

John Andrews  
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**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF THE PETITIONS  
FILED WITH THE DEPARTMENT  
REGARDING APPOINTMENT OF  
GORDON SYLTE AS A COMMISSIONER  
OF FLOOD CONTROL DISTRICT NO. 17

Case No. P-FCD-2018-01

**NOTICE OF DISCLOSURE OF  
WITNESSES AND OF EXCHANGE OF  
EXHIBITS**

**REQUEST TO TAKE OFFICIAL NOTICE  
AND INCLUDE CERTAIN MATTERS IN  
RECORD OF DECISION**

COMES NOW John Andrews, hereby discloses to parties and the hearing officer, in accordance with the *Initial Notice of Parties; Order Denying Intervention and Setting Intervention Deadline; Notice of Hearing; Order Authorizing Discovery and Scheduling Order*, the following identity of witnesses John Andrews may call to testify at the hearing in this matter:

- (a) Gordon Sylte;
- (b) Laurin Scarcello
- (c) Don Ellis
- (d) Colby Clark
- (e) Debbie Andrews
- (f) Darwin Shultz
- (g) Susan Ellis
- (h) Steve Neff

John Andrews further states that all proposed exhibits, are being served on opposing counsel and the hearing officer contemporaneously with a copy of this document. John Andrews also reserves the right to seek to introduce into evidence as exhibits any documents or other materials identified, produced or received during discovery, as a result of public records requests, or otherwise.

Pursuant to Rules 602 (Official Notice) and 650 (Record for Decision) of the Department's Rules of Procedure, IDAPA 37.01.01, Jean & Harry Emerson hereby requests that the Hearing Officer take official notice of, and include in the record for decision, the following matters, as contained in the files of the Department:

Docket No. C-RWM-2016-001 (Complaint Regarding Watermaster in Water Dist. 95C);

Docket No. P-DR-2017-001 (Sylte's Petition for Declaratory Ruling);

Sylte v. IDWR, CV-2017-7491 (Judicial Review);

Sylte v. IDWR, Case No. 46062-2018 (Idaho Supreme Court); and

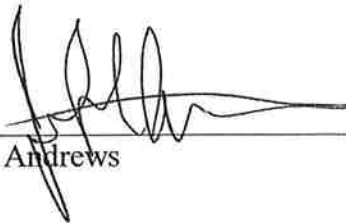
All water right and adjudication records of Gordon Sylte, Sylte Ranch LLC, and Twin Lakes Flood Control District No. 17.

DATED this 19<sup>th</sup> day of July, 2019.



By

John Andrews



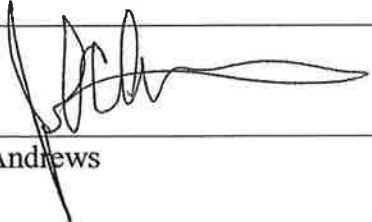
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of July 2019, I served a true and correct copy of the foregoing document on the parties listed below by their designated method of service as indicated.

<p>Gary Spackman- IDWR Hearing Officer                  PO Box 837720                  Boise ID 83720-0098  <a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input checked="" type="checkbox"/> Hand Delivery IDWR Northern Office  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>
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<p>John Dieckman                  45617 South Thor Street                  Spokane, WA 99223  <a href="mailto:Dieck3512@gmail.com">Dieck3512@gmail.com</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>

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<p>Berne &amp; Pamela Indahl  4203 E. 17th Avenue  Spokane, WA 99223  <a href="mailto:berneindahl@aol.com">berneindahl@aol.com</a>; <a href="mailto:indahlaw@aol.com">indahlaw@aol.com</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>
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<p>Clint &amp; Patti Marvel  23335 N. Lakeview Blvd.  Twin Lakes, ID  <a href="mailto:clintandpatti@comcast.net">clintandpatti@comcast.net</a>  <a href="mailto:Patti.marvel@northwestfcs.com">Patti.marvel@northwestfcs.com</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>

<p>Harold Greenfield Trust c/o Cindy Mathisen,  Sheree Greenfield &amp; Lori Snider  938 S. Ridgewood Ave.  Tacoma, WA 98405  <a href="mailto:Cindymathisen59@gmail.com">Cindymathisen59@gmail.com</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>
<p>Dave Nipp  2700 E Seltice Ste 2  Post Falls, ID 83854  <a href="mailto:dnipp@farmersagent.com">dnipp@farmersagent.com</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>
<p>Travis Roth  20969 N. Cochran Ln  Rathdrum, ID 83858  <a href="mailto:Travis.l.roth@gmail.com">Travis.l.roth@gmail.com</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>
<p>Linda Solan  4721 E. 41st Ct.  Spokane, WA 99223  <a href="mailto:lindaapplesolan@gmail.com">lindaapplesolan@gmail.com</a></p>	<p><input type="checkbox"/> U.S. First Class Mail, Postage Prepaid  <input type="checkbox"/> U.S. Certified Mail, Postage Prepaid  <input type="checkbox"/> Federal Express  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> Electronic Mail or CM/ECF</p>
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**Exhibits**

1. Watermaster report 2017
2. Watermaster Report 2018
3. Watermaster pictures

Annual Watermaster Report  
Twin Lakes 95-C  
Steve Neff  
November 13, 2017

Elected May 2017

- Met with Morgan Case, Idaho Dept. of Water Resources (IDWR) about expectations
  - Looked over handbook and discussed job
    - First page of 2013 Handbook states: "Proper water distribution under Idaho water law...is the primary goal and responsibility of all Idaho watermasters".
    - Morgan maintained that Water District 95C primarily exists to distribute water to the holders of water rights
  - Twin Lakes 95C is the only active water district north of McCall
- Training June 2
  - Met with Morgan Case and Evan Roda to learn measurement skills
  - Discussed safety/courtesy
    - Bright green safety vest with "Watermaster" on back
    - "Watermaster" sign hung in/on vehicle while on site
    - May need business cards in future for water right inventory visits

Precipitation and snow levels

- Winter 2016/2017 was 3rd in terms of precipitation/snow in last 10 years behind 2007/2008 & 2011/2012. Mid-1990's were even higher...
- No measureable precipitation from June 28 to September 17 this summer

Measuring

- Swoffer
  - Uses tiny propeller to sense speed of water flow
  - Roughly 25 measurements along width of stream - 20 seconds at each point
  - Return home with hand-written log, then enter data into spreadsheet designed through Morgan Case
  - Published to Google Drive so Morgan Case and Tim Luke could have access
  - Still a good backup device/method
- New FlowTracker 2 measuring device
  - Uses doppler to measure movement of particles in the water (more accurate and durable)
  - Records GPS location of each measurement, water temperature, and gives quality control warnings
  - Roughly 25-30 measurements along width of stream to meet 5% per station goal
    - 40 seconds per position is the industry standard
    - Generally takes 60 to 90 minutes for each measurement

- Travel to stream (hike, bike, or kayak), find site (not accurate to use same site along stream every time), set line, take pictures, take measurements, and finish computing data
  - Generally takes 15-30 minutes at home to download data onto computer, run app to make reports, then upload summary reports and photos onto Google Drive for cloud access by IDWR
  
- Significant findings from measurements (refer to spreadsheet)
  - Inflows
    - Once I found that measurements at Young’s Draw, Shove Creek, and Fish Creek (at the bridge on the ranch) far exceeded outflows, I began measuring only Fish Creek at the bridge or near the lake
  - Outflows
    - Walked Rathdrum Creek and measured along the way in late July/early August
      - Found that lowering discharge at dam by several CFS maintained same water received at Sylte Ranch due to water seepage/flow out of the banks at higher levels
  - How often, and where necessary?
    - Only enough to accomplish goals
    - Did not want to waste taxpayer’s money at that point

#### Findings at the head of the lake

- Began season measuring streams along treeline at Young’s Draw, Shove Ck, and Fish Ck together, as well as exploring all minor streams along the upper and lower lake (Miller’s, Excelsior, etc.)
  - It was expected that at some point the water needed to supply downstream users (mainly Sylte Ranch) would exceed inflows and a futile call would occur
- Morgan recommended measuring Fish Ck down by lake for as long as possible, then measuring along treeline and adding any other small streams along lake as documentation for more water became necessary
  - This saved considerable time
  - There was some debate about how much water may be lost to seepage and evaporation along the floodplain to the lake

#### Findings around the lake

- There are still those that don’t have water rights for yard irrigation
- Old water systems are in place along the boat access side of the lake where homeowners are using small streams and piping systems for cabins



- Stream entering lake at Uncle Tom's from Sturgeon Road drainage needs attention - ponds and diversions are growing in the drainage above
- Water losses at end of lake in two old channels may need to be studied

#### Findings at/near the dam

- At the dam site
  - Reliability of electronic measuring equipment
    - Lake level gauge close most of the time, but can fluctuate wildly at times
    - Discharge volume accuracy is still not even close
    - Suggestions by Joe Carlson, IDWR
      - Use calculations based on opening size for outflows
        - Regular flushing of debris may be necessary
      - Proposal of moving extra lake level gauge
  - Visual lake level readings became impossible as lake level dropped
    - Access for visually reading lake and gate levels was delayed over 6 weeks while I tried to get a key - I now have access
    - Gates need some type of pointer for accurate readings
      - Measurements are down to one-eighth inch
        - Difficult to see/photograph from outside fence
      - Typical opening during the summer ranged from 1 ¼ inch to 2 ¼ inches at the bottom of the center gate
- Downstream area below dam
  - Old staff gauge in stream near Gunning Road may need replacement
  - Water tenders were drafting out of the creek for logging operations
    - Temporary signage for required permits?

#### Findings along Rathdrum Creek

- Walked entire stream from Gunning Road to Sylte Ranch
  - Found significant losses below Sturgeon Rd and along Finman section
    - Area near Diane Park property thick with brush
    - Finman section had holes where water was running directly out to fields
  - Found several dams and ponds in stream
  - Found damage from equipment in Creek - deep cuts in sediment beds along Miller section from prior stream work
  - Found debris in double culvert at Finman Bridge holding back large amount of water

Concerns:

- Who maintains the integrity of the Rathdrum Creek streambed in order to get the most water to water right holders, just as East Greenacres had to maintain years ago?
  - Who should remove debris, repair spring runoff damage, and continue to monitor water losses along watershed as water levels drop?
  - Met with employees at East Greenacres Irrigation District on McGuire Road
    - The lake supplied “maybe a month of irrigation water to their district”
    - Losses were kept to a minimum - strictly maintained and monitored
    - Lake level was dropped to low levels to get the most water to the prairie possible
- Water to the Sylte Ranch
  - Stock water right to lowest end of creek on property
    - How to measure in streambed?
      - 0.07 cfs is only about 30 gpm
    - Measuring during irrigation usage
      - Water necessary to refill large pools in natural streambed from point of irrigation diversion down to barn
      - Ponds to keep full
- Water rights users - verification/inventory
  - IDWR asked that I wait to accomplish this task with direction from someone in the local office
  - Other than a few sprinkler systems, I did not find any other significant irrigation water users like the Sylte Ranch along Rathdrum Creek
- Health of the forest canopy in the watershed
  - Meetings/communication with Frank Waterman, Idaho Dept. of Lands
- Desired lake level during summer months
  - Is there a goal that makes everyone happy?
    - Beaches not exposed when water higher than normal
    - Health of the Lake better when level higher
      - Fish beds
      - Algae blooms
      - Lake vegetation
- State of Rathdrum Creek - Eric Davis, IDWR
  - Intent during meetings
    - Walk stream

- Monitor any work around the stream closely
- Return the stream to natural state
- Make improvements to culvert under Sturgeon Road

#### Summary

- With the assistance of IDWR, there is much more work to be done next year
  - Doug Jones, replacement for Morgan Case at IDWR, is working to learn our district and help the watermaster
  - Joe Carlson, engineer at IDWR, offered to help bring more science into the system for handling the water all year long
- How much should the watermaster be involved year around?

	Jun-2	Jun-9	Jun-16	Jun-18	Jun-23	Jun-26	Jun-27	Jun-29	Jun-30
Lake Level (feet)	10.43	10.38	10.36		10.3				10.15
Fish Ck Bridge						13.581			
Shove Ck						3.261			
Young's Draw						1.568			
Fish Ck near lake				7.29			4.584	12.594	
Gunning Rd	16.151								
Sturgeon Rd									
Above Miller									
Above Finman									
Above Finman Bridge									
Glenn Sylte Property									
Upper end Sylte Ranch									

Dam gate position (inches) 4.24 3.94 4.24

	Jul-3	Jul-4	Jul-7	Jul-9	Jul-14	Jul-16	Jul-21	Jul-28	Jul-29	Jul-30
Lake Level (feet)			9.99		9.71		9.44	9.19		
Fish Ck Bridge		10.749	9.56			7.91		7.396		
Shove Ck			2.83					1.599		
Young's Draw			1.095					0.667		
Fish Ck near lake										
Gunning Rd	8.456			6.605		6.225		6.453	6.131	
Sturgeon Rd										
Above Miller										
Above Finman										3.357
Above Finman Bridge										1.21
Glenn Sylte Prop	3.758									
Upper end Sylte	3.045									0.83

Dam gate position (inches) 1.75 1.75 3.7 2.125 3.7 3.7 2 3.68

	Aug-1	Aug-3	Aug-4	Aug-6	Aug-11	Aug-18	Aug-21	Aug-23	Aug-24	Aug-25
Lake Level (feet)			8.95		8.73	8.48				8.27
Fish Ck Bridge										
Shove Ck										
Young's Draw				7.892						6.382
Fish Ck near lake										
Gunning Rd	6.096			5.722			6.317	5.358		
Sturgeon Rd	5.403									
Above Miller	4.515									
Above Finman							3.997			
Above Finman Bridge										
Glenn Sylte Property										
Upper end Sylte Ranch		1.012		0.984						1.978

Dam gate position (inches) 2 1.875 1.75  
Gunning Rd Staf 3.68 3.64 3.68 3.62

	Sep-1	Sep-4	Sep-8	Sep-15	Sep-16	Sep-22	Sep-29
Lake Level (feet)	8.08		7.92	7.76		7.81	7.73
Fish Ck Bridge							
Shove Ck							
Young's Draw					5.477		5.99
Fish Ck near lake		5.445					
Gunning Rd		4.5			3.793		6.75
Sturgeon Rd							
Above Miller							
Above Finman							
Above Finman Bridge							
Glenn Sylte Property							
Upper end Sylte Ranch							1.813

Dam gate position (inches) 3.6 3.55 1.75 3.75  
Gunning Rd Staff Gauge Level (feet)

	Oct-6	Oct-13	Oct-20	Oct-27	Nov-3
Lake Level (feet)	7.6	7.53	7.54	7.85	7.87

## Annual Watermaster Report for 2018

### May

- The winter of 2017/2018 left snow in the "Twin Lakes Drainage" similar to amounts seen in the winter of 2016/2017. The spring melt occurred in mid-April, nearly one month later than the previous year.
- The Flood Control District maintained control of the dam into early May, raising the lake to its highest level of 2018: 10.2 feet.
- I measured Fish Creek on the 20th finding roughly 45 cfs, while a measurement at the dam showed roughly 8 cfs. This confirmed the high loss to seepage occurring at higher lake levels.
- I walked the entire stream from the dam to the Sylte Ranch in late May, taking pictures and video along the way. Many areas needing attention were noted and discussed with IDWR in the coming weeks and months.
- The annual meeting was held on May 24 where I retained the position of watermaster, unopposed.

### June

- Regular stream measurements were taken as stream flows and lake levels remained high. Access to Fish Creek was made by kayak.

### July

- Regular measurements of inflow and outflow to the lake continued throughout the month.
- I attended the annual TLIA meeting on the 7th, learning more about the district and ongoing projects. I answered questions from concerned district members that attended the meeting. I also met with members of Idaho Department of Lands present at the meeting and discussed the health of the drainage.
- I met with IDWR personnel in early July to formulate a plan for site visits and an "inventory" of water right holders, and their diversions, along Rathdrum Creek.
- I walked the unnamed creek upstream from John Sylte's property after complaints were made with IDWR disputing the way the water was being diverted on the Finman property. I then set up a meeting with Joe Carlson of IDWR at the Sylte Ranch to discuss the diversions. No resolution was found, and the dispute between Sylte and Finman over the unnamed stream continued throughout the summer.
- By late July, I was told by IDWR that if water could not reach the point of diversion of Gordon Sylte's stockwater right at some point, the gate at the dam would be closed, stopping the flow to Rathdrum Creek completely. This would have a significant impact on at least one water right holder along Rathdrum Creek, Mark Miller. He claimed to depend

on the stream for domestic drinking water at a house he owns along the creek, where water is treated by means of a filtration system.

- A concerted effort was made to minimize losses along Rathdrum Creek in order to avoid the loss of the creek flow, beginning with the Sylte Ranch. A plan was developed, and a Water District Advisory meeting was held in order to discuss how to approach compliance, starting with the Sylte Ranch and continuing upstream.

## August

- Those on the Sylte Ranch worked hard to stop in-stream water losses over the first few weeks of August. Several dams were minimized or eliminated, and debris was cleared, making it possible to maintain flow to the point of diversion at the stockyard for the remainder of the season.
- I met with Joe Carlson on Paul Finman's property. We surveyed all water right locations, including Rathdrum Creek and the unnamed stream upstream from John Sylte. We also looked over pond and irrigation systems in place.
- I met with Joe Carlson on Mark Miller's property and completed a survey of his diversions while walking the entirety of his properties along the creek.
- I continued to meet with others along Rathdrum Creek including the Park's, Coyle's, Greilic's, and many in between. Concerns along the creek were mitigated with the help of Joe Carlson at IDWR.
- I had conference calls with management and legal advisors at IDWR (local and state levels) throughout the month. Discussions involved how to interpret and apply language set forth by the 1989 decree. By the end of August, I was told a portion of the incoming flow to the lake could still be released from the dam should water no longer reach the stockwater point of diversion on the Sylte Ranch. It would likely be enough to supply water to the domestic water right on Mark Miller's property.

## September

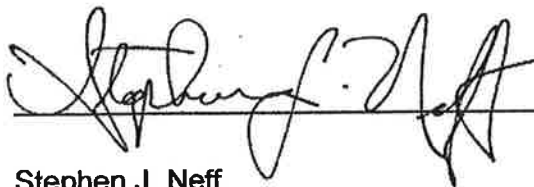
- Site visits continued through the month, including those around the lake. A new GIS map and database was made available by IDWR for use in the field.
- A few more measurements were taken for inflow and outflow determination as flows stabilized after very little precipitation through the summer. Water continued to flow to the stockwater right on the Sylte Ranch.
- I met with Joe Carlson and Curtis Johnson (Stream Alteration Specialist) of IDWR at the Finman property. We discussed possible diversion of Rathdrum Creek with Paul Finman. Nearly one half of the losses in water flow from the dam to the stockwater diversion on the Sylte Ranch occurred on a section of stream along his property. A proposal to return the stream to its natural channel was discussed. No decision was made.

October

- Site visits continued around the lake and down Rathdrum Creek.
- A few more measurements of inflow and outflow were taken. Water continued to reach the stockwater right on the Sylte Ranch.
- I received a call from the Flood Control District early in the month concerning possible contributions to new equipment at the dam.
- I met with the Flood Control District at IDWR later in the month to further discuss contributions. It was determined our budget did not allow a large contribution at that point in time. No contribution was made from the Water District.
- The control of the dam was transferred to the Flood Control District around the end of October in preparation for the winter months.

November/December

- IDWR personnel suggested in late fall that the district may be reduced to include only those using greater than a domestic amount. I was given a list of roughly 94 water district records (out of 450 records) and tasked with confirming how much they currently use and how much they intend to use in the future, along with updating their contact information.
- I continued working on this task through the winter and spring, making occasional phone calls and site visits.



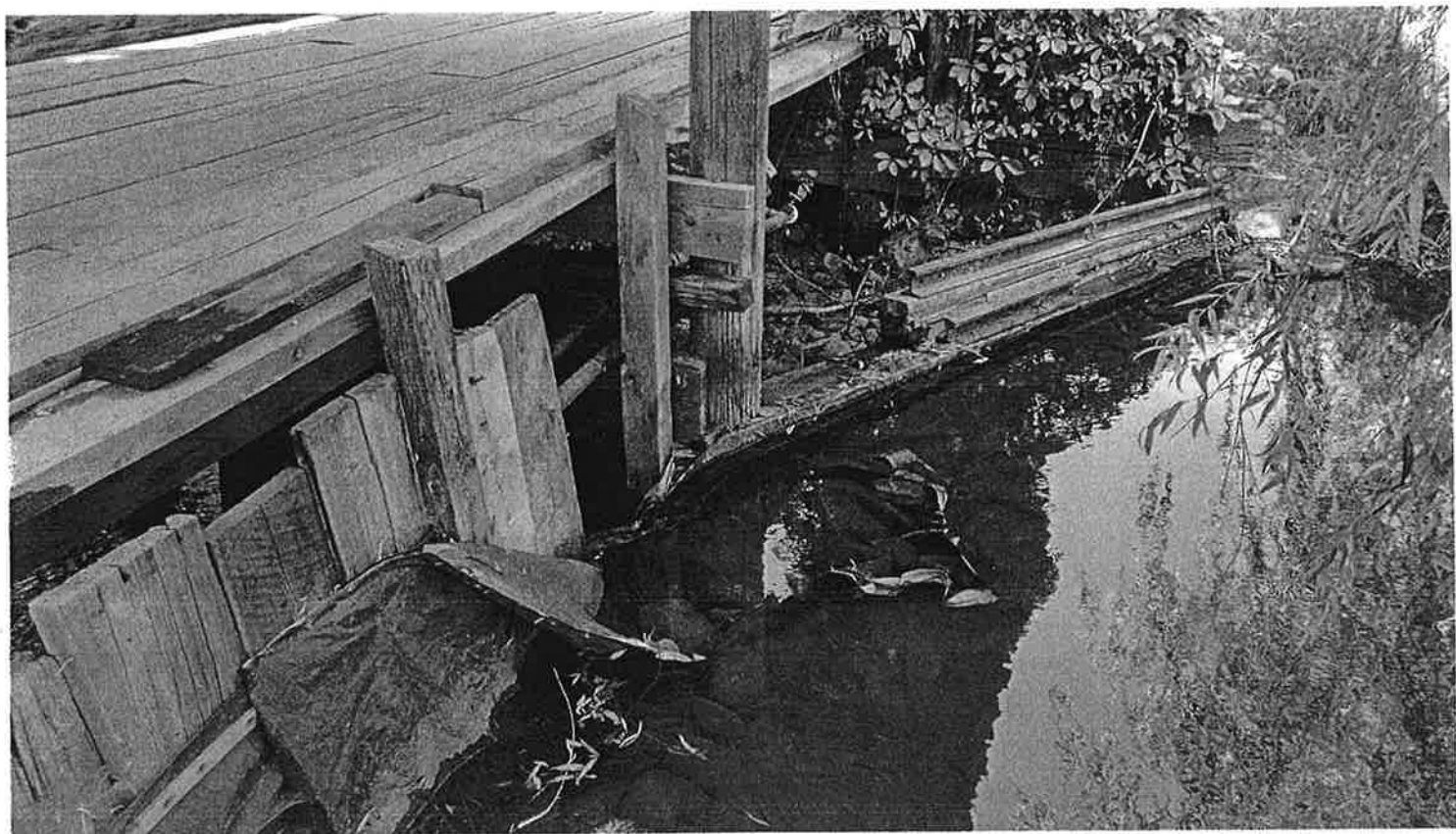
4/24/19

Stephen J. Neff  
Watermaster  
Water District 95-C





Sylte dam at Bridge

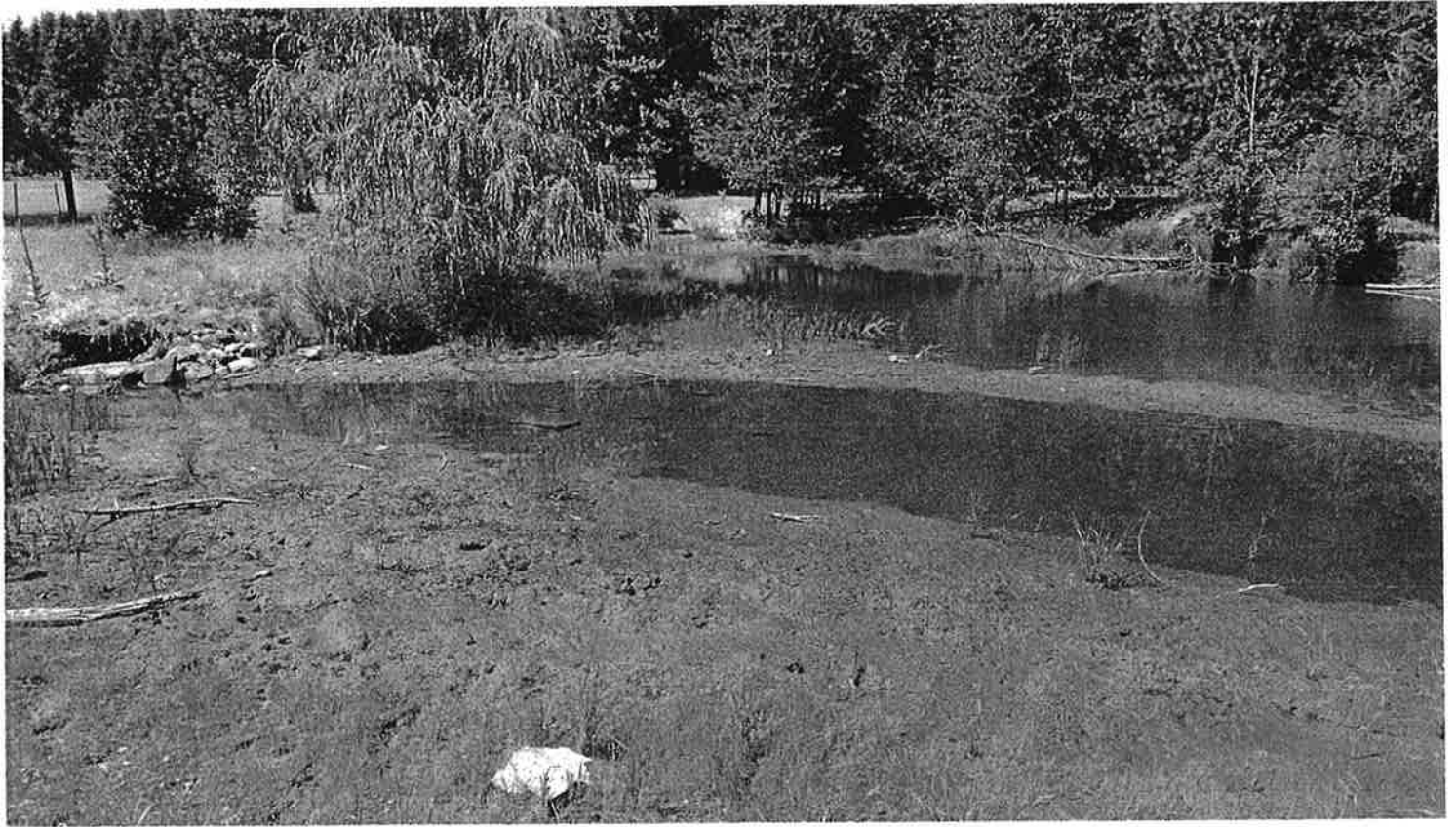


Sylte Dam at covered bridge



Sylte offStream irrigation pond  
by covered bridge

Has Zip line  
paddle boat



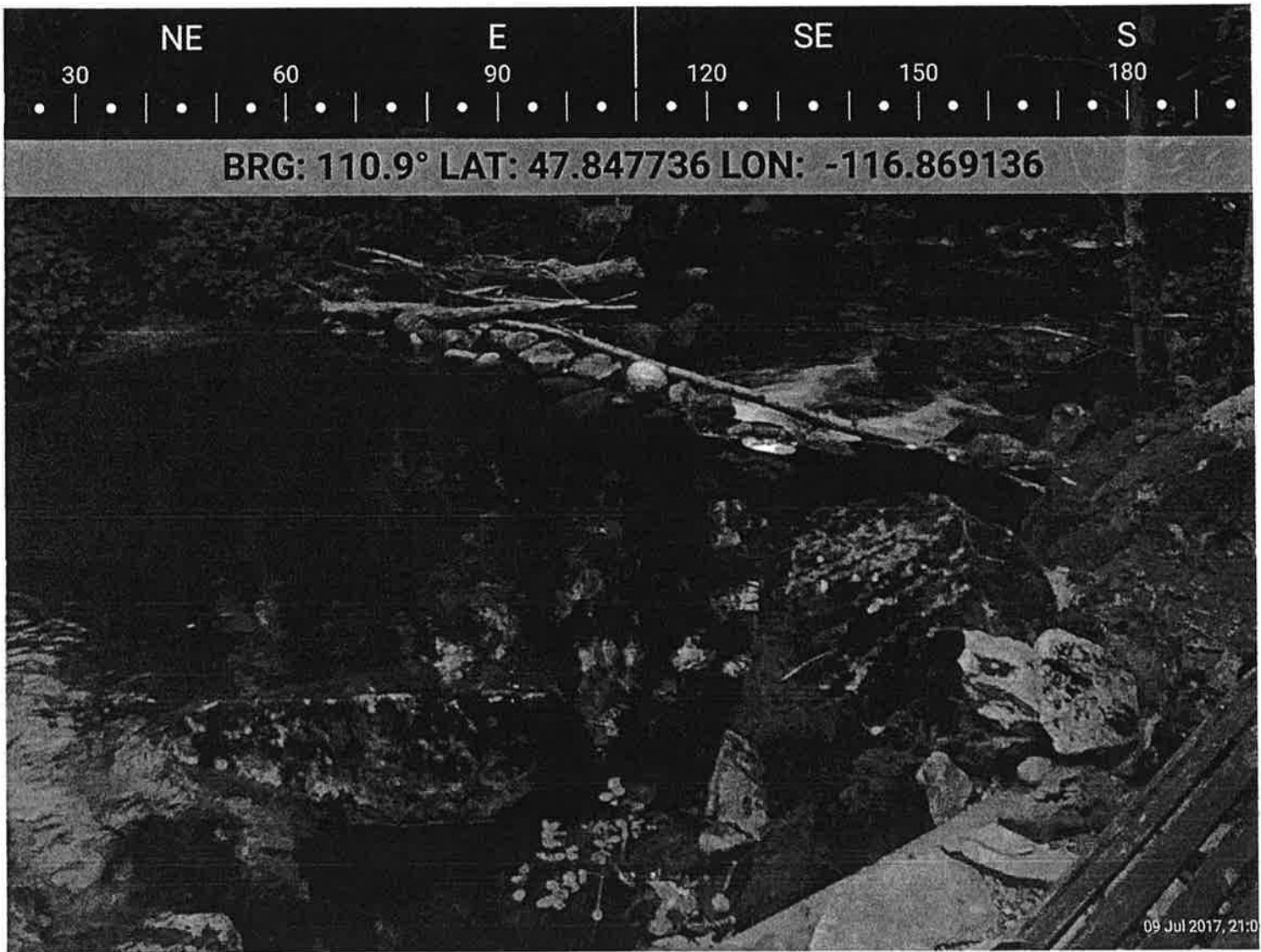
NRCS Pond  
Sylte property



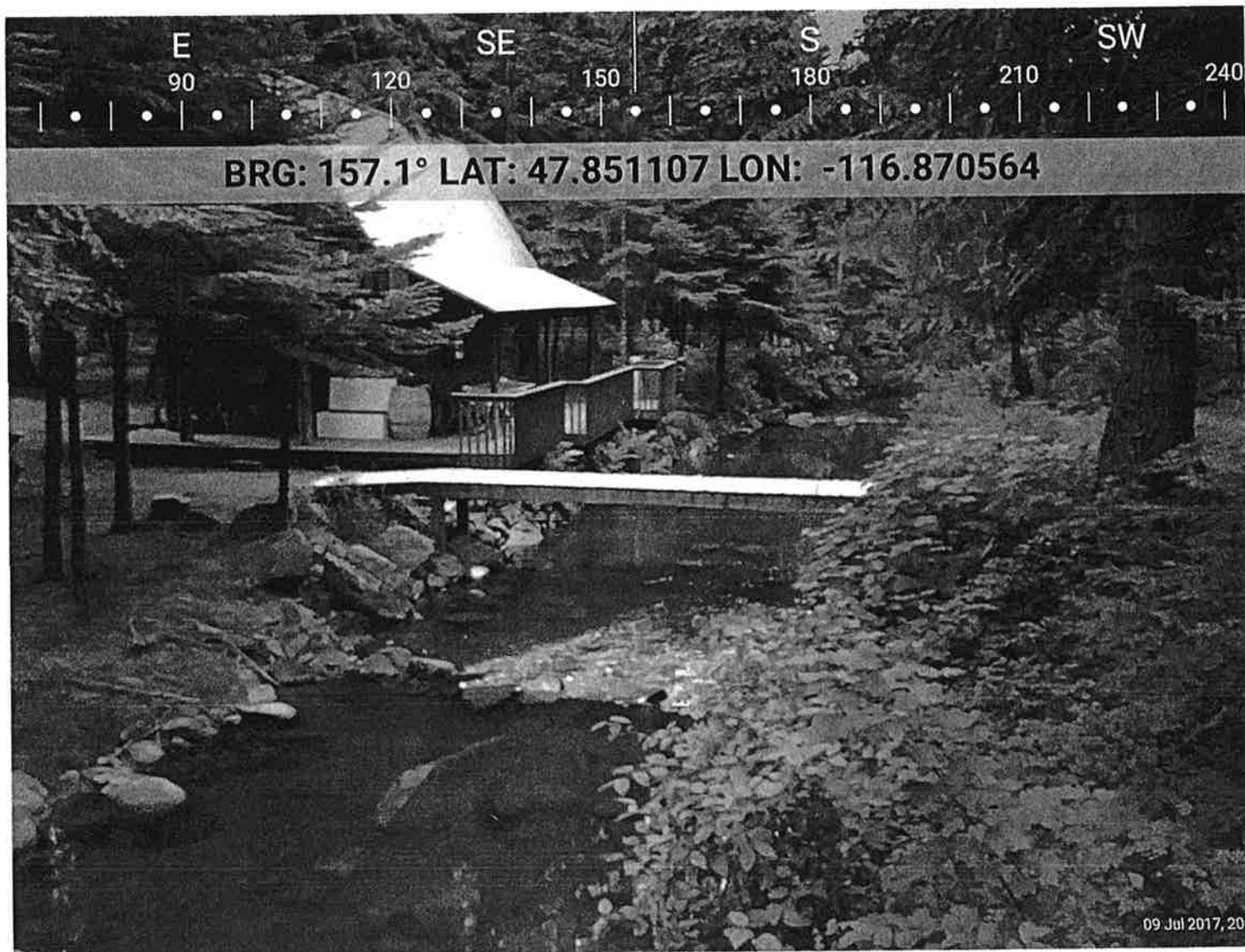
☉ 323°NW (T) ☉ 47.847798, -116.86913 ±24m ▲ 692 m

milks

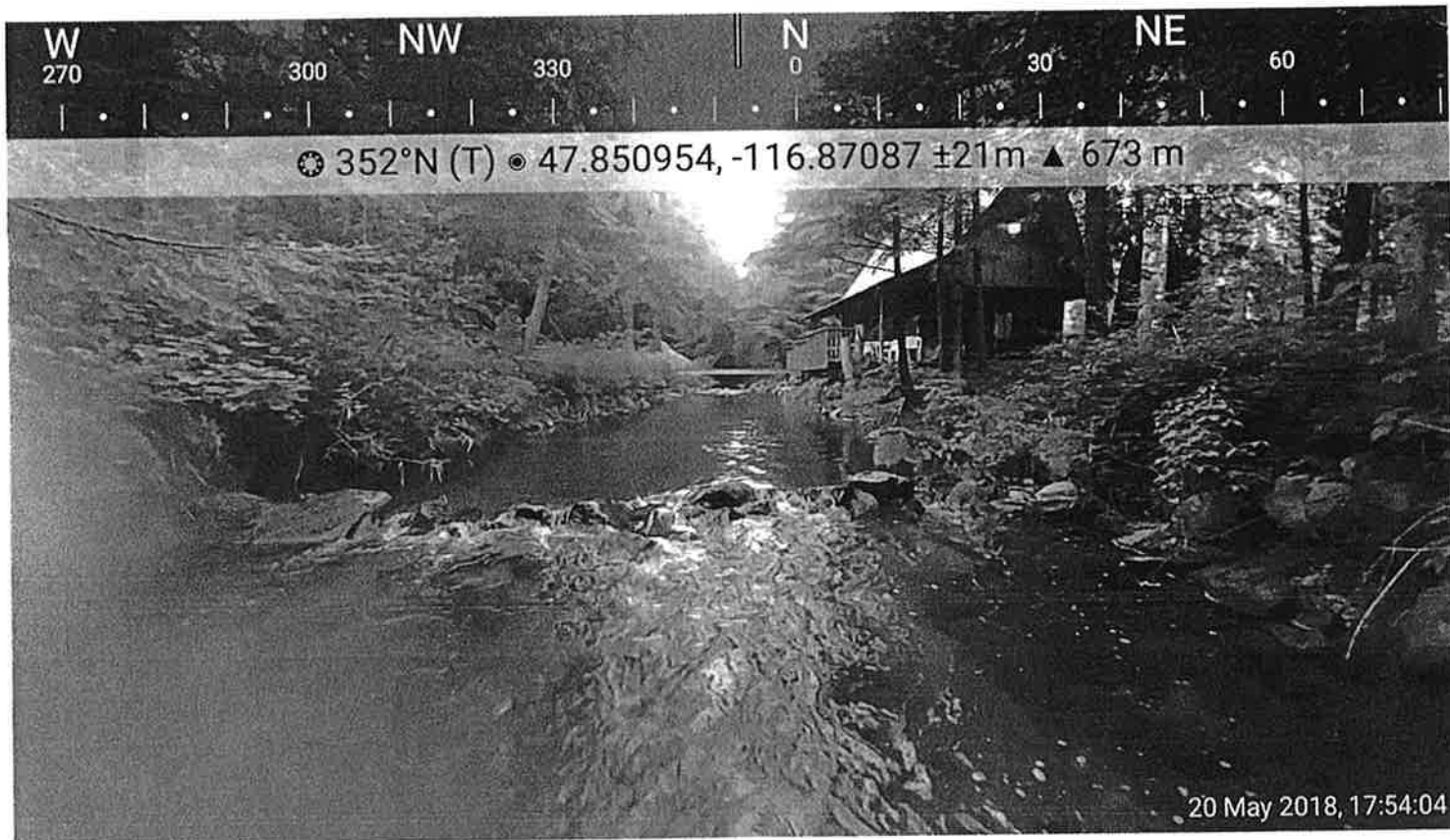
May 20, 2018



Dam at Milk's residence Just  
above sturgeon road



Coyle Section off Gozler way Jul 9 2017



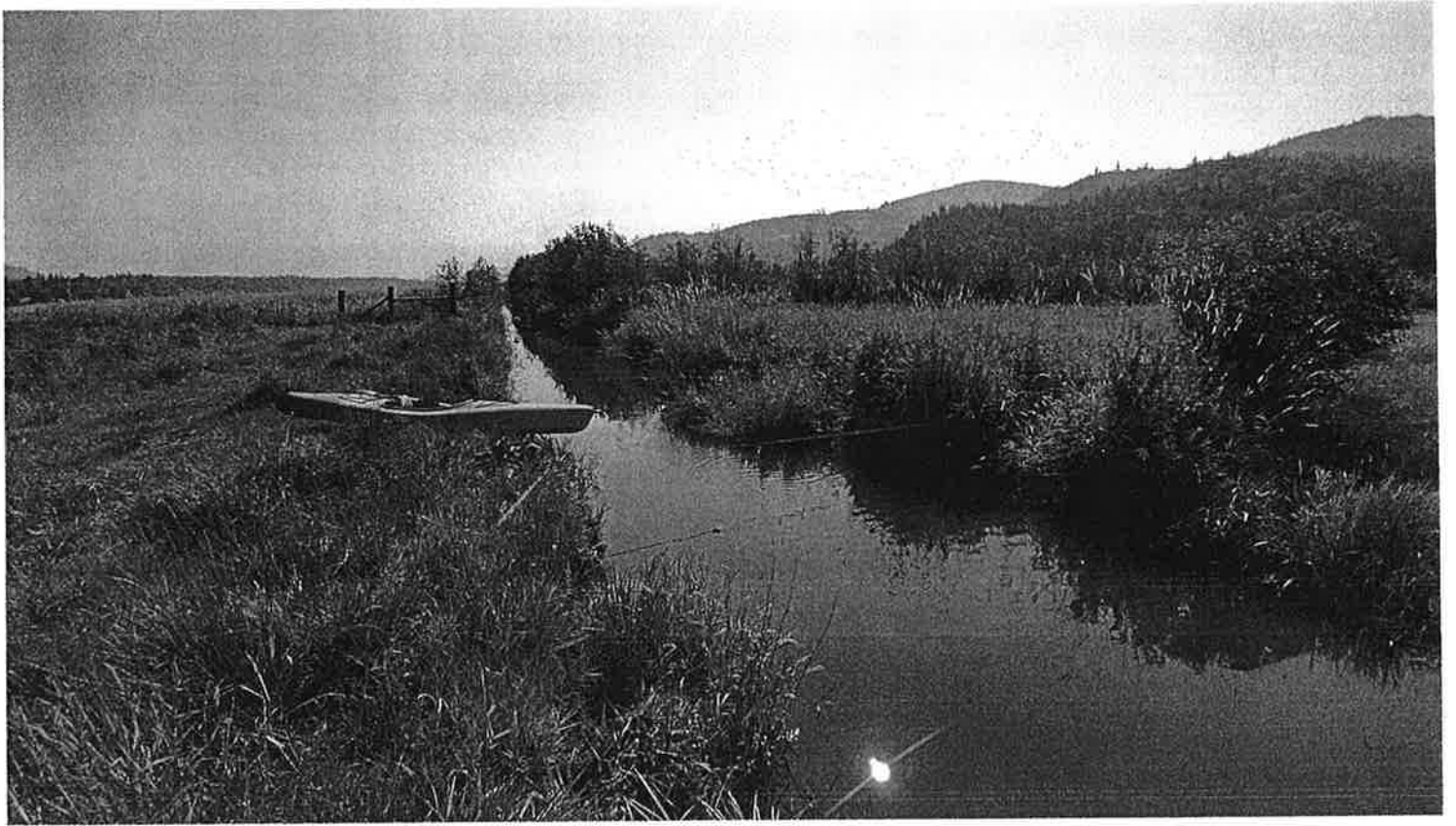
Coyle Section off 5/20/2018  
Goerz way



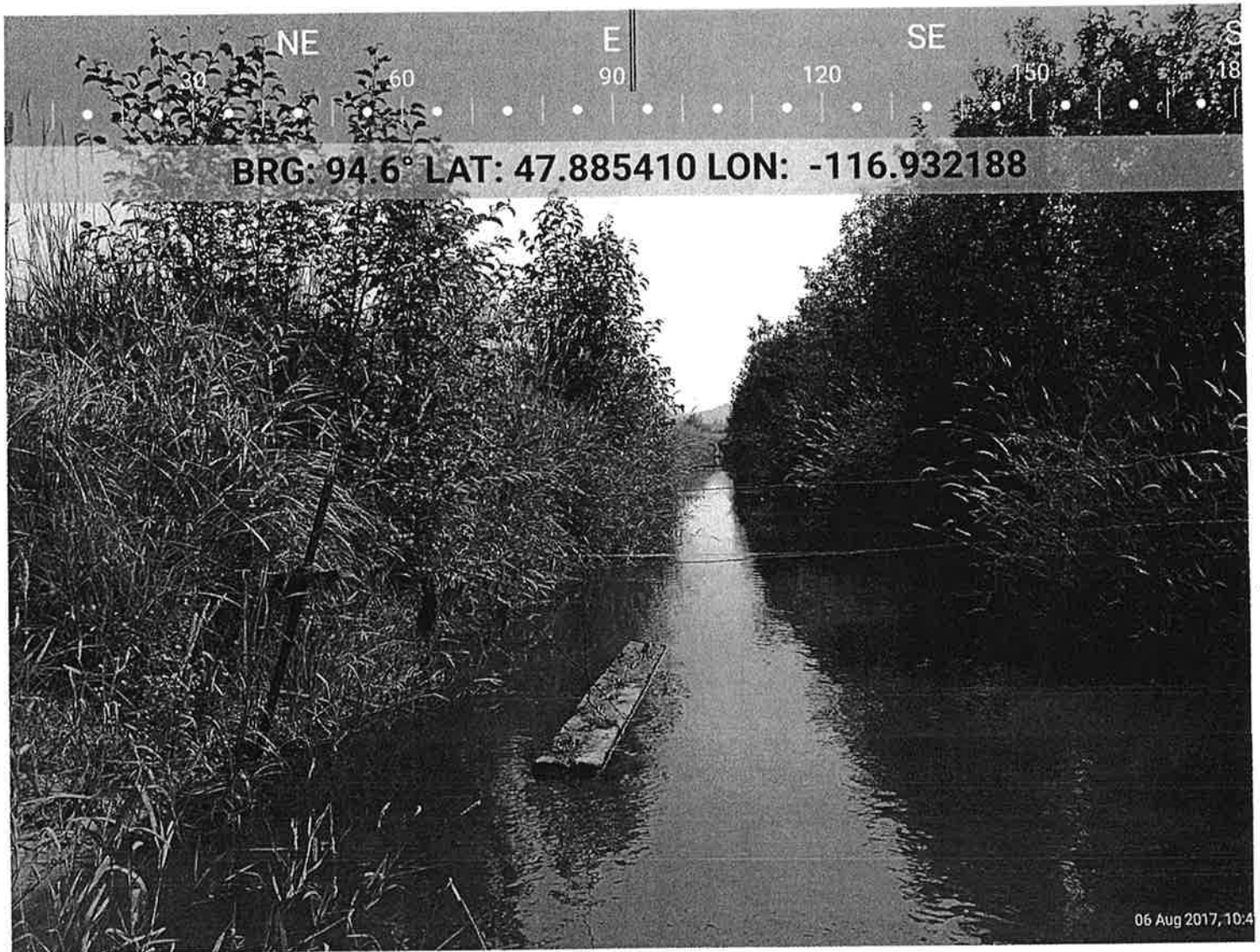


upperdam on coyle section

7/9/2017



Fish Creek



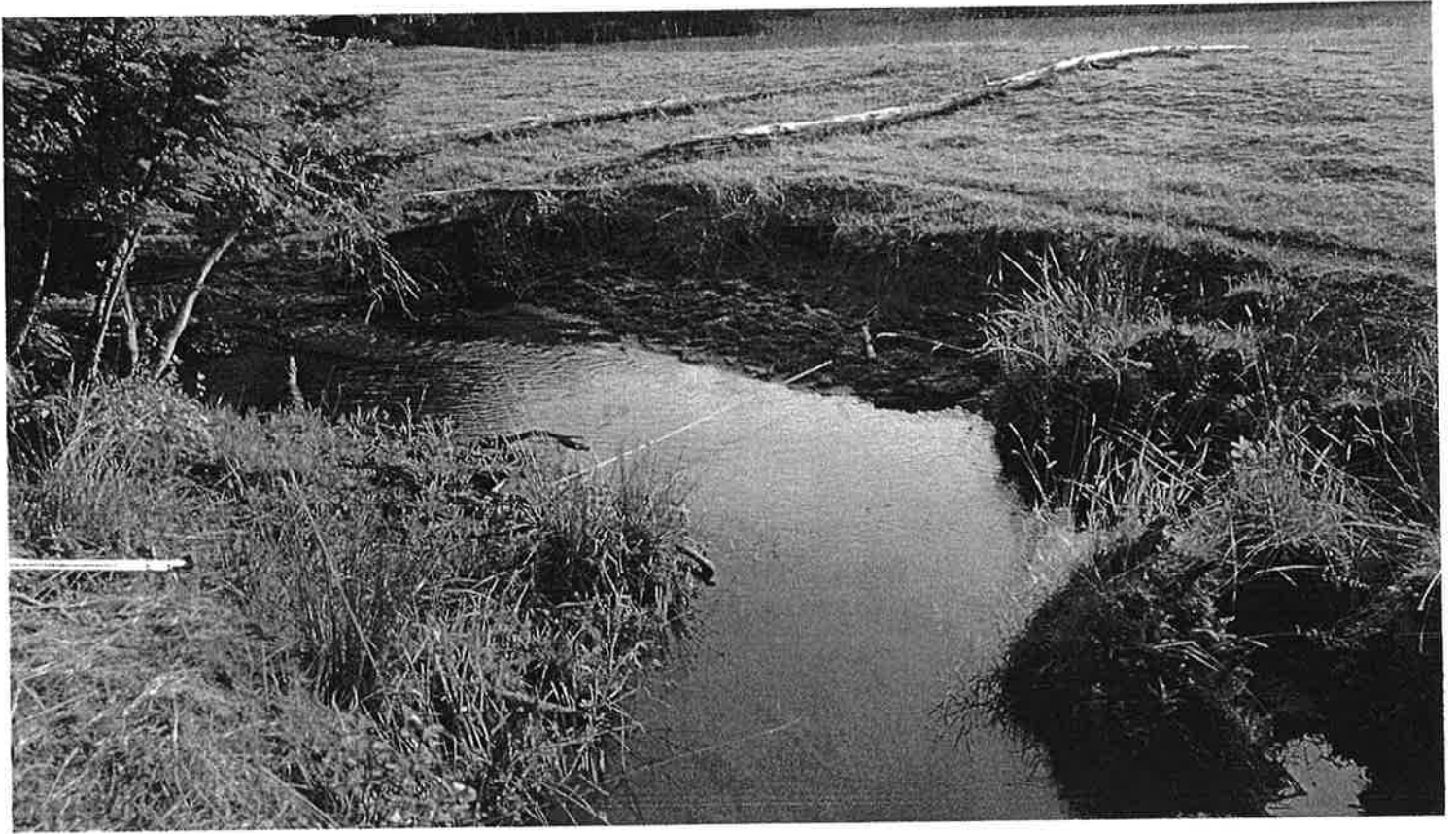
Fish Creek 500' from lake Aug 6 2017



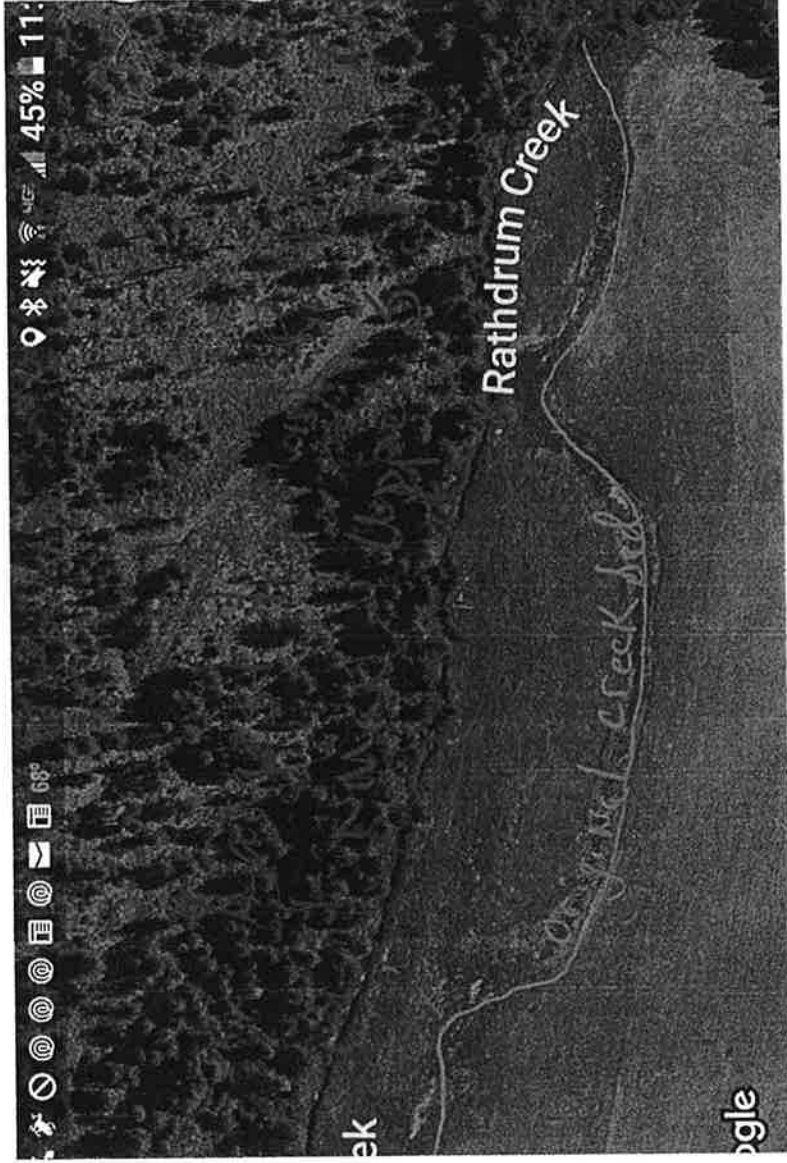
Finnman property Spring flow



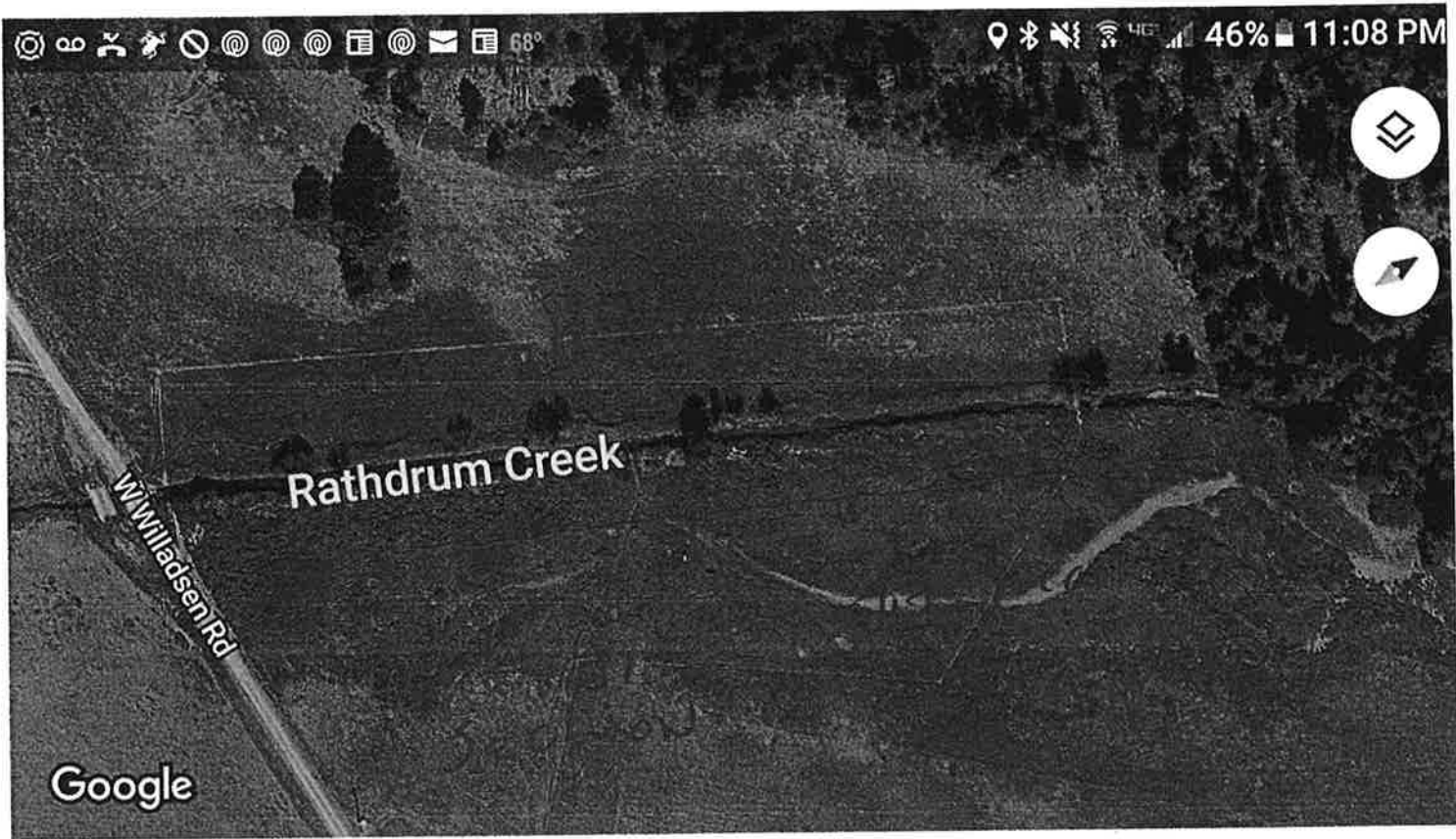
Measuring near gunning sluvert



Measuring Shore Creek

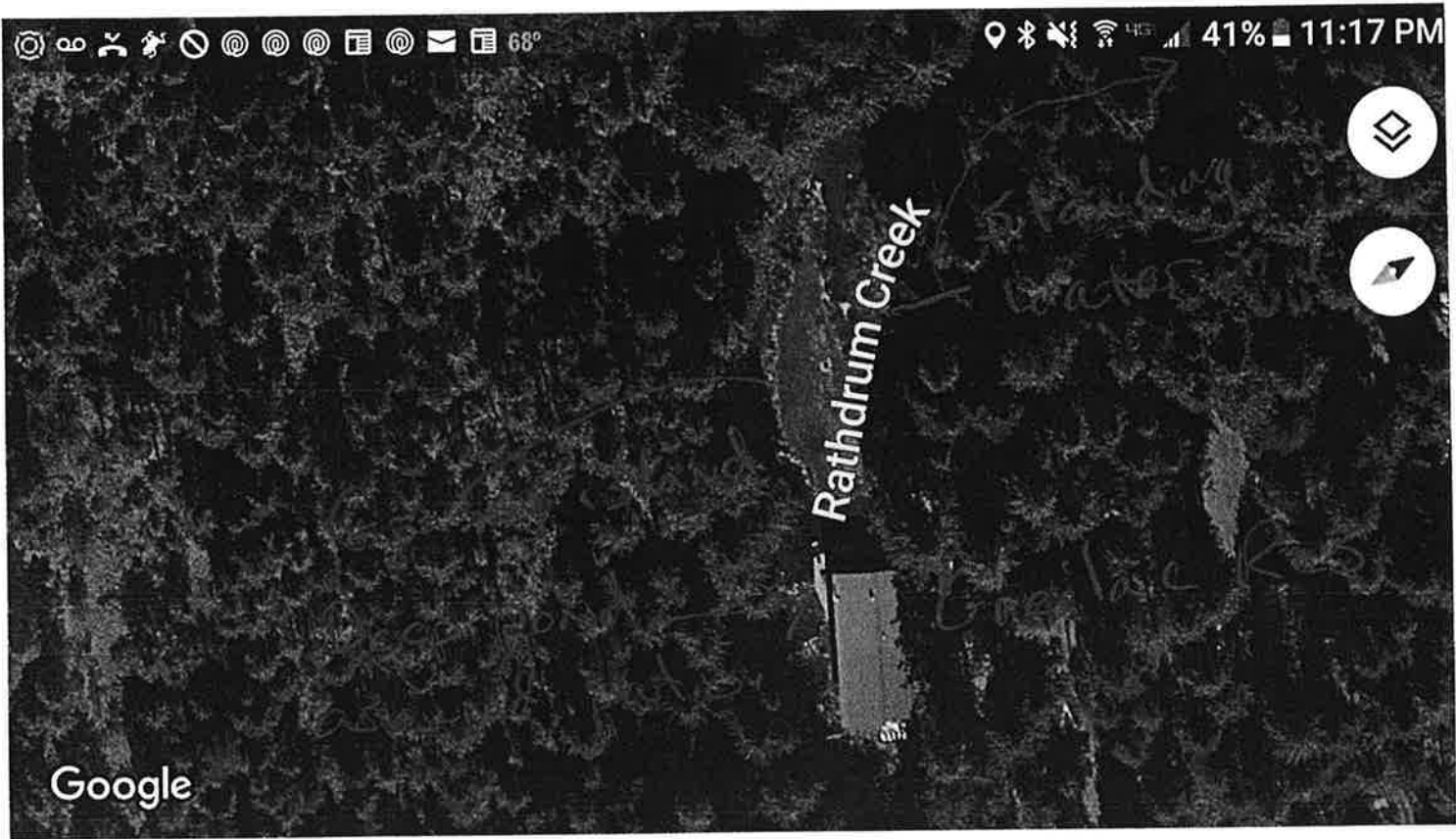


Finn man upper section  
layout

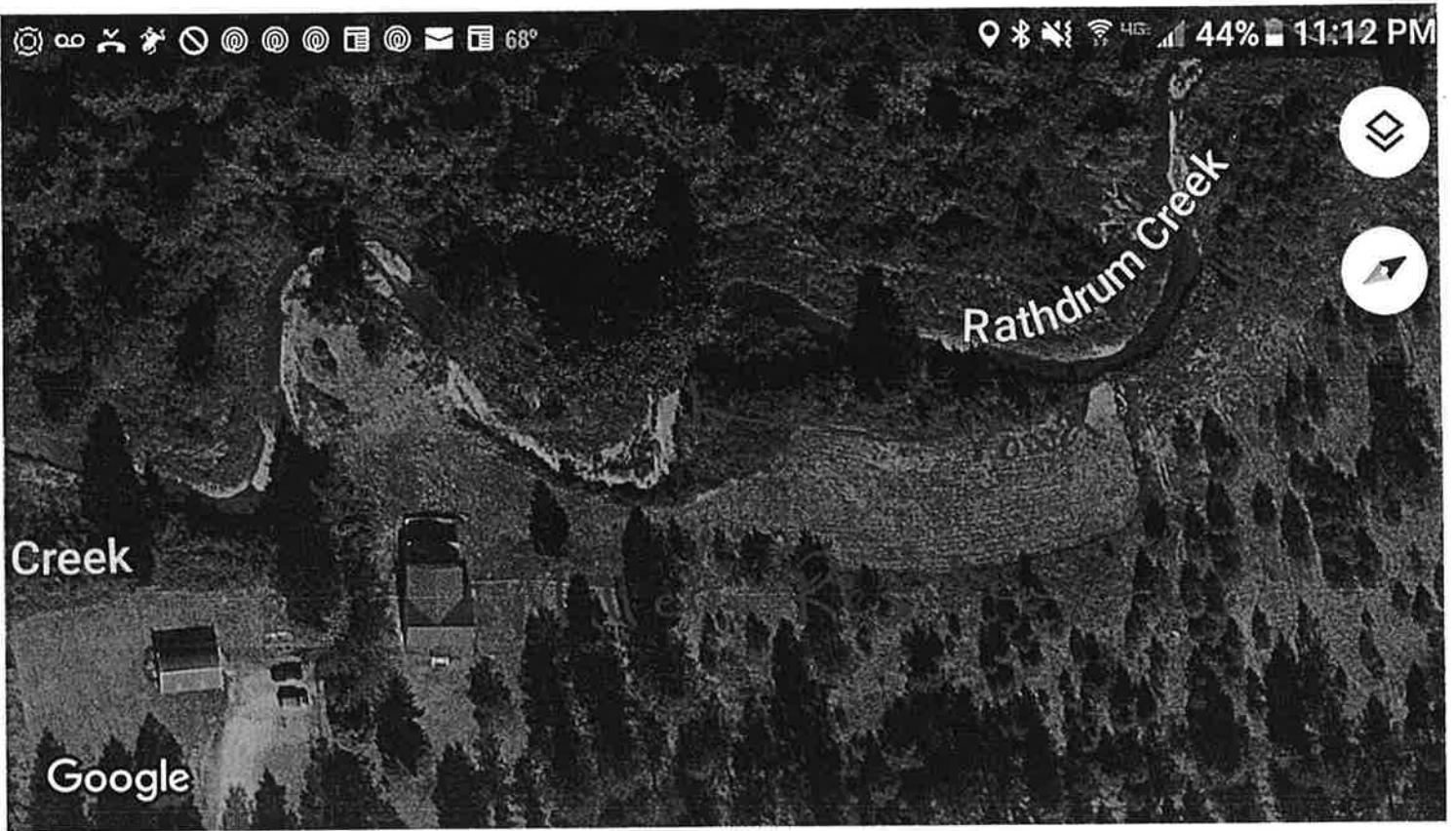


Finman lower section layout

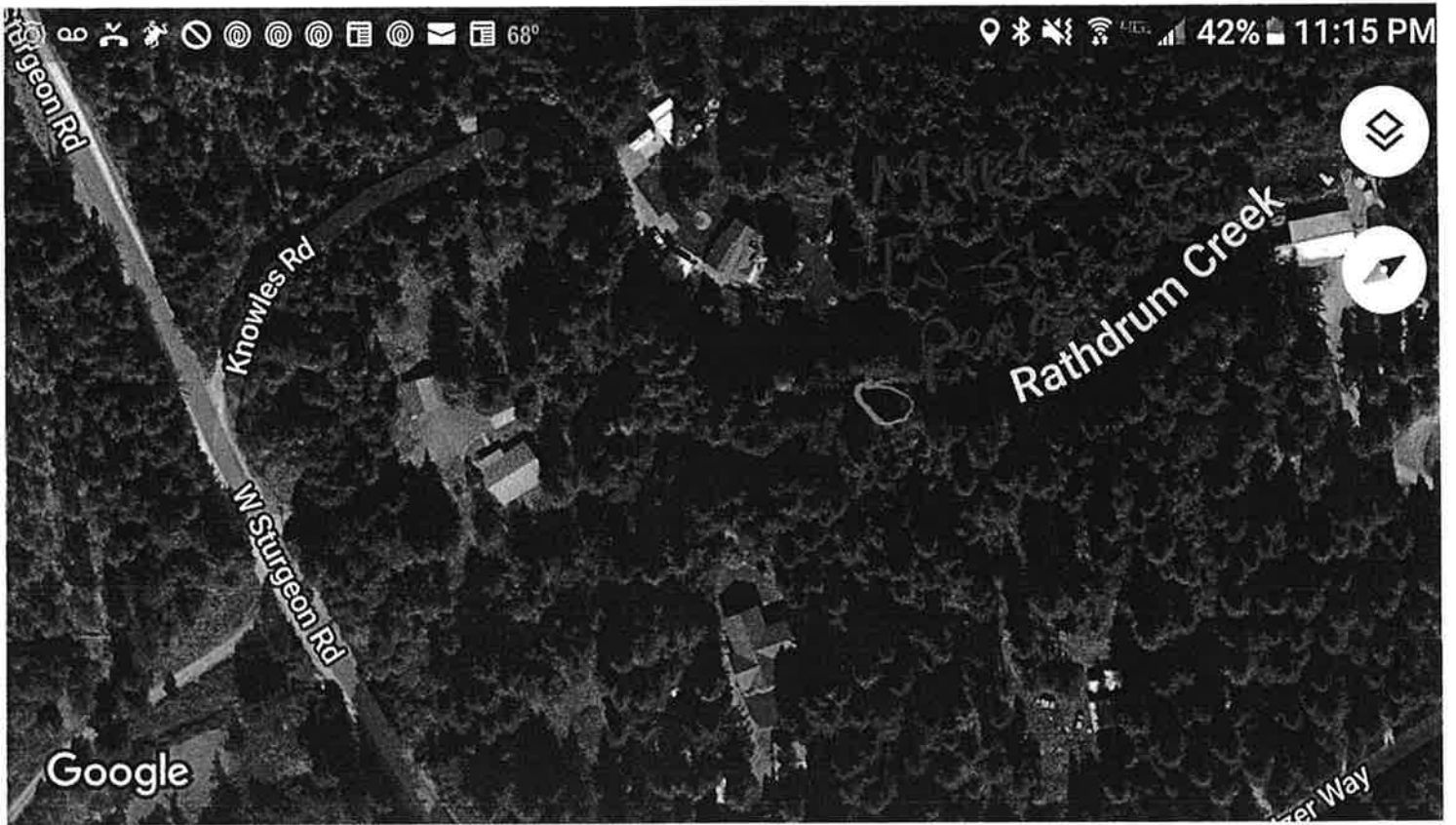




Greilac Pond layout



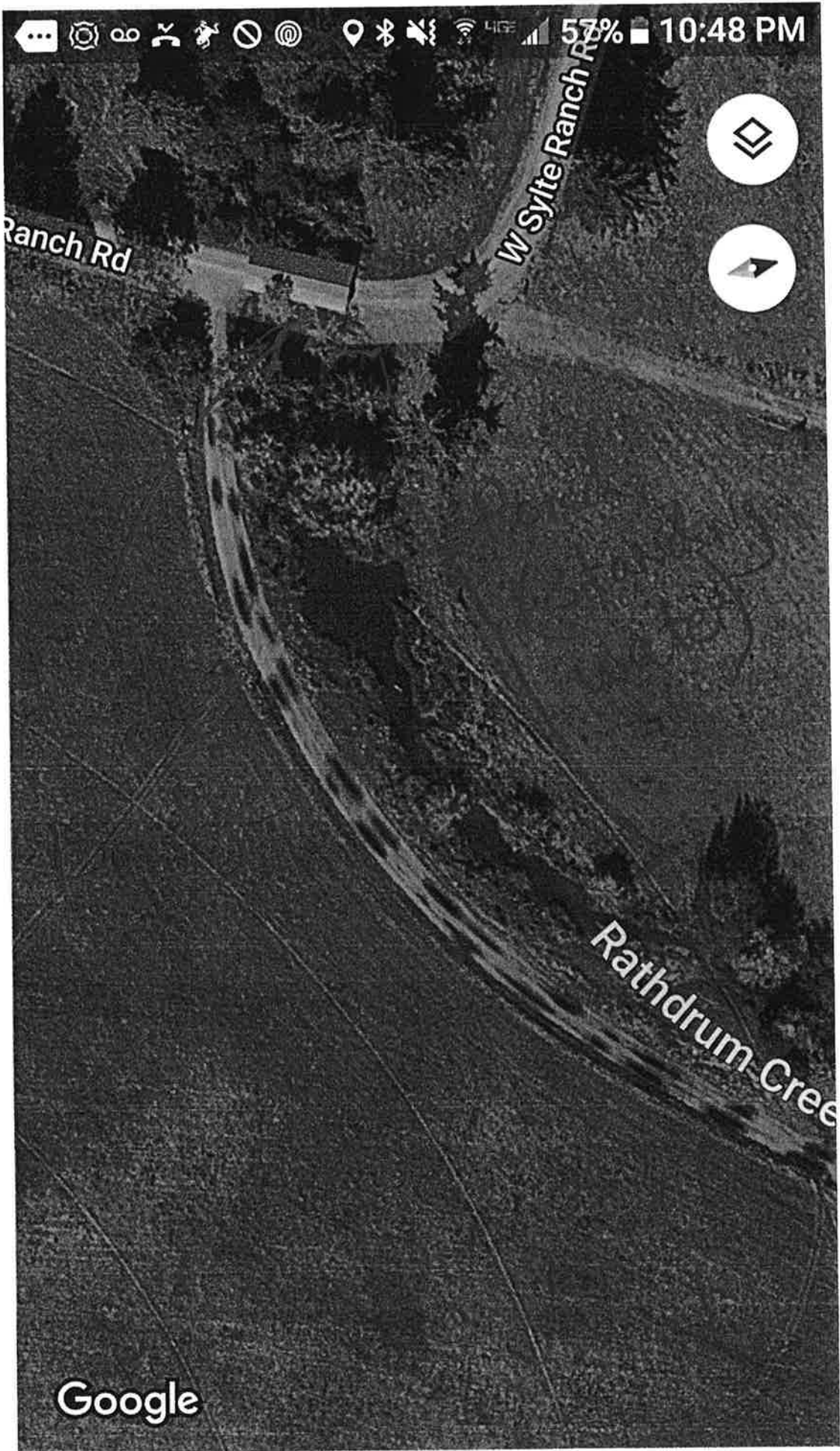
Miller pond layout



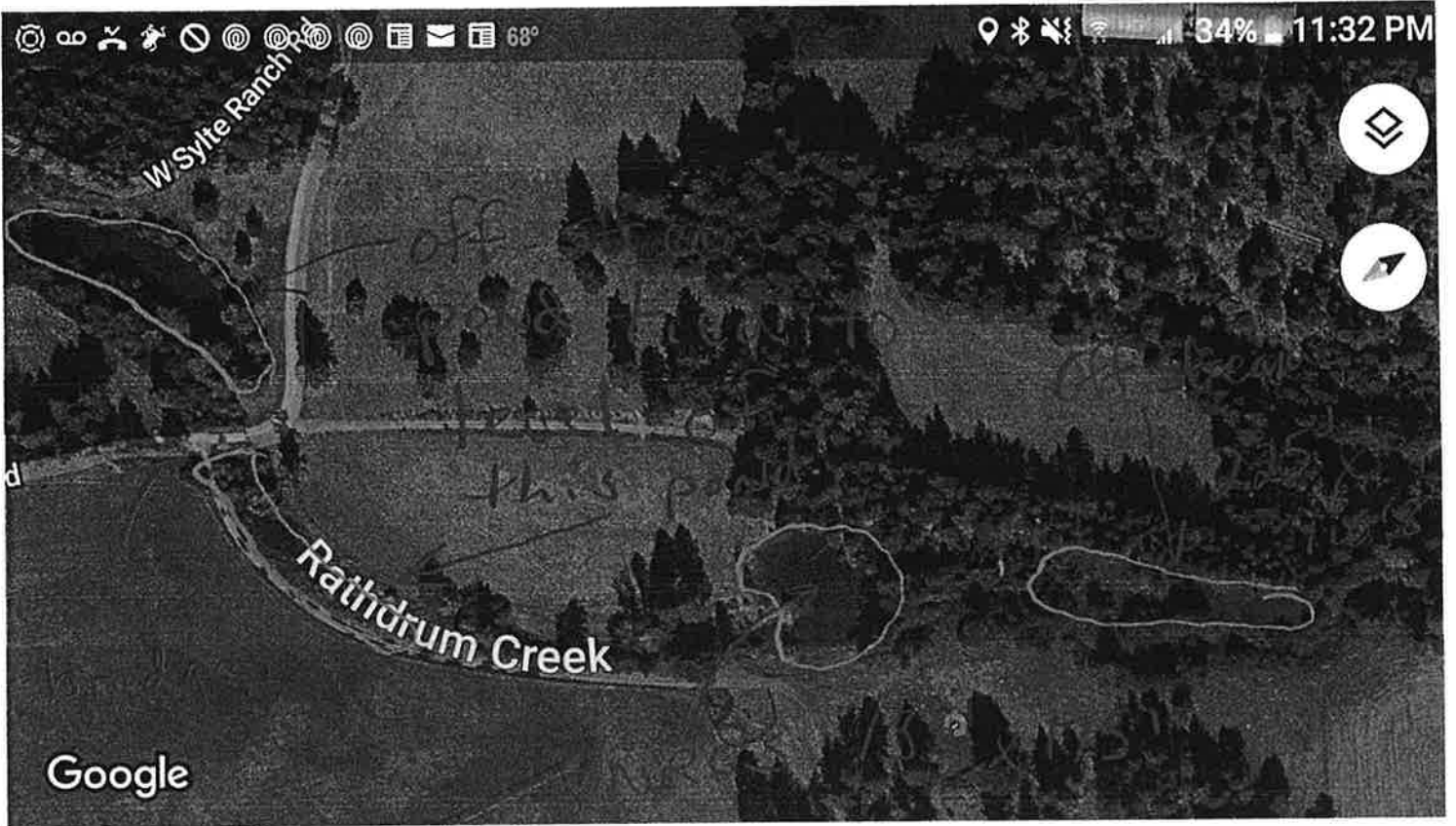
Milk's Pond



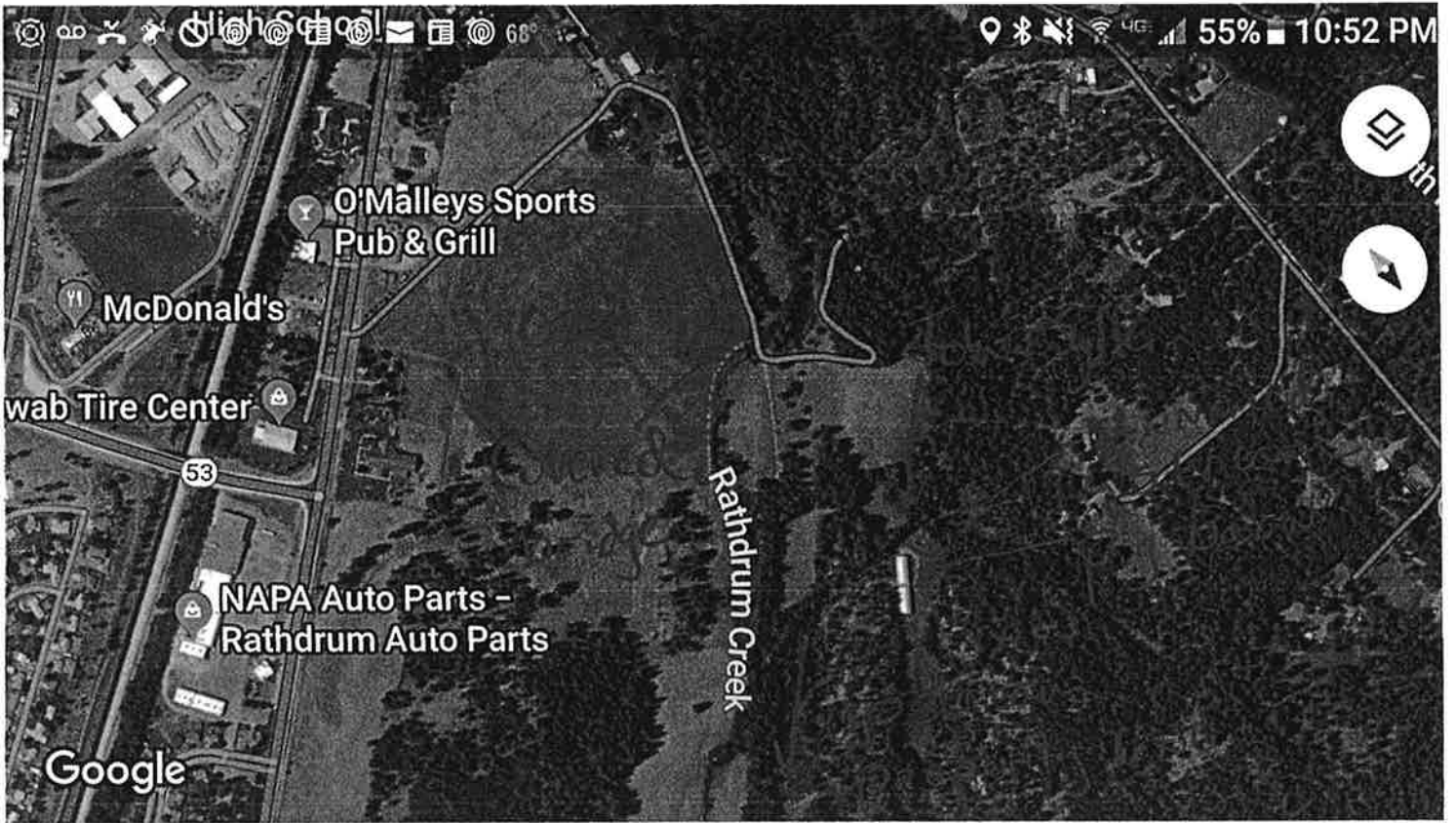
John Sylte / Finman layout



Sylte  
Covered bridge  
Pond



Sylte Pond layout

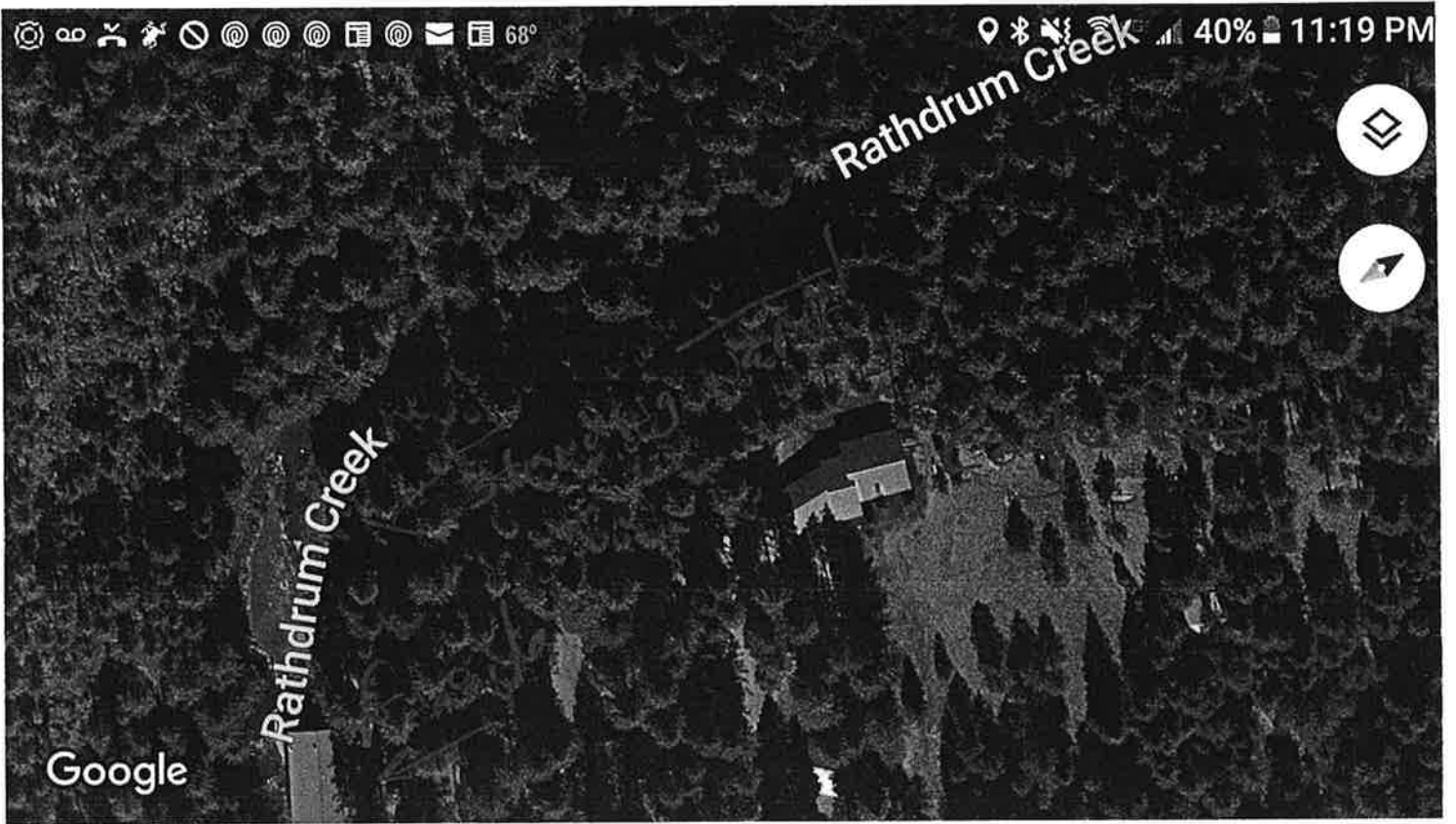


Sylte property layout



Diane Park Pond





Grelac è Coyle layout



Zirkle Basin