WAIVER OF SERVICE OF NOTICE IN LIEU OF SUMMONS

TO: Susan L. Schneider, attorney for the United States of America

1. I acknowledge receipt of your request that I waive service of a Notice in Lieu of Summons in the action of *United States v. Walker River Irrigation District*, which is docket number In Equity C-125, Subfile C-125-B, in the United States District Court for the District of Nevada.

2. I have also received a copy of the FIRST AMENDED COUNTERCLAIM OF THE UNITED STATES OF AMERICA, the FIRST AMENDED COUNTERCLAIM OF WALKER RIVER PAIUTE TRIBE, the CASE MANAGEMENT ORDER (Apr. 18, 2000), two copies of a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE, a copy of the ORDER – DISCLAIMER OF INTEREST and related form, a copy of the ORDER REGARDING CHANGES IN OWNERSHIP OF WATER RIGHTS and related form, two copies of this instrument (WAIVER OF SERVICE OF NOTICE IN LIEU OF SUMMONS), and a means by which I can return the signed waiver to you without cost to me.

3. I agree to save the cost to me of service of a Notice in Lieu of Summons and an additional copy of the FIRST AMENDED COUNTERCLAIM OF THE UNITED STATES OF AMERICA and the FIRST AMENDED COUNTERCLAIM OF THE WALKER RIVER PAIUTE TRIBE in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

4. I understand that if I waive service of a Notice in Lieu of Summons, I must mail a NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE to Susan L. Schneider, attorney for the United States, and I may use the same envelope provided for return of the waiver of service.

5. I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the Court except for objections based on a defect in the Notice in Lieu of Summons or in the service of the Notice in Lieu of Summons.

Date: August 21, 2003

Delbert K. Cornella
Signature

Delbert K. Cornella
Printed Typed Name

If you are acting on behalf of any entity, identify that you are acting as: Owner of
(Title)

Desert Lake Campground
(Corporate, Trust, Partnership or other entity)

Duty to Avoid Unnecessary Costs of Service of Notice in Lieu of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the Notice in Lieu of Summons and the First Amended Counterclaims. An entity (such as yourself) located in the United States who, after being notified of an action and asked by a plaintiff (here the United States and Tribe) located in the United States to waive service of a Notice in Lieu of Summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the claims of the opposing parties are unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the Notice in Lieu of Summons retains all defenses and objections (except any relating to the Notice in Lieu of Summons or to the service of the Notice in Lieu of Summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

An entity in this case who waives service must, within 60 days, as specified on the waiver form, provide the court and DOJ attorney S. Schneider with a notice of appearance and intent to participate.

Exhibit 38

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
WALKER RIVER PAIUTE TRIBE,	)	IN EQUITY NO. C-125
Plaintiff-Intervenor,	)	SUBFILE NO. C-125-B
vs.	)	
WALKER RIVER IRRIGATION DISTRICT, a corporation, et al.,	)	

NOTICE OF APPEARANCE AND INTENT TO PARTICIPATE

1. I hereby enter my appearance in this sub-proceeding in this case.

2. I am filing this document with the District Court at the following address:

Chief Deputy Clerk
United States District Court for the
District of Nevada
400 South Virginia Street, Suite 301
Reno, Nevada 89501

3. In the envelope provided for return of my Waiver of Service of Notice in Lieu of Summons, I am mailing a copy of this document to:

Susan L. Schneider
Attorney for the United States of America
United States Department of Justice
Environment & Natural Resources Division
P.O. Box 756
Littleton, Colorado 80160

4. I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the Notice in Lieu of Summons or in the service of the Notice in Lieu of Summons.

5. If I (or the entity on whose behalf I am acting) have retained an attorney to represent me in these proceedings, I identify that attorney below, along with his or her mailing address, telephone number, and facsimile number:

Attorney:

Address:

Phone Number:

Fax Number:

(Signature)

~~Delbert K. Cornella~~
(Printed or typed Name)

Desert Lake Campground
(Entity, if any, on whose behalf you are appearing)
850 U.S. Highway 95
Hawthorne, NV 89415
(Address)
775-945-3373
(Telephone number)

Exhibit 39

No. 33873 Date Filed SEP 29 1977

Indexed under Well Log

Name of applicant ☒

Map Basin Antelope Valley-9-106

Stream ☒

Township 10N Range 22E County Douglas

Point of diversion NW ¼ SE ¼ Section 19

Applicant Louise L. Dillard

Source of Water Underground

Returned for correction AUG 10 1978 Abrogated by

Corrected application received SEP 19 1978

Map filed SEPT 19, 1978

Sent for publication FEB 5 1979

Proof of publication filed MAR 9 1979

Investigated on ground by

Protested

Ready for action APR 9 1979

Approved

Denied February 2, 2000 See Ruling 4849

	PROOF OF COMMENCEMENT	PROOF OF COMPLETION	PROOF OF BENEFICIAL USE	CULTURAL MAP
Date due				
1st extension				
2nd extension				
Date filed				

CERTIFICATE NO.		ISSUED		AMOUNT	
Use					

ADDRESS CHANGE

COMPUTER CHECK	
File Entry	✓
Publication	✓
Permit	
Certificate	

SMEAD 116 SP74108

Exhibit 39

KENNY C. GUINN
Governor

STATE OF NEVADA

PETER G. MORROS
Director

R. MICHAEL TURNIPSEED, P.E.
State Engineer

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES
123 W. Nye Lane, Suite 246
Carson City, Nevada 89706-0818
(775) 687-4380 • (775) 687-6972

Re: 33873

February 2, 2000

Louise L. Dillard
6784 Paso Robles Drive
Oakland, CA 94611
Cert. Mail #Z 385 866 038

Dear Ms. Dillard:

Enclosed is our official Ruling in the matter of Application 33873.

This application has been denied on the grounds as set forth in the Ruling.

Also enclosed is a copy of your application which includes the endorsement of denial.

Sincerely,

R. Michael Turnipseed, P.E.

R. Michael Turnipseed, P.E.
State Engineer

RMT/cl

Enclosures

NEVADA DIVISION OF WATER RESOURCES
WATER RIGHTS DATABASE

SPECIAL HYDROGRAPHIC ABSTRACT

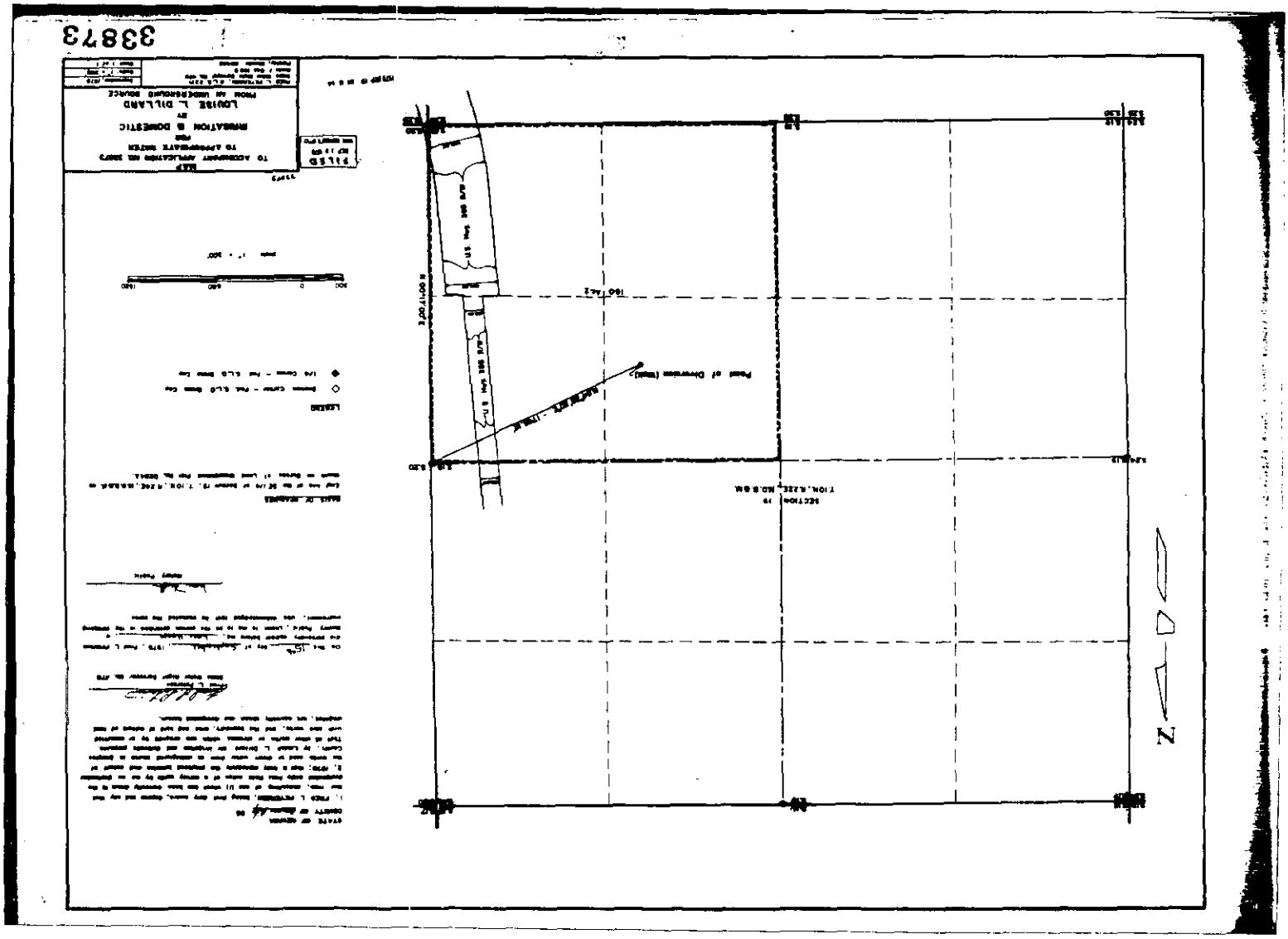
Run Date: 1/7/2003

Selection Criteria: o.owner_name LIKE '%DILLARD%' order by basin,m.app

BASIN	APP	CHANGE OF APP	CERT	FILING DATE	STAT	CHANGE BY: APP	STAT	SRC	POINT OF DIVERSION QQ	QTR	SEC	TWN	RNG	DIV RATE (CFS)	TYPE OF USE	SUP	IRRIGATED ACRES	ANNUAL DUTY	UNIT	CO	OWNER OF RECORD
076	32932			07/27/1977	DEN			UG	NE	SE	02	20N	24E	2.700	IRC			560.00AFA		WA	DILLARD, BOYD EVAN
	33135			08/12/1977	DEN			UG	NW	NE	02	20N	24E	0.000	IRC			0.00AFA		WA	DILLARD, DEBORAH DARLYNNE
106	33873			09/29/1977	DEN			UG	NW	SE	19	10N	22E	2.700	IRC			640.00AFA		DO	DILLARD, LOUISE L.
173B	21585			10/16/1963	CAN			UG	NW	NE	12	09N	57E	0.000	IRD			0.00AFA		NY	DILLARD, UEL

- - End of Report - -

Preliminary Data - Subject to Revision


33873
MAP
TO ACCOMPANY APPLICATION NO. 33873
FOR
IRRIGATION & DOMESTIC
BY
LOUISE L. DILLARD
FROM AN UNDERGROUND SOURCE
FILED
LEGEND
N

AMENDED NO. 33873

APPLICATION FOR PERMIT
TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

Date of filing in State Engineer's Office SEP 29 1977

Returned to applicant for correction AUG 10 1978

Corrected application filed SEP 19 1978

Map filed SEP 19 1978

****

The applicant **Louise L. Dillard,** hereby makes application for permission to appropriate the public waters of the State of Nevada, as hereinafter stated.

****

1. The source of the proposed appropriation is **underground**

2. The amount of water applied for is **2.7** second-feet

(a) If stored in reservoir give number of acre -feet

3. The water to be used for **Irrigation and Domestic**

4. If use is for:

(a) Irrigation, state number of acres to be irrigated **160 acres**

(b) Stockwater, state number and kinds of animals to be watered

(c) Other use (describe fully under No. 12, "Remarks")

(d) Power:
(1) Horsepower developed

(2) Point of return of water to stream

5. The water is to be diverted from its source at the following point **within the NW¼ of the SE¼ of Section 19, T.10N., R.22E., MDB&M., wellsite bears N. 64 26' 30'' E., 1765.12 feet to the East ¼ corner of Section 19, T.10N., R.22E., MDB&M.**

6. Place of Use **SE¼ Sec. 19, T.10N., R.22E., MDB&M.**

7. Use will begin about **Jan. 1st** and end about **Dec. 31st,** of each year.

8. Description of proposed works **Drilled well, pump and irrigation system**

9. Estimated cost of works **$10,000.00**

10. Estimated time required to construct works **18 months**

11. Estimated time required to complete the application of water to beneficial use **3 years**

12. Remarks **Carey Act**

By **Louise L. Dillard**

Compared **cl/bk**

Protested _____

33873

****

DENIAL OF STATE ENGINEER

This application is hereby denied on the grounds that the applicant has failed to provide additional information to the State Engineer and that its approval would threaten to prove detrimental to the public interest.

Work must be prosecuted with reasonable diligence and be completed on or before: _____

Proof of completion of work shall be filed before: _____

Application of water to beneficial use shall be filed on or before: _____

Proof of the application of water to beneficial use shall be filed on or before: _____

Map in support of proof of beneficial use shall be filed on or before: _____

IN TESTIMONY WHEREOF, I, R. MICHAEL TURNIPSEED, P.E.,

State Engineer of Nevada, have hereunto set

my hand and the seal of my office.

this 2nd day of February, A.D. 2000

R. Michael Turnipseed P.E.

State Engineer

Completion of work filed _____

Proof of beneficial use filed _____

Cultural map filed _____

Certificate No. _____ Issued _____