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DEPARTMENT OF
WATER RESOURCES

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Attorneys for South Valley Ground Water District and Galena Ground Water District

**BEFORE THE STATE OF IDAHO FISH AND GAME DEPARTMENT, AND THE
IDAHO DEPARTMENT OF WATER RESOURCES**

IN THE MATTER OF BEAVER REMOVAL
IN BASIN 37

**REQUEST FOR AGENCY ACTION
TO REMOVE WILD ANIMALS
AND DAMS CAUSING DAMAGE
TO WATER RIGHTS**

COMES NOW, the Requesters, SOUTH VALLEY GROUND WATER DISTRICT, on behalf of its members, by and through counsel of record, BARKER ROSHOLT & SIMPSON LLP and GALENA GROUND WATER DISTRICT, on behalf of its members, by and through counsel of record, LAWSON LASKI CLARK, PLLC (collectively "Requesters"), pursuant to Idaho Code

**REQUEST FOR AGENCY ACTION TO REMOVE WILD ANIMALS AND DAMS CAUSING
DAMAGE TO WATER RIGHTS**

§ 36-1107, and hereby submits this *Request for Agency Action to Remove Wild Animals and Dams Causing Damage to Water Rights* (“Request”) requesting the Director of the Idaho Fish and Game Department and the Director of the Idaho Department of Water Resources immediately take, or authorize such actions, including, trapping beavers and removing their dams, which are causing damage or adverse impacts to Requesters water rights. This Request is filed simultaneously with the Idaho Department of Water Resources.

I. Parties

1. South Valley Ground Water District (“SVGWD”) is a ground water district organized and existing pursuant to Idaho Code § 42-5201 et seq. The district includes ground water right priorities ranging from the 1930s and 1940s until about 1989. Most of the ground water development, based on priorities, occurred between 1954 and 1979. There are approximately 175 groundwater wells in the district and approximately 300 groundwater rights. These rights authorize irrigation of approximately 25,000 acres. Some of these groundwater rights are used to supplement surface water rights from the Big Wood River and Silver Creek and its tributaries.
2. Galena Ground Water District is a ground water district organized and existing pursuant to Idaho Code § 42-5201 et seq. This district has thirty-one (31) member water rights.

II. Legal Basis

3. When wildlife causes damage to property, including water rights, or are likely to do so, the property owner, including water right holders, may complain to the Idaho Department of Fish and Game. I.C. § 36-1107. The present Request makes such a complaint to the Director of the Idaho Department of Fish and Game (“IFG Director”) to take action pursuant to Idaho Code § 36-1107.

4. When wild animals cause damage to property, the IFG Director has the authority to enter on land and control, trap, or remove the wildlife. *See Id.*
5. Similarly, when the houses, dams, or other structures of furbearing animals, cause damage to property, the IFG Director has the authority to enter on land, and may “authorize or cause the removal, modification or destruction of any dam, house, structure or obstruction erected by any furbearing animals.” I.C. § 36-1107(a)(3).
6. “In the case of water rights, the director shall request an investigation by the director of the department of water resources of the conditions complained of.” I.C. § 36-1107(a).
7. The Director of the Idaho Department of Water Resources (“IDWR Director”) shall request an examination by the local water master, and the IDWR Director shall then certify to the IFG Director that the complained of conditions injure or otherwise adversely impact water rights. *Id.*

III. Factual Allegations

8. The surface and ground waters of Basin 37 are hydrologically connected.
9. The IDWR Director recently initiated a contested case regarding the potential curtailment of ground water withdrawals in the Bellevue Triangle, within Basin 37. Use of water and waste of water in Basin 37 were significant factors in considering impact to water rights in that area.
10. During testimony for that case, evidence was presented concerning the activities and impacts of beavers on the Silver Creek, within Basin 37. Specifically, that beaver dams in Basin 37, on the Silver Creek and Little Wood River, impede stream flows and waste water.
11. A large beaver dam completely blocked the Silver Creek channel near its intersection with Highway 93, with a “significant amount of water pouring out both to the north end of the south into the desert ground,” estimated to be 10 cfs of water being lost to the desert. Tr. 1392:19-23

(Testimony of Patrick Purdy, owner of Picabo Livestock), a true and correct copy of the relevant portions of Mr. Purdy's Testimony is attached hereto as Exhibit A.

12. This beaver dam extended across the Silver Creek channel and is estimated to be between 18 inches and 24 inches in height. Exhibit A, Tr. 1393:10-12. A true and correct copy of a photograph showing the Silver Creek beaver dam is attached hereto as Exhibit B. A true and correct copy of a photograph showing the water spilling out of the Silver Creek channel is attached hereto as Exhibit C.

13. About 50 yards upstream from the dam, water was escaping from several holes on stream bank.

It is believed that these holes have been caused by muskrats. A true and correct copy of photographs showing a stream bank hole is attached hereto as Exhibit D.

14. Mr. Purdy testified that he caused a third of the beaver dam to be breached, allowing the water backed-up by the dam to flow downstream. Additionally, this caused the water level behind the dam to lower, and the amount of water flowing through the stream bank holes to decrease significantly. In fact, the dam had backed the water up so much, that when it was breached, water from the stream bank holes flowed back into the stream. Further, this stopped the loss of water into the desert around the dam. Finally, the partial clearing of the dam alleviated much of the estimated loss of 10 cfs into the surrounding desert. *See generally*, Exhibit A.

15. Mr. Purdy had previously been granted permission to remove a dam near there two years ago.

The dam he recently removed was constructed soon after that. The regular rebuilding of dams is a problem, as beavers will simply rebuild dams after they have been removed. Exhibit A, Tr. 1408:6-14.

16. In addition to the beaver dam near Highway 93. Another beaver dam is located on the Little Wood River near a place called Bear Track Williams and believed to be on land managed by

the Department of Fish and Game. Water at this dam is backed up with about a three-foot elevation change, and it appears that the dam has been there for quite a while. The Bear Track Williams beaver dam will likely require heavy machinery to open or remove. *See generally*, Exhibit A. A true and correct copy of a photograph showing the beaver dam on Little Wood River is attached hereto as **Exhibit E**.

17. Collectively, these beaver dams, and others like it in Basin 37 impede the flow of water in its channels, reduce the amount available to senior surface water users, and cause the waste of important water for irrigation and the satisfaction of water rights.
18. The IDWR contested case in Basin 37 threatens curtailment of Requesters' water rights as of July 1, 2021 due to a lack of adequate water in the basin.
19. Requesters' water rights are therefore adversely impacted by the continued existence of these beaver dams, and that impact will persist unless the beavers are removed.
20. IDWR's contested case has concluded. Department staff have indicated to the press that a final order will be issued in this case by July 1, 2021, and that order has the potential to affect Requesters' water rights during the 2021 irrigation season. The water made available by removing the dams has been demonstrated to be a significant factor in providing water to downstream surface water users. As such, a quick and speedy response to this Request is necessary, and time is of the essence to protect Requesters' water rights.

IV. Remedy Requested

21. Requesters requests the IDWR Director certify that the conditions complained of adversely impact Requesters' water rights.

22. Removal of these dams will add water to Silver Creek and the Little Wood River for irrigation and the satisfaction of water rights. As such, Requesters request the IFG Director enter on the land and authorize the removal of those dams, pursuant to Idaho Code § 36-1107(a)(2-3).
23. Additionally, the beavers in the area have historically, and contemporaneously, shown that they immediately begin rebuilding after their dams are destroyed. As such, Requesters request the IFG Director, in order to protect and secure the future free flow of water and guard against the waste of water, enter on the land and authorize the trapping and removal of beavers from these areas, pursuant to Idaho Code § 36-1107(a)(1-2, 4).
24. To the extent that stream bank holes causing loss of water are the result of muskrats, Requesters ask the IFG Director enter on the land and authorize the trapping and removal of muskrats from these areas, pursuant to Idaho Code § 36-1107(a)(1-2, 4).
25. As time is of the essence protect Requesters' water rights, it is requested that the IFG Director and the IDWR Director treat this Request as an emergency and act with all possible haste to grant the present Request, and take immediate action to protect water rights at risk from wildlife, including beavers, beaver dams, and muskrats.

//Signature Page to Follow//

Dated this 23rd day of June, 2021.

BARKER ROSHOLT & SIMPSON LLP

/S/ ALBERT P. BARKER
Albert P. Barker

*Attorneys for South Valley Ground Water
District*

LAWSON LASKI CLARK, PLLC

/S/ JAMES R. LASKI
James R. Laski

Attorneys for Galena Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of June, 2021, the foregoing was filed, served, and copied as shown below.

IDAHO DEPARTMENT OF FISH AND GAME
P.O. BOX 25
BOISE, ID 83707

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<input type="checkbox"/>	Overnight Mail
<input checked="" type="checkbox"/>	E-mail

ED SCHRIEVER
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/s/ Albert P. Barker
Albert P. Barker



1 A. So Silver Creek forms just above our property,
2 and then from The Nature Conservancy then flows into the
3 Kilpatrick Pond which is on our property. And through
4 the Kilpatrick Pond down through our ground quite a ways
5 towards Picabo, and the river is free flowing and no
6 obstructions all the way down through, it crosses
7 Highway 20, and then back around through our property
8 again, and out into some Fish and Game property, and
9 some other private ground. And then down it crosses
10 Highway 20 again to the southeast, and then flows
11 through some property owned by Harry Rinker, which we
12 farm as well.

13 And then it hits an area that we call the
14 Highway 93 intersection, where Highway 93 and where the
15 river crosses under Highway 93, there is some
16 significant issues at that location with -- we observed
17 just on Wednesday of this week a large beaver dam
18 completely blocking the stream channel with a
19 significant amount of water pouring out both to the
20 north end of the south into the desert ground owned by
21 Simplot and Rob Hennefer. I would guess just as a
22 layman's estimate, maybe ten cfs of water flowing out
23 into the desert there.

24 Q. So there is some photographs in front of you.
25 Do you see those?

1 A. Yes.

2 Q. So Exhibit 43 is that a photograph that you
3 took?

4 A. It is. I took this picture on Wednesday of
5 this week.

6 Q. Where is this photograph taken?

7 A. It's about 100 yards up from Highway 93 and
8 Silver Creek intersect.

9 Q. What does this picture depict?

10 A. A large beaver dam clear across the stream
11 channel backs the water up, I would say, between 18
12 inches and 24 inches total height.

13 Q. And this is in Silver Creek, itself?

14 A. This is directly in the stream channel, yes.

15 MR. BARKER: I would offer Exhibit 43, South
16 Valley/Galena Exhibit 43.

17 THE HEARING OFFICER: Any objection to this
18 exhibit?

19 MR. RIGBY: The only question is, I don't know
20 how they are numbered.

21 MR. FLETCHER: We don't know which is which.

22 MR. RIGBY: We don't know which is which.

23 MR. BARKER: I left them on the table. It
24 looks like they got shuffled.

25 MR. RIGBY: I'm sorry.

1 MR. BARKER: This is 43. No, that's not 43.
2 This one (indicating).

3 MR. RIGBY: This one is 43 (indicating)?

4 MR. BARKER: Yes.

5 MR. FLETCHER: May I ask one question in aid.

6 THE HEARING OFFICER: Yes.

7 MR. FLETCHER: You took this picture on
8 Wednesday of this week?

9 THE WITNESS: I did, yes.

10 MR. FLETCHER: Thank you. I have no
11 objection.

12 MR. RIGBY: No objection.

13 THE HEARING OFFICER: Okay. The document
14 marked South Valley and Galena No. 43 is received into
15 evidence.

16 (SVGWD/GGWD Exhibit 43 received.)

17 Q. (BY MR. BARKER) Exhibit 44, do you have that
18 in front of you?

19 A. I do.

20 Q. Well, first of all, did you take this
21 photograph?

22 A. I did. I took this at the same time.

23 Q. So Wednesday of this week?

24 A. Yeah. So this is a large hole in the stream
25 channel to the north flowing out onto some property

1 owned by Simplot. That's one our employees --

2 THE REPORTER: I'm sorry. I didn't hear you.

3 THE WITNESS: I'm sorry. That's one of our
4 employees standing there looking at the hole. A
5 significant stream of water flowing out into the
6 property to the north of the stream channel here.

7 Q. (BY MR. BARKER) Is this part of the 10 cfs --

8 A. Yeah.

9 Q. -- you estimate was leaving?

10 A. Yes, it is.

11 MR. BARKER: Offer Exhibit 44, South
12 Valley/Galena 44.

13 THE HEARING OFFICER: Any objection to the
14 admission of this document?

15 MR. FLETCHER: Again, did you state the date
16 this picture was taken?

17 THE WITNESS: It was taken on Wednesday by me.

18 MR. FLETCHER: Thank you. I have no
19 objection.

20 MR. RIGBY: No objection.

21 THE HEARING OFFICER: So the document marked
22 as South Valley and Galena No. 44 is received into
23 evidence.

24 (SVGWD/GGWD Exhibit 44 received.)

25 Q. (BY MR. BARKER) And then Exhibit 45, do you

1 have that in front of you, Mr. Purdy?

2 A. I do. And again this photo was taken by me on
3 Wednesday.

4 Q. Where was this photograph taken?

5 A. About 50 yards upstream of the beaver dam on
6 Exhibit 43.

7 Q. And what does this photograph depict?

8 A. It's one of several holes in the stream bank
9 to the south side of Silver Creek flowing out into again
10 Simplot's property.

11 Q. And is this part of what you estimate the 10
12 cfs loss was?

13 A. Yes. So I sent a team down there the next day
14 to do their best job to breach that beaver dam, which
15 they were able to take out about a third of it. And a
16 significant stream of water flowed backwards in from
17 this -- in from this hole. So the elevation lowered the
18 water came back into the stream channel.

19 Q. Do you have any idea how long this beaver dam
20 that you photographed in Exhibit 43 has been there?

21 A. I would guesstimate you can go see the growth
22 if we go back to that picture, you can see the growth on
23 the one side of it. There is actually weeds and grass
24 growing on it. Just based on that, I would assume that
25 it's been there at least this full season, and probably

1 into last season. We did take a dam out of this area
2 two years ago. We got permission to bring a big track
3 hoe in and tear a large dam out. There is a huge pile
4 of debris that you can't see that is off to the side
5 from the prior beaver dam that was removed. So I
6 believe my best estimate is this one has been in there
7 all season and probably in the fall of last year.

8 Q. So in your estimate, in your experience
9 rather, would this dam constitute an obstruction of
10 flows to the --

11 A. Definitely, yes.

12 Q. -- downstream Little Wood water --

13 A. Yeah, definitely given the large elevation
14 change that it was inducing in the stream, and the
15 amount of water pouring out into each side of the stream
16 bank.

17 Q. Okay. And since you've been on the property,
18 has the water district taken any efforts to do this kind
19 of beaver dam removal that you've spoke of?

20 A. Not to my knowledge. We have spent some time
21 here ourselves, the Picabo Livestock employees have been
22 trying to do work here. So at the same time we removed
23 this beaver dam this week which would have been on
24 Thursday, we also plugged -- we also plugged some of
25 these holes as best we could by hand with some straw

1 bales and just some native soil.

2 Q. Would you turn now to Exhibit 46?

3 A. Okay.

4 MR. BARKER: I'm sorry. Did I move the
5 admission of Exhibit 45? We offer Exhibit 45 at this
6 time, South Valley/Galena Exhibit 45.

7 THE HEARING OFFICER: Any objection to the
8 admission of this document?

9 MR. FLETCHER: No objection.

10 MR. RIGBY: No objection.

11 THE HEARING OFFICER: The document marked as
12 South Valley and Galena No. 45 is received into
13 evidence.

14 (SVGWD/GGWD Exhibit 45 received.)

15 Q. (BY MR. BARKER) Mr. Purdy, have you got
16 Exhibit 46 in front of you?

17 A. I do.

18 Q. Did you take this photograph?

19 A. Yes, I took this photograph about 1:30 p.m.
20 yesterday.

21 Q. And what's the location of this photograph?

22 A. So this is another beaver dam in the stream
23 channel of Silver Creek in a location called Bear Track
24 Williams. It's as near as I can tell, like a nature
25 preserve or a small park run by the Fish and Game. The

1 ditch rider who services our area mentioned to me in
2 passing on that yesterday morning that he saw another
3 beaver dam in the stream along the highway. And so we
4 drove down and took this photo.

5 Q. So this is below the Highway 93 crossing?

6 A. It is. It is highway miles maybe five miles
7 highway miles, but significantly more than that in
8 stream miles. The stream flows out and then back in
9 towards the highway, so, yeah, it is below it.

10 Q. Is this above the confluence of the Little
11 Wood?

12 A. Below, yeah, no, this would be below the
13 confluence of the Little Wood.

14 Q. So this is actually in the Little Wood and not
15 in Silver Creek?

16 A. Sorry. It is in the Little Wood, yes.

17 Q. Okay. Did you have an estimate of how large
18 this dam is?

19 A. Again, it spans the entire stream channel.
20 This was backing the water up at least three feet when
21 we arrived. Again, it looks like this beaver dam has
22 been there for quite a while. It is pretty well
23 established. It was difficult to -- the banks in this
24 area are very heavily, I guess just very heavy with
25 brush and willow, so it's difficult to see water flowing

1 out, but it was backing the water up you could tell a
2 significant distance upstream. So again, about a three
3 foot elevation change here, so...

4 MR. BARKER: I would move the admission of
5 Exhibit South Valley Ground Water/Galena Ground Water
6 Exhibit 46?

7 THE HEARING OFFICER: Any objection to the
8 admission of this document?

9 MR. FLETCHER: No objection.

10 MR. RIGBY: No objection.

11 THE HEARING OFFICER: The document marked as
12 South Valley and Galena No. 46 is received into
13 evidence.

14 (SVGWD/GGWD Exhibit 46 received.)

15 Q. (BY MR. BARKER) So did you make any effort to
16 try and do something about this beaver dam?

17 A. We did. We did. Norberto Farfan was with me.
18 So we put on our boots and spent about an hour trying to
19 tear out the center section of this dam. We had
20 reasonable success. We were able to just in the time we
21 were there, the water level dropped at least a foot from
22 its previous level. And we saw water starting to flow
23 back into the stream channel from the surrounding area.
24 It's going to take us a large piece of equipment to get
25 this one out, because the stream is fairly wide here and

1 it's a large dam.

2 Q. So when you spoke to the ditch rider, did he
3 give you any information about whether or not the water
4 district had any plans to deal with these beaver dams?

5 A. No, I didn't ask.

6 Q. Is it your understanding or is it your belief
7 based upon your observations of the stream, that this
8 beaver dam also impedes the flow to the Little Wood?

9 A. Yes, I would say pretty significantly. That
10 whatever additional water flows in from upstream is
11 going to first spread out into a very large area. It's
12 hard for me to say how large of an area, but it's going
13 to spread out into a very large area before it actually
14 flows downstream from this beaver dam.

15 Q. So do you know whether or not there are beaver
16 dams on the Little Wood that have not been taken care
17 of?

18 A. No, I don't. After observing this second dam,
19 we made the decision that early next week we're going to
20 put some people in a canoe and we're going to float the
21 stream, because it runs pretty wild out through the
22 desert. And to my knowledge, nobody looks at it. I
23 don't know that anybody has looked at inspecting or
24 doing any kind of maintenance on the stream channel. So
25 we're going to take it on ourselves to go just take a

1 look and see what we can find from the boat.

2 Q. Are you familiar with the readings that the
3 Water District maintains for Station 10?

4 A. I am.

5 Q. Have you observed those readings over the
6 course of the last week?

7 A. Yeah, I've been watching them pretty carefully
8 for the last three or four days.

9 Q. And what have you observed about the readings
10 with respect to the work you've done on these beaver
11 dams?

12 A. A pretty significant spike in the flow in
13 Silver Creek that's -- I apologize. I don't have the
14 numbers in front of me. But my recollection is they
15 were running around 10 cfs around the first and second
16 of June, and it is up consistently around 30 to 35 cfs
17 in the last five or six days -- four or five days, I
18 should say.

19 MR. BARKER: Thank you, Mr. Purdy. I don't
20 have any further questions. Thank you for coming down
21 for today.

22 THE HEARING OFFICER: Ms. O'Leary, questions?

23 MS. O'LEARY: No, Director.

24 THE HEARING OFFICER: Group 3 questions for
25 Mr. Purdy?

1 MR. BROMLEY: No.

2 THE HEARING OFFICER: Mr. O'Bannon?

3 Cross-examination, Mr. Fletcher.

4 MR. FLETCHER: Thank you.

5 CROSS-EXAMINATION

6 QUESTIONS BY MR. FLETCHER:

7 Q. Mr. Purdy, I'm Kent Fletcher. I represent Big
8 Wood Canal Company.

9 A. Nice to meet you.

10 Q. Nice to meet you. In your testimony you
11 talked about the property that you leased to
12 Mr. Johnson?

13 A. Yes.

14 Q. And Mr. Johnson is the same Mr. Johnson that
15 testified in this proceeding; is that correct?

16 A. That's correct, Mark Johnson, Silver Creek
17 Seed.

18 Q. Which of your properties did you say you
19 leased to him, or how do you identify that property?

20 A. We have a piece of property that we farm under
21 contract with Heart Rock Ranch, we call Spring Creek.
22 That's over near Timmerman Hill. That ground is fed by
23 the water from Willow Creek. We also lease two pieces
24 of ground to him on our main ranch property just a mile
25 roughly west of the town Picabo.

1 Q. How many acres are involved in the
2 Spring -- did you say, Spring Creek?

3 A. Spring Creek has, I think, it's 120 acres that
4 he's got over there.

5 Q. And on the other parcel?

6 A. It's going to be about 200, I believe, about
7 230 acres.

8 Q. So a total of about 350 acres?

9 A. I believe that's correct.

10 Q. That's how much you are leasing to him this
11 year?

12 A. Yes.

13 Q. And I could have misunderstood your testimony.
14 But did you state that what is the source of water to
15 Spring Creek? What is the source of water to Spring
16 Creek?

17 A. It's Willow Creek, which feeds into the Big
18 Wood.

19 Q. Okay. So that's surface water?

20 A. Surface water, yes, there is no ground water
21 right on that property.

22 Q. So if curtailment takes place, there will
23 still be a water supply to Spring Creek?

24 A. A ground water curtailment would not affect
25 Spring Creek, no.

1 Q. And on the other parcel you are talking about,
2 the 230 acre parcel, what is the water source for that?

3 A. The primary water source is Silver Creek, and
4 then the secondary would be ground water.

5 Q. So do you know the water rights priority date?

6 A. We have five feet of perpetual on Silver
7 Creek, and we have 20 feet of September of 1883, and
8 then we have a variety of other rights that are junior
9 to that 1883 right. We have a total of about 60 cfs of
10 right on Silver Creek.

11 Q. That are appurtenant to that property?

12 A. That's correct.

13 Q. Have the 1983 rights been curtailed?

14 A. The 1883, this year, no.

15 Q. Excuse me. 1883 rights?

16 A. No, they have not, although we've been told
17 that they are expecting curtailment on those potentially
18 this next week.

19 Q. And if those are curtailed, if there is no
20 curtailment, you would then turn on this supplemental
21 pump?

22 A. If those 1883 rights were curtailed, we would
23 have our five cfs of perpetual. And then we would
24 typically in a normal year, we would turn on our ground
25 water pumping, yes.

1 Q. And if the supplemental right is curtailed,
2 the ground water pump, you mentioned you were going to
3 get water from a different source?

4 A. It would be the five cfs of perpetual off of
5 Silver Creek that we had would be the only source of
6 water we would have as long as the September '83 rights
7 are curtailed.

8 Q. And how many of the 230 acres can you irrigate
9 with that?

10 A. He would have a difficult time finishing all
11 of that. Yeah, five -- can I do some math; is that all
12 right?

13 Q. Sure.

14 A. If we were able to deliver 100 percent of that
15 five cfs to him he could in theory finish that crop.
16 There would be enough water there if we were able to get
17 the full five cfs to him.

18 Q. Did you hear Mr. Johnson's testimony?

19 A. I did.

20 Q. Do you know if he took into account these
21 water sources when he was giving his damage testimony?

22 A. He wouldn't necessarily be aware of this
23 information, no.

24 Q. In fact, it was pretty clear he didn't really
25 understand the water right situation at all; is that

1 correct?

2 A. I would agree, yeah. He's never had to. It's
3 not been something that he's had to worry about.

4 Q. As I understand it, you observed this beaver
5 dam in Exhibit 43, Wednesday. And you tore it out
6 Wednesday; is that correct?

7 A. We did actually, yeah. I'm sorry. I said
8 Thursday, but we did actually send a crew down there on
9 Wednesday, that same day, that afternoon, yes.

10 Q. No, I think you said Wednesday.

11 A. Okay. Yes. So we did tear it out. Yeah, we
12 did tear out a portion of it on Wednesday.

13 Q. And after you tore out that portion, water
14 started flowing freely through that section you tore
15 out?

16 A. Yes. And we observed water flowing back into
17 the stream channel from the surrounding area.

18 Q. Have you gone back to that area to see if the
19 dam was reestablished?

20 A. We were just there yesterday, and we actually
21 saw the beaver. It hasn't started rebuilding it yet,
22 but it certainly will. It was right there next to it.

23 Q. Is the beaver alive to talk about this
24 incident?

25 A. Unfortunately, it is, yeah. I didn't have my

1 weapon or permission to shoot it.

2 Q. Are you familiar with beavers and how they
3 respond to running water?

4 A. I wouldn't say so, no. They don't like it, I
5 don't think.

6 Q. Have you had experience about when you tear
7 out a dam, and how a beaver responds to that?

8 A. They rebuild it.

9 Q. Yeah.

10 A. Yeah, they rebuild it.

11 Q. So it's a constant problem; correct?

12 A. Yes. Yes, the beaver is going to have to be
13 trapped out, and we're looking for permission to get
14 that done as well.

15 Q. And then on the dam referred to in your
16 Exhibit 46, you observed that also, I think you said
17 Wednesday; is that correct?

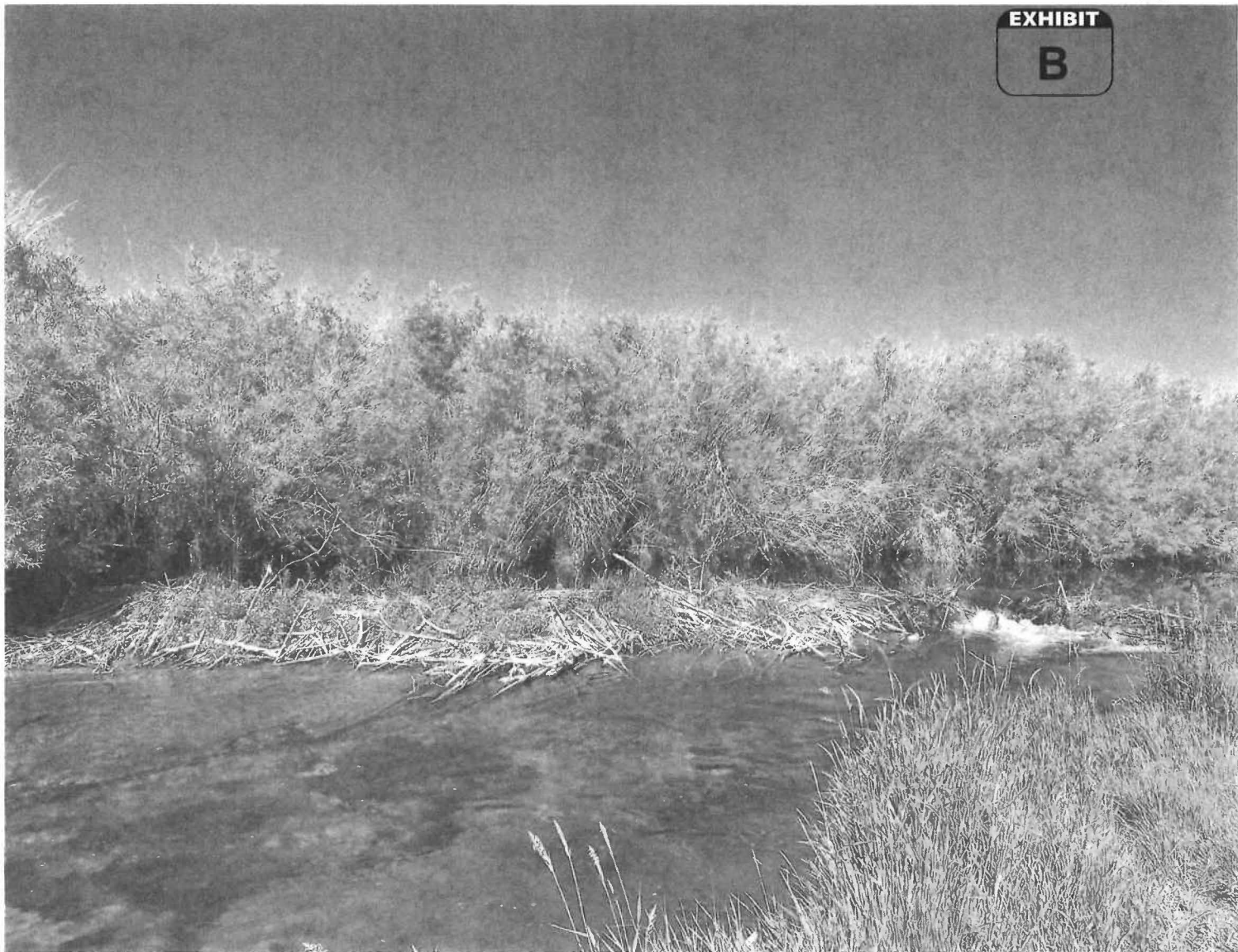
18 A. That was yesterday.

19 Q. Yesterday. And you tore out a section of that
20 dam as well?

21 A. We did. We took out as much as we could
22 physically. It's a larger more well-established dam, so
23 it's difficult to do by hand.

24 Q. Have you had a chance to go back and observe
25 whether that dam is back in place?

EXHIBIT
B



44

EXHIBIT
C



EXHIBIT
D



46

EXHIBIT
E

