1 for irrigation and January 1 to December 31 for livestock with a priority of May 1967; the place of use is N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 36, T. 53 N., R. 3 W., B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation
Engineer

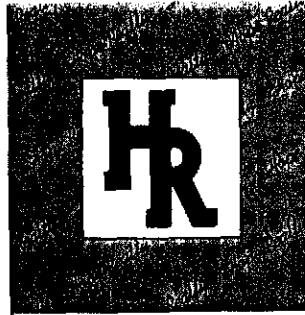
May 29, June 5, 1969

96-4003

*will
submitted 6-13-69*

RECEIVED
DEC 06 1991

Department of Water Resources



December 3, 1991

Dept. of Water Resources
State House
Boise, Idaho 83720

Dear Sirs:

The Ueberroth Family Trust has purchased approximately 150 acres of land as described in the enclosed copy of the deed. Peter and Jenny Ueberroth (trustees) have requested that this name appear with the following water rights which we believe to be on the 150 acres - WR5809 No. 96-07948, WR5809 No. 96-04278, WR5809 No. 96-04277, WR5809 No. 96-04003. The first three rights now have the names Linnea and Rick Kuhnhausen and the last right has the name Milan and Maria Fiala.

Please contact me if there is a fee for this service or if there is a correction to be made or when the change of name with the water right has been made.

Sincerely,

Mick Blakely
Mick Blakely
Associate Broker

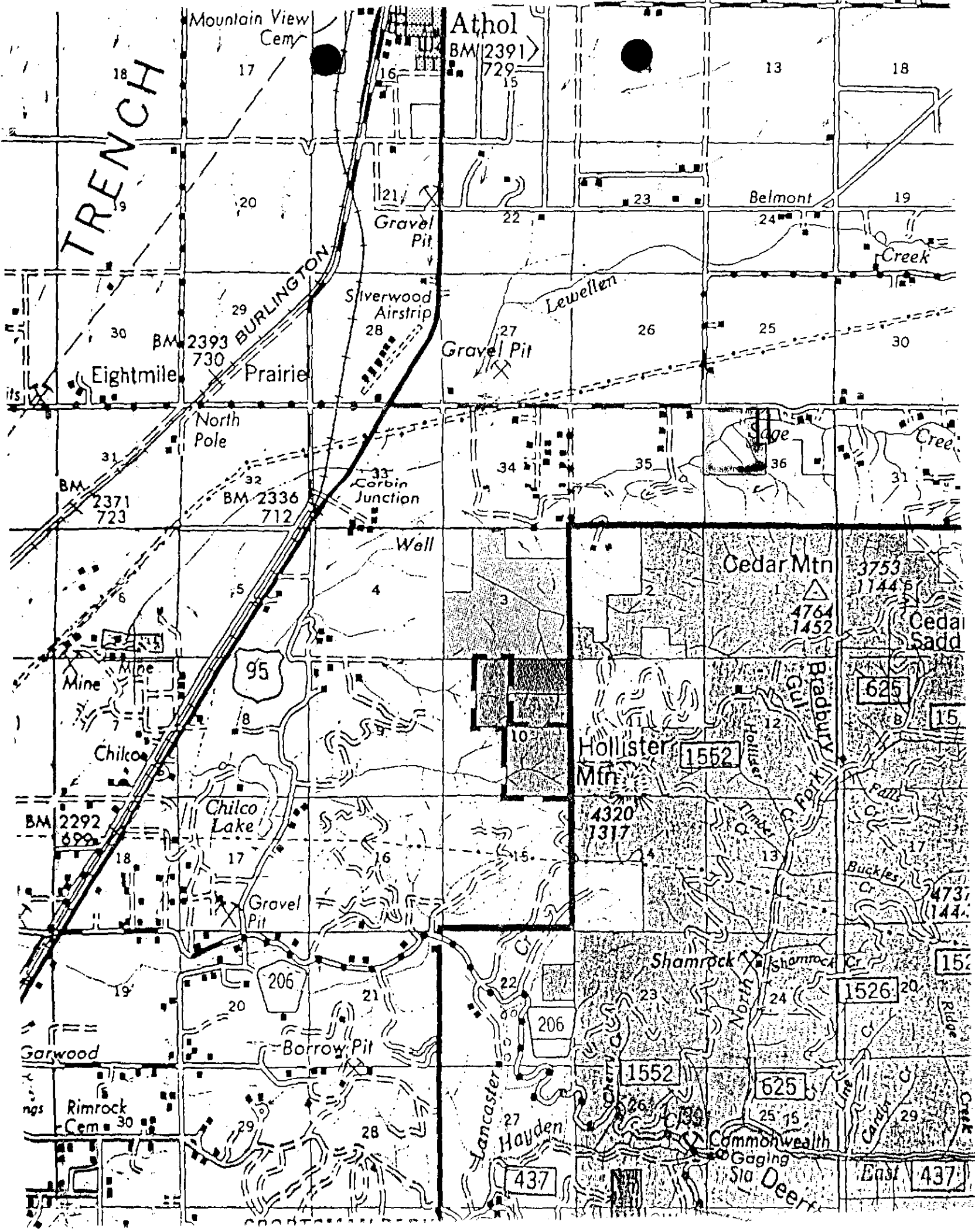
MB/kd

RECEIVED

DEC 31 1991

HOPE REALTY

1410 Lincoln Way ■ Coeur d'Alene, Idaho 83814 ■ (208) 765-3641
Residential ■ Commercial ■ Investment ■ Acreage ■ Lake Property ■ Business ■ Farm & Ranch
FAX (208) 667-0842



WARRANTY DEED

1237681

For Value Received RICK J. KUHNHAUSEN and LINNEA A. KUHNHAUSEN, husband and wife, the grantor(s), do(es) hereby grant, bargain, sell, and convey unto PETER V. UEBERROTH and VIRGINIA M. UEBERROTH, as Trustees under the UEBERROTH FAMILY TRUST, dated June 27, 1986, the Grantee(s), whose current address is

P.O. Box 100, Laguna Beach, CA 92652

the following described premises, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR LEGAL DESCRIPTION

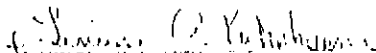
SUBJECT TO a Mortgage executed by WILLIAM P. FISHER, JR. and CANDACE FISHER, husband and wife (Mortgagor) for MILAN P. FIALA and MARIA A. FIALA, husband and wife (Mortgagee), recorded OCTOBER 15, 1979, as instrument number 822419, records of Kootenai County, Idaho.

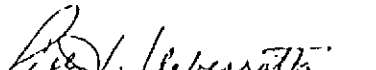
The grantee(s) herein, hereby agree(s) to assume said Mortgage and any obligations thereunder, and further agree(s) to pay and satisfy the debt secured therein according to the terms and conditions thereof.

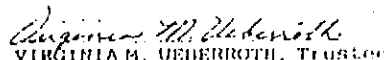
TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), their/heir/his/its heirs and assigns forever. And the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that he/she/it/they is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances except current taxes, restrictions and easements of record and that he/she/it/they will warrant and defend the same from all lawful claims whatsoever.

Dated: OCTOBER 7, 1991


RICK J. KUHNHAUSEN


LINNEA A. KUHNHAUSEN


PETER V. UEBERROTH, Trustee
UEBERROTH FAMILY TRUST


VIRGINIA M. UEBERROTH, Trustee
UEBERROTH FAMILY TRUST

REC 01 1991



OFFER NO. 12302

EXHIBIT "A"

1237861

The Northwest Quarter of Section 36, Township 53 North, Range 3 West, B.M.,
Kootenai County, State of Idaho.

EXCEPT that portion described as follows:

A part of the Northeast Quarter of the Northwest Quarter of Section 36, Township
53 North, Range 3 West, B.M., as described as follows:

BEGINNING at the North Quarter corner of said Section 36; thence

South along the East line of said Northeast Quarter of the Northwest Quarter, a
distance of 1000 feet; thence

West, a distance of 250 feet; thence

North parallel with said West line, a distance of 500 feet; thence

West, a distance of 371.2 feet; thence

North, a distance of 500 feet to the North line of said Section 36; thence

East along said Section line, a distance of 621.2 feet to the POINT OF BEGINNING.

AND EXCEPT that portion conveyed to Lakes Highway District by Quitclaim Deed
recorded August 13, 1991.

1237881

STATE OF Colorado)
 : ss
 COUNTY OF Boulder)

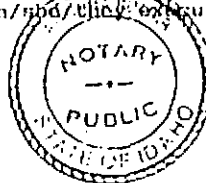
On This 6th day of November In the year
 before me, a Notary Public in and for said State, personally appeared
 LINNEA A. KUHNHAUSEN, known or identified to me to be the person
 whose name(s) is/are subscribed to the within instrument,
 acknowledged to me that he/she/they executed the same.

[Signature]
 Notary Public of State of Colorado
 Residing at _____
 Commission Expires January 23, 1991

STATE OF IDAHO)
 COUNTY OF KOOTENAI; ss

On this 7th day of October 1991, before me, a
 Notary Public in and for said State, personally appeared PETER V.
 UEDERROTH and VIRGINIA M. UEDERROTH known or identified to me to be
 the person(s) whose name(s) is/are subscribed to the within instrument
 as Trustee, and acknowledged to me that he/she/they executed the same
 as such Trustee.

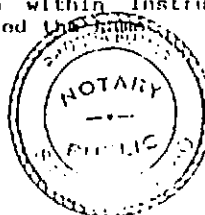
[Signature]
 Residing at: CDA
 Commission Expires: 6-20-94



STATE OF IDAHO)
 COUNTY OF KOOTENAI; ss

On This 7th day of November In the year 1991
 before me, a Notary Public in and for said State, personally appeared
 RICK J. KUHNHAUSEN, known or identified to me to be the person(s)
 whose name(s) is/are subscribed to the within instrument, and
 acknowledged to me that he/she/they executed the same.

[Signature]
 Notary Public of IDAHO
 Residing at IDAHO
 Commission Expires 6-20-94



DEC 31 1991

Encl. Fee of \$ 10.00
Check # 1756

Identification No. _____

Claim No. _____

Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant Milan And Maria F I A L A
post office address RT 1, Box 92, Athol, Idaho 83801
2. The point of diversion is in N/E $\frac{1}{4}$ of N/W $\frac{1}{4}$ Section 36 Township 53 W N
Range R 3 W B.M. located on unnamed tributary to _____
(name of source)
tributary to Sage Creek in Belmont, Kootenai County, Idaho

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:

May 1967 amount: 1 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.

- b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use Irrigation period of use from May 1 to Oct 1 (both dates inclusive)
use Livestock period of use from Jan 1 to Dec 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of Earthen Pit
_____ ; length is 10 feet; height is - feet;
width at bottom is 5 feet; width at top is - feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____

b. Underground water diverting works: is well flowing or pumped _____ ; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____
_____ ;

96-4003

attach well logs if available; has there been any change in pump or motor since well was first completed _____; if so, give dates and explain _____

- c. Conveying works: length of ditch to place of use is _____ feet; width of ditch at top is _____ feet; width of bottom of ditch is _____ feet; depth of water is _____ feet; grade of ditch per 1000 feet is _____ feet; material through which ditch passes is _____; maximum length of pipe line to first place of use is _____ feet; diameter of pipe line is _____ inches; type of pipe _____; grade of pipe per 1000 feet is _____.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible _____

- d. If water is stored: name of reservoir _____; total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet; year construction commenced _____; year completed _____; date first used _____; period of storage is from _____ to _____; is reservoir drained each year _____; is reservoir on or off stream _____ explain _____

if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions _____

has there been any enlargement of the reservoir since it was first built _____, if so, give dates and describe _____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
53 N	3 W	36					5	38	3										46

Total number of acres to be irrigated 46

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

b. Do you get water through a ditch owned by several users? no If yes, give the name of the ditch _____ The other users and their respective interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered 7 horses
up to 5 steers

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use, and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible, giving dates and quantities _____

Watering for vegetable garden and lawn included in
figure for irrigation land above

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
This is a gravity flow system

Normally this creek will supply adequate water, however a pre-
vious water permit was filed on an intermittent stream south of
this stream in 1967 -- Application # 96-7003.

Concerning the permit on Application # 96-7003, we would like to
know if same went on record, since we did not receive
any notification of any kind, and dont know were we stand.

BE IT KNOWN that the undersigned hereby makes claim to a water right as described above together with all attached information and certifies that all statements are true and accurate to the best of his knowledge.

May 1 1969
(Date)

Anton Fiala
(Signature of Claimant)

State of Idaho
County of Kootenai } ss.

On this 12th day of May 1969, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Cecil Kelly Jr
Notary Public residing at Coeur d'Alene

My commission expires 1-1-73

For Department Use Only

Received by <u>ej</u> Date <u>5-20-69</u>	Exception filed by: _____	Forwarded to claimant by: _____	Date _____
Prelim. check by <u>Jehu</u> Date <u>5-20-69</u>	_____	_____	_____
Fee received by <u>ej</u> Date <u>5-20-69</u> Fee \$ <u>10.00</u>	_____	_____	_____
Approved for publication by <u>hh</u> <u>5-20-69</u>	_____	_____	_____
Published in <u>Coeur d'Alene Press</u> Date <u>5-29-69</u>	_____	_____	_____

96-4003

INSTRUCTIONS

Your claim should set forth all necessary information to describe your claimed right. Failure to give enough information may make your claim of little value. Some of the items in the form may not apply to your situation. Please use additional sheets if space provided is not sufficient to fully answer the questions.

Paragraph No.

1. Give full name and post office address of person or company making the claim.
2. Describe the point of diversion by 40-acre subdivision. Give the name of the source, the drainage to which it is tributary if surface water, and the county in which the point of diversion is located. If there is more than one point of diversion, list others in the remarks section.
3. Give the priority dates and the quantities of water that you claim. You should accurately list the dates that you initiated each new use of the water. List separately the dates and amounts of water involved in each enlargement of the diversion. (Example: if you diverted 0.8 c.f.s. of water for irrigation on May 18, 1871, for the first time for use on 40 acres of land, and then later you enlarged the diversion by diverting an additional 0.4 c.f.s. of water to irrigate an additional 20 acres of land on June 1, 1901, your right should be described as follows:

Date of priority claimed:	<u>May 18, 1871</u>	amount:	<u>0.8</u> c.f.s. or	<u> </u> acre feet
	<u>June 1, 1901</u>	amount:	<u>0.4</u> c.f.s. or	<u> </u> acre feet
		Total claimed:	<u>1.2</u> c.f.s. or	<u> </u> acre feet

Since the water was used for irrigation between April 1 and October 31 on that particular farm, part b. would be completed as follows:

use irrigation period of use from April 1 to October 31 (both dates inclusive). If the water had been used for any other purpose, you would have described the priority date, amount, use, and period of use in a similar manner.

4. Describe the diversion works and explain any changes since the right was first initiated.
5. If the water is used for irrigation, give the total acreage and list the lands irrigated by 40-acre subdivisions and complete the other questions.
- 6, 7, & 8. Describe any other uses of water.
9. In the remarks section, give any information or details that you feel are not fully covered or that need clarifying. You might explain your operation, where the water is returned to if for an industrial or non-consumptive right, the condition and temperature of the returned water, and any other information to help explain your claim.

You may wish to include as a part of your claim, affidavits of witnesses who are familiar with your right and who have a personal knowledge of the circumstances which you have described in your claim. You may submit maps, drawings, certified copies of posted notices which may have been filed in the county courthouse, water measurement records, or any other document which you feel will support your claim.

Your claim will be advertised in a county newspaper for two weeks. Exceptions to your claim which dispute the water right that you have described may be received by the Department of Reclamation and you will be provided a copy of such exceptions.

The fee for filing this claim with the Department of Reclamation, Room 107, Statehouse, Boise, Idaho 83701, is \$10.00.

AFFIDAVIT OF PUBLICATION

(WEEKLY)

RECEIVED
JUN 9 1969

Department of Reclamation

STATE OF IDAHO, }
County of Kootenai, } ss.

Callie Painter, being first duly sworn,
deposes and says:

That affiant is now, and at all times herein mentioned has been, a citizen of the United States and a resident of Kootenai County, State of Idaho, over the age of 21 years and not a party to, nor interested in the event of, the above entitled matter, and the printer (principal clerk) of the "Coeur d'Alene Press", during all of the times herein mentioned being a legal daily newspaper, of Coeur d'Alene, Kootenai County, Idaho, as defined by Idaho Code Sec. 60-106 to Sec. 60-108 both inclusive, and Chapter 121 Idaho Session Laws of 1949, and acts amendatory thereof and correlated thereto, and qualified thereunder to publish to the same effect as a weekly

newspaper on Wednesdays; and that the

Notice of Claim to a Water Right
No. 96-4003

of which a printed copy is annexed hereto, was published in all the regular Wednesday weekly issues of said newspaper for two consecutive weeks, commencing on the 29 day of May, 1969, and ending on the 5 day of June, 1969.

Subscribed and sworn to, before me, this 5 day of June, 1969.
Patrick King
Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho

will be submitted 6-13-69

NOTICE OF CLAIM TO A WATER RIGHT
No. 96-4003

Notice is hereby given that Milan and Maria Fiala, Rt. 1, Box 92, Athol, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 1 cubic foot per second of water from unnamed stream tributary to Sage Creek with point of diversion in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 36, T. 53 N., R. 3 W., B.M. in Kootenai County; the water is claimed to be used from May 1 to October 1 for irrigation and January 1 to December 31 for livestock with a priority of May 1967; the place of use is N $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 36, T. 53 N., R. 3 W., B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer

May 29, June 5, 1969

96-4003

December 30, 1991

RE: Water Right No. 96-07948
Claim Nos. 96-04003/04277/04278

Ueberroth Family Trust
c/o Mick Blakely
Hope Realty
1410 Lincoln Way
Coeur d'Alene, ID 83814

Dear Water Right Holder (s):

We are in receipt of the correspondence concerning ownership of the above referenced water right.

In Idaho, licensed water rights and water right claims are considered real property; therefore, proof of owning the land is proof of owning the water right unless specifically excluded in the sale. We have placed your correspondence in the files for future reference and have modified our computer records to reflect that you are the present owner.

If you have any questions, please let us know.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

RECORDED

DEC 31 1991

June 16, 1969

Re: Claim to a Water Right No. 96-4003

Mr. Milan and Maria Fiala
Route 1, Box 93
Athol, Idaho 83801

Dear Mr. and Mrs. Fiala:

Your claim to a water right has been received and processed by the Department of Reclamation. The information in your claim is filed under claim no. 96-4003. Please refer to this number when adding or changing the information in your claim.

Enclosed is Receipt No. 3060 in the amount of \$10.00 which covers the filing fee for the claim.

You should be advised that the filing of this claim completes the processing procedure by the Department of Reclamation. No further action is authorized under Section 42-225 a and b of the Idaho Code. Your claim will be filed and will remain of public record until such time as your or the court needs the information.

If we may be of further assistance, please contact us.

Very truly yours,

Donald W. McElldowney
Appropriation Examiner

DWM:tg

96-4003

NOTICE OF CLAIM TO A WATER RIGHT

No. 96-4003

Notice is hereby given that Milan and Maria Fiala, Rt. 1, Box 92, Athol, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 1 cubic feet per second of water from unnamed stream tributary to Sage Creek with point of diversion in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 36, T. 53 N., R. 3 W., B.M. in Kootenai County; the water is claimed to be used from May 1 to October 1 for irrigation and January 1 to December 31 for livestock with a priority of May 1967; the place of use is N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 36, T. 53 N., R. 3 W., B.M.

Any exception to this claim of water right may be filed with the Department of Reclamation. 96-4003

R. KEITH HIGGINSON

 State Reclamation
Engineer

May 29, June 5, 1969

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

May 22, 1969

Re: Claim No. 96-4003 - Milan and Maria Fiala
Permit Application No. 95-7054 - Tetsuo Nobuku
95-7055 - Bureau of Reclamation

Coeur d'Alene Press
Coeur d'Alene,
Idaho 83814

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you cannot publish the notice on the proposed dates please contact us immediately.

An affidavit of publication must be submitted to the Department of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.

Signature of claimant

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:kh
Enclosures: legal notice (3)

96-4003

NOTICE OF CLAIM TO A WATER RIGHT

No. 96-4003

Notice is hereby given that Milan and Maria Fiala, Rt. 1, Box 92,
Athol, Idaho has filed a claim to a water right
established by diversion and application to beneficial use of 1
cubic feet per second ~~across~~^{stream} of water from unnamed tributary to Sage
Creek with point of diversion in _____
NE 1/4 NW 1/4 Sec. 36, T. 53 N., R. 3 W., B. M. in Kootenai County; the water is
claimed to be used from May 1 to October 1 for irrigation and
January 1 to December 31 for live/ stock with a priority of _____
May 1967; the place of use is _____
N 1/4 NW 1/4, SW 1/4 NW 1/4 Sec. 36, T. 53 N., R. 3 W., B. M.

Any exception to this claim of water right may be filed with the Department
of Reclamation.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Coeur d'Alene Press, Coeur d'Alene, Idaho
on May 29th and APRIL June 5th.

96-4003