

## ORDINANCE NO. 97-04

AN ORDINANCE ESTABLISHING AND CREATING LOCAL IMPROVEMENT DISTRICT NO. 97-1 FOR FREMONT COUNTY, IDAHO, FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND INSTALLING AN UPGRADED WASTEWATER COLLECTION AND TREATMENT FACILITY AND CERTAIN RELATED IMPROVEMENTS IN THE DISTRICT; PROVIDING THE KIND AND CHARACTER OF THE PROPOSED IMPROVEMENTS; PROVIDING THAT SAID DISTRICT SHALL BE AN ENLARGED DISTRICT PURSUANT TO SECTION 50-1705, IDAHO CODE; DESCRIBING THE BOUNDARIES OF SAID DISTRICT AND THE PROPERTY THEREIN TO BE BENEFITED BY THE IMPROVEMENTS TO BE MADE; PROVIDING FOR THE TOTAL ESTIMATED COSTS AND EXPENSES OF IMPROVEMENTS TO BE LEVIED AND ASSESSED AGAINST THE SAID LOTS AND LANDS TO BE BENEFITED BY SAID IMPROVEMENTS; PROVIDING FOR THE ISSUANCE OF BONDS IN PAYMENT OF THE COSTS AND EXPENSES OF SAID IMPROVEMENTS ASSESSED AGAINST THE SAID LOTS AND LANDS; PROVIDING FOR THE APPOINTMENT OF AN ENGINEER TO PREPARE THE NECESSARY PLANS AND SPECIFICATIONS FOR THE IMPROVEMENTS HEREBY ORDERED AND THE PREPARATION AND FILING OF AN ASSESSMENT ROLL AND A LOCAL IMPROVEMENT DISTRICT REPORT PURSUANT TO THE PROVISIONS OF SECTION 50-1712, IDAHO CODE; PROVIDING A PROCEDURE FOR THE FILING, CERTIFICATION, NOTICE OF HEARING AND CONFIRMATION OF SAID ASSESSMENT ROLL, AND FOR THE NOTICE AND PAYMENT OF ASSESSMENT INSTALLMENTS SO CONFIRMED; CREATING CERTAIN FUNDS AND DOCKETS; PROVIDING SEPARABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Resolution No. 97-02 declaring the intention of the Board of County Commissioners (the "Board") to create Local Improvement District No. 97-1 (the "District") of Fremont County, Idaho (the "County"), for the purpose of acquiring, constructing and installing an upgraded wastewater collection and treatment facility and other related improvements (the "Project") was duly adopted by the Board at its meeting of September 8, 1997, and thereafter approved by the Board on said date, and by which Resolution the Board established a protest hearing to be held before it on October 6, 1997, at 10:00 o'clock a.m. at the Sawtelle Mountain Resort Conference Room in Island Park, Idaho, at which time the Board would proceed to publicly hear and determine protests filed and made by property owners against the proposed Project or the creation of said District; and

WHEREAS, at its meeting of October 6, 1997, the Board held the public hearing established by Resolution No. 97-02, notice (both publication and mailing to property owners) of said hearing as given by the County Clerk having been approved, ratified and confirmed as being in the manner and form required by Section 50-1708, Idaho Code, to hear protests against the proposed Project and the creation of said District; and protests having been received against the proposed Project and creation of said District, the Board heard and passed upon protests made against the proposed

Project and the creation of said District, said protests numbering less than \_\_\_% of all property owners within the District, and thereupon by motion duly made, seconded and carried specifically ratified and confirmed said Resolution No. 97-02, with certain warranted revisions to the method of assessment as set forth in its revised form in subparagraph (f) below, and in support of such ratification, confirmation and revision made the following findings of fact and conclusions of law:

(a) that notice of the public hearing upon the said Resolution of intent to create said District (by publication of notice in the Fremont Herald Chronicle and by mailing notice to each property owner) as given by the County Clerk was given in the manner required by law and is therefore ratified and confirmed;

(b) that the creation of Local Improvement District No. 97-1 will be for the best interests of the property affected and the County;

(c) that there is reasonable probability that the obligations of the District will be paid considering that the value of the property, exclusive of the Project herein ordered to be made, is not less than the sum of \$43,778,067 and that the estimated cost of the Project and related fees and costs is \$1,700,000 of which the sum of \$-0- is estimated to be paid from federal and state grants and/or County or other funds and the remaining \$1,700,000 which shall be levied upon and assessed against the property owners benefited by the method or manner provided in subparagraph (f) below;

(d) that the market value of the property as determined by the Assessor of Fremont County in the amount of at least \$43,778,067 is hereby deemed, fixed and established as the actual value of the property (real property and improvements thereon) situate within the boundaries of said proposed District, and that said actual value is determined to be in compliance with, and therefore sufficient to sustain the security for payment of the proposed Project, the value of limitations described in Section 50-1711, Idaho Code;

(e) that the special benefits resulting from the proposed Project extend beyond the boundaries of the property directly adjacent to and abutting said Project requiring the creation of an "enlarged local improvement district" as provided in Section 50-1705, Idaho Code; and

(f) that the method or manner of assessing each owner of real property in the proposed District is on the benefits derived basis under the formula of subparagraph (i) below.

(i) All property within the District having one or more present equivalent connections (as such term is defined by Ordinance No. \_\_ of the County) to the existing Macks Inn/Island Park Village area wastewater collection and treatment facility will derive a benefit from the Project. The benefit derived for each such parcel of real property is related directly to the number of existing equivalent connections to the system for that particular parcel of real property. An equal benefit is derived from each such existing equivalent connection. The total amount to be assessed for the Project will therefore be divided by the total number of present equivalent connections to the system from all property within the District. The resulting amount will constitute the basic assessment required for each parcel of real property having

only one present equivalent connection to the existing system. Any parcel of real property having multiple or more than one present equivalent connections to the existing system will be assessed an amount equivalent to the product of the basic assessment amount for a parcel with one present equivalent connection and the number of multiple equivalent connections which that parcel has. Parcels of real property not presently connected to the existing system are deemed not to derive a current benefit from the Project, are excluded from the boundaries of the District, and will not be assessed.

THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO, DOES ORDAIN as follows:

Section 1. There is hereby established and created Local Improvement District No. 97-1 for Fremont County, Idaho as an "enlarged district" in accordance with Section 50-1705, Idaho Code, for the purpose of acquiring, constructing and installing the following described public improvements (the "Project") in the County, within and adjacent to the boundaries of the proposed District, all of which are more specifically described below:

- (a) BOUNDARIES: See the description attached hereto as Exhibit "A" and made a part hereof.
- (b) PROJECT: The upgrading of the existing Macks Inn/Island Park Village area wastewater collection and treatment facility including the following and other related improvements: (i) effluent disposal upgrade consisting of the design, construction and installation of the Snowfluent process as approved by the State of Idaho, Department of Health and Welfare, Division of Environmental Quality ("DEQ"), which process will incorporate a support building for process equipment, snow towers, mainline piping, controls and other appurtenances; and (ii) design, construction and installation for upgrades to the chlorine pump and equipment, aeration system, sludge removal, transfer structures, site work, screens and other similar appurtenances. The Snowfluent process, along with the other improvements, will allow existing wastewater flows to be treated and disposed by methods approved by DEQ. This process specifically includes two (2) snow towers, compressors, pumps and controls to provide proper treatment and disposal of the treated wastewater to land application. The current treatment facility cannot properly treat existing wastewater flows without the proposed upgrades and improvements.
- (c) ESTIMATED COST: The total estimated cost of the said Project is \$1,700,000, including all costs of acquisition, construction, engineering, consulting, inspection, legal, clerical, reserves and financing of which the sum of \$-0- will be paid from federal and/or state grants or other funds, and the remaining \$1,700,000 shall be paid from assessments levied upon property located within the District and to be benefited by the Project in accordance with the benefits derived method of assessment.
- (d) VALUE OF PROPERTY: The Board finds and declares that the value of the property within the said District is not less than \$43,778,067.

Section 2. The total costs and expenses of the Project of said District hereby ordered and authorized for the acquisition, construction and installation of the Project and related expenses, and contingencies deemed and considered necessary by the Board, are hereby estimated to be the sum of \$1,700,000 of which the sum of \$-0- is estimated to be paid from state, federal, County or other sources and the remaining amount, estimated at \$1,700,000, which, together with the interest thereon at the rate provided in the bonds to be issued, shall be paid by each person or entity who is an owner of real property within the boundaries of said District and whose property has one or more present equivalent connections to the existing wastewater collection and treatment facility, by levying upon and assessing against each owner of such real property within the District on the benefits derived basis and formula as outlined in paragraph (a) below in a shared amount of the aforesaid amount of said costs and expenses, incurred for acquiring, constructing and installing the aforesaid Project, with interest on the unpaid principal balance at the rate to be established upon the sale and issuance of bonds as aforesaid, such method of assessment being deemed to be the benefit that each such owner of real property will be assessed in an amount not greater than the real property or its owner will be actually benefited by said Project, provided that the total cost (contract price, engineering and clerical, advertising, printing, inspection, collecting assessments and interest thereon, reserves, legal services and contingencies) of acquiring, constructing and installing the Project shall be assessed and charged directly to the property so benefited thereby. The benefits derived formula shall be:

(a) All property within the District having one or more present equivalent connections (as such term is defined by Ordinance No. <sup>21-01</sup> of the County) to the existing Macks Inn/Island Park Village area wastewater collection and treatment facility will derive a benefit from the Project. The benefit derived for each such parcel of real property is related directly to the number of existing equivalent connections to the system for that particular parcel of real property. An equal benefit is derived from each such existing equivalent connection. The total amount to be assessed for the Project will therefore be divided by the total number of present equivalent connections to the system from all property within the District. The resulting amount will constitute the basic assessment required for each parcel of real property having only one present equivalent connection to the existing system. Any parcel of real property having multiple or more than one present equivalent connections to the existing system will be assessed an amount equivalent to the product of the basic assessment amount for a parcel with one present equivalent connection and the number of multiple equivalent connections which that parcel has. Parcels of real property not presently connected to the existing system are deemed not to derive a current benefit from the Project, are excluded from the boundaries of the District, and will not be assessed.

Section 3. That the Project herein described, designated in Section 1 hereof, is hereby ordered to be made, and the portion of the total costs and expenses of said Project as set forth in Section 2 hereof, shall be assessed and levied as described above. If a property owner does not pay his or her proportionate amount of the aforesaid Project so assessed and levied in the time provided by Section 50-1715, Idaho Code, such amount shall be paid in not to exceed twenty (20) equal annual installments by each property owner; and for the purpose of paying the costs and expenses of the aforesaid Project separately and equally assessed and levied upon and against the owner of each such parcel of real property included within the boundaries

of said District not paid in full in the time provided by Section 50-1715, Idaho Code, bonds of the District shall be issued in the form and manner required by Chapter 17, Title 50, Idaho Code, and shall be according to such terms as the Board may decide and as are permitted by law.

Section 4. Upon the passage and approval of this Ordinance, the Board hereby appoints Forsgren Associates, P.A. as the Engineer for said District, and further directs and requires said Engineer to:

- (a) prepare the necessary plans and specifications for the acquisition, construction and installation of the Project herein ordered for approval by the Board in order to call for bids and, upon receipt of bids, thereby award one or more contracts to the lowest responsible bidder for the construction of said public improvements in the manner and form required by Section 50-1710, Idaho Code; and
- (b) after the award of a contract as provided in subparagraph (a) above, prepare and submit a report to the Board (i) showing in detail the total costs and expenses of the Project and the dollar amounts payable from assessments and from any other sources, and (ii) containing a form of an assessment roll which shall contain, among other things, the number of each assessment, the name of the owner, if known, a description of each parcel of real property assessed, the amount chargeable to each parcel of real property within the boundaries of said District or its owner according to the method of assessment herein provided, and the total amount of all assessments;

and the Board upon receipt of the Engineer's report, shall (i) cause the Assessment Roll to be filed in the office of the County Clerk for public inspection, (ii) fix a time and place when and where the Board will meet in open session to consider the report and the Assessment Roll and hear all objections to the Assessment Roll, and (iii) direct the County Clerk to give notice of the hearing on said Assessment Roll in the time and manner required by Section 50-1713, Idaho Code.

Section 5. At the time and place appointed for a hearing of objections to said Assessment Roll, or a reasonable time thereafter, the Board shall consider the Engineer's report and the Assessment Roll and hear and determine all objections which have been filed by any party interested (i) to the regularity of the proceedings in making such assessment, (ii) to the correctness of such assessment, and (iii) to the amount levied on any particular parcel of real property or its owner including the benefits accruing thereon, the proportionate share of the total cost of the Project to be borne thereby, and the inclusion of any parcel of real property within the boundaries of the said District; and after said hearing the Board shall pass an ordinance confirming said Assessment Roll submitted to it by the Engineer, or as revised and corrected by the Board as a result of hearing objections to said Assessment Roll, in relationship to the benefits accruing thereon as a result of the Project ordered to be made.

Section 6. Immediately upon the passage of the ordinance confirming said Assessment Roll, the County Clerk shall (i) file the confirmed Assessment Roll with the County Treasurer, and (ii) file for record with the County Recorder either a certified copy of said Ordinance of Confirmation or a notice containing the date of

passage and approval of the Ordinance of Confirmation and a description of the boundaries of the said District. Upon such certification and filing the confirmed Assessment Roll with the Treasurer, the assessments therein shall be due and payable to the Treasurer within thirty (30) days from the date of the passage and approval of the Ordinance of Confirmation, and if any assessment contained therein is not paid in full within said thirty (30) day period, such assessment shall become delinquent and shall be collected in the same manner and with the same penalties and interest added thereto as provided by the pertinent provisions of Chapter 17, Title 50, Idaho Code, the Local Improvement District Code. The Board herein chooses to make assessments unpaid at the end of said thirty (30) day period payable in installments and to issue and sell Local Improvement District Bonds payable from such unpaid installments, and any property owner who has not paid said assessment in full within said thirty (30) day period will be conclusively presumed to have chosen to pay the same in installments. All assessments payable in installments shall be due and payable in the manner and in the time required by the pertinent provisions of Section 50-1715, Idaho Code, provided that if any installment is not paid within twenty (20) days from the date said installment shall become due, the same shall become delinquent and the Treasurer shall add a penalty of two percent (2%) thereto. In addition to any other method of collection as provided in Section 50-1715, Idaho Code, the Board may certify delinquent installments to the tax collector and when so certified, they shall be extended on the tax rolls and collected as are property taxes. Upon the expiration of the aforesaid thirty (30) day period, the owner of any parcel of real property within the boundaries of said District may redeem his property from the liability of the assessments for the aforesaid Project by paying all installments of assessments not due with interest at the rate provided in the bonds from the date of the last installment due to one (1) year after the next interest date of said bonds, and the County Treasurer shall issue a receipt therefor and all sums so paid shall be applied solely to the payment of the costs and expenses of such Project and the redemption of the bonds together with interest thereon.

Section 7. Upon the County Clerk certifying and filing the confirmed Assessment Roll with the Treasurer, the County Treasurer shall mail a postcard or letter to each property owner assessed at his or her post office address if known, or if unknown, to the post office in Island Park, Idaho where the Project is being made, stating the total amount of the assessment and the substance of the terms of the payment of the assessment as set out in the ordinance confirming said Assessment Roll.

Section 8. There are hereby created the following funds and dockets:

- A. LOCAL IMPROVEMENT DISTRICT NO. 97-1 CONSTRUCTION FUND: The proceeds from the sale of bonds for said District, except accrued interest thereon, shall be deposited in this fund and held separate and apart from all other funds of the County. The County Treasurer is authorized to pay all expenses and costs actually and necessarily incurred in the acquisition, construction and installation of the Project herein ordered to be made from such fund, subject to the auditing procedures established by statutes of the State of Idaho, ordinances of this County and the approval of the Board;
- B. LOCAL IMPROVEMENT INSTALLMENT DOCKET NO. 97-1: The County Treasurer shall prepare such docket after the issuance of the

bonds herein provided and upon certification of the Assessment Roll to him or her by the County Clerk and in which, under separate headings, all unpaid assessments shall be shown as appears on the Assessment Roll, the number of the assessment, the name of the owner, the description of the property, the amount of the total assessment, the amount and date when due and each annual installment with interest added, and a blank column in which will be marked the date of payment of each annual installment with interest added, and such docket shall stand thereafter as a lien docket for such assessments shown until paid; and

- C. **INTEREST FUND AND BOND FUND OF LOCAL IMPROVEMENT DISTRICT NO. 97-1:** The County Treasurer shall keep any funds accruing by virtue of the provisions of this Ordinance separate and apart from any other funds of the County, and the amount of any such funds paid on account of installments for interest shall be kept in a fund to be known as Interest Fund of Local Improvement District No. 97-1 for the County, and the amount of such funds paid on account of installments for the payment of the principal of bonds shall be kept in a fund known as the Bond Fund of Local Improvement District No. 97-1 for the County; that the amount of such funds shall, from time to time, be deposited in such banks as are designated as depositories of public monies for the funds of the County or invested in the bonds of the County, interest so received on funds so deposited or invested shall be placed to the credit of the fund from which it is earned; and the interest due on bonds issued for the assessment of said District shall be paid out of the Interest Fund of said District, and the bonds when they are mature shall be paid out of the Bond Fund of said District.
- D. The District reserves the right to create a reserve fund, if needed for the sale of the Bonds.

Section 9. All proceedings heretofore had in connection with the creation of the aforesaid District, the hearings held thereon and the giving of notice of said hearings are hereby, in all respects, ratified, approved and confirmed, and this Ordinance is the final determination of the regularity, validity and correctness of such prior proceedings.

Section 10. The officers of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

Section 11. The provisions of this Ordinance are hereby declared separable, and if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 12. This Ordinance shall be in full force and effect from and after its passage, approval and publication hereof.

PASSED by the Board of County Commissioners of Fremont County, Idaho,  
this 14 day of October, 1997.

APPROVED:

By: Grant Chandler  
CHAIRMAN, BOARD OF COUNTY  
COMMISSIONERS

ATTEST:

Neal Hughes  
COMMISSIONER

By: Tricia J. Smith  
COUNTY CLERK

Neal Christianson  
COMMISSIONER



## EXHIBIT "A"

Description of Boundaries of District

The District's boundaries shall be as specifically described in Schedule A-1 hereto. The map set forth in Schedule A-2 hereto is an area map showing generally the location of the District.

SCHEDULE A-1  
Boundary Description

( Attached )

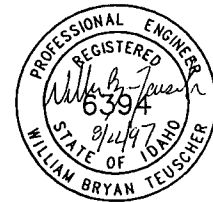
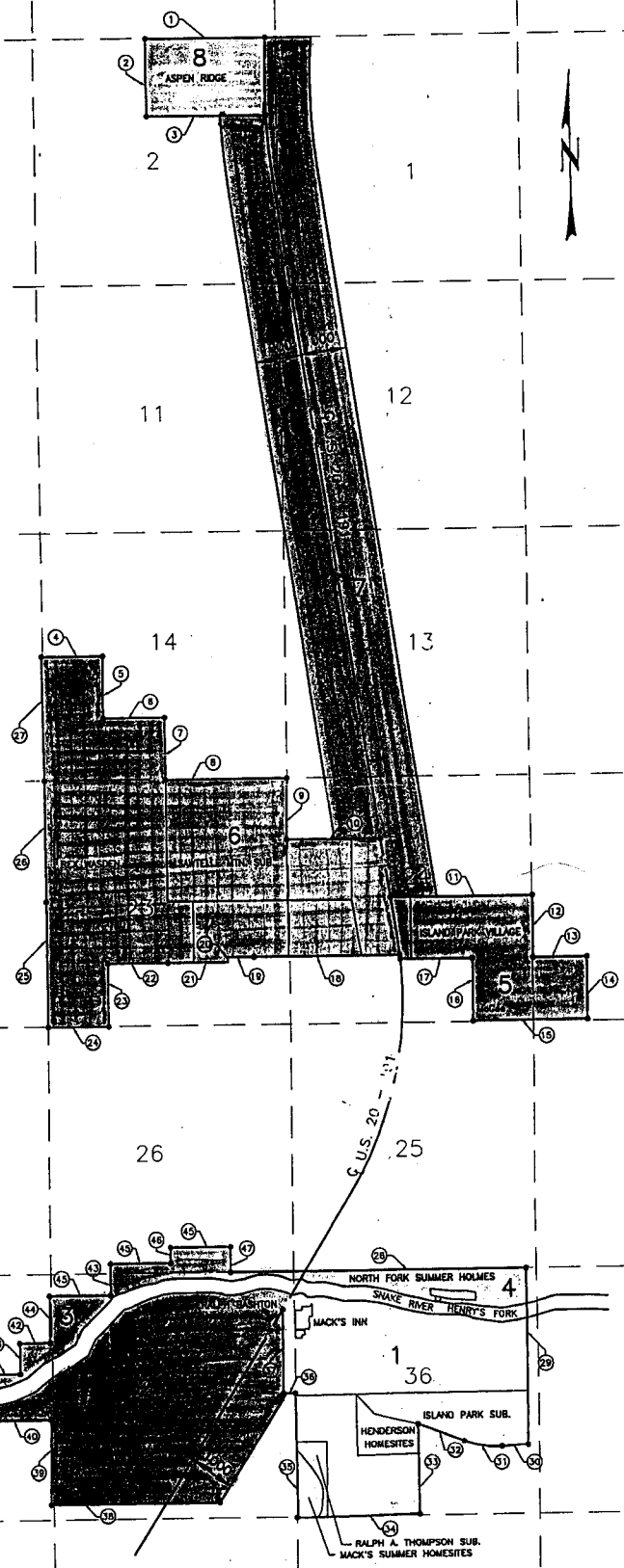
SCHEDULE A-2  
General Area Map

( Attached )

SCHEDULE A-1  
Boundary Description

( Attached )

REF. #	BEARING	DISTANCE
1	S 89°50'0" E	2818.65
2	S 0°40'0" W	1875.00
3	S 89°58'0" E	2402.62
4	N 89°53'0" E	1338.10
5	S 0°7'43" E	1324.45
6	N 89°53'3" E	1327.00
7	S 0°6'48" W	1339.35
8	S 89°48'30" W	2642.80
9	N 0°57'1" E	1320.70
10	N 89°43'51" W	2050.76
11	S 89°52'1" W	3073.08
12	S	1327.14
13	N 89°48'54" E	1161.76
14	S 0°6'57" W	1327.14
15	S 89°44'43" W	2457.54
16	N 0°31'0" E	1328.93
17	S 89°47'54" W	1561.88
18	S 89°59'40" E	3245.16
19	S 89°48'5" E	567.24
20	N	105.17
21	N 89°57'9" E	1317.30
22	N 89°53'0" E	1301.37
23	N 0°7'47" E	1332.26
24	N 89°57'40" E	1313.73
25	N 0°3'17" E	2660.83
26	N 0°3'20" W	2619.17
27	N 0°38'35" W	2650.63
28	W	8427.81
29	S 0°23'3" W	3785.18
30	S 89°36'50" W	545.30
31	N 81°3'10" W	854.40
32	N 68°43'10" W	1000.32
33	S 0°34'10" E	1963.01
34	S 89°9'52" W	2652.23
35	N 0°34'10" W	2642.75
36	S 89°46'0" W	253.78
37	N 0°23'33" E	1797.84
38	E	3683.17
39	N 0°19'0" E	1836.83
40	E	1318.54
41	S 0°20'0" W	989.89
42	S 89°59'0" W	658.09
43	S 0°20'0" W	650.00
44	S 0°20'0" W	990.00
45	S 89°59'0" W	1316.37
46	S 0°20'0" W	330.00
47	S 0°20'0" W	537.90





Mickie:  
 you requested a new  
 LID Map as someone  
 had walked with yours.  
 Thanks Hunt

REF. #	BEARING	DISTANCE
1	S 89°56'0" E	2816.65
2	S 0°4'0" W	1875.00
3	S 89°56'0" E	2802.62
4	N 89°59'0" E	1338.10
5	S 0°7'43" E	1324.45
6	N 89°53'3" E	1327.00
7	S 0°6'48" W	1339.35
8	S 89°48'38" W	2842.60
9	N 0°57'1" E	1320.70
10	N 89°43'51" W	2050.78
11	S 89°52'1" W	3073.08
12	S	1327.14
13	N 89°46'54" E	1161.78
14	S 0°6'37" W	1327.14
15	S 89°44'43" W	2487.54
16	N 0°3'10" E	1328.93
17	S 89°47'24" W	1561.88
18	S 89°58'49" E	3245.18
19	S 89°48'5" E	567.24
20	N	105.17
21	N 89°57'9" E	1317.30
22	N 89°53'0" E	1301.37
23	N 0°7'47" E	1332.28
24	N 89°57'49" E	1313.73
25	N 0°3'17" E	2860.83
26	N 0°3'20" W	2818.17
27	N 0°36'35" W	2650.83
28	W	6427.81
29	S 0°23'33" W	3765.19
30	S 89°36'50" W	545.30
31	N 81°3'10" W	854.40
32	N 66°43'10" W	1000.32
33	S 0°34'10" E	1963.01
34	S 89°9'52" W	2652.23
35	N 0°34'10" W	2842.75
36	S 89°48'0" W	253.78
37	N 0°23'33" E	1797.84
38	E	3863.17
39	N 0°19'0" E	1838.83
40	E	1318.54
41	S 0°20'0" W	989.99
42	S 89°59'0" W	659.09
43	S 0°20'0" W	660.00
44	S 0°20'0" W	890.00
45	S 89°59'0" W	1316.37
46	S 0°20'0" W	330.00
47	S 0°20'0" W	537.80

