

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: DANIEL KLEIN

DATE: APRIL 1, 2010

RE: FORMAL COMPLAINT OF JOHN BREWSTER

On February 4, 2010, the Commission received a "formal" complaint (attached) from John Brewster against Verizon Northwest, Incorporated. Mr. Brewster would like to be able to use his own contractor to place facilities for his line extension.. Mr. Brewster was unsatisfied with the outcome of the informal procedures to resolve his complaint and has filed this formal complaint.

BACKGROUND

Mr. Brewster is trying to obtain a line extension to his residence outside of Harrison, Idaho. The Complainant and the Company have agreed on a route and configuration for the line extension. Mr. Brewster hired a contractor, Ditch Technologies, Inc., to trench and place conduit for the line extension. Mr. Brewster has received several quotes from Verizon for the remaining work that needs to be completed. The latest quote was for \$38,133.78 (attached). Mr. Brewster feels this amount is too high, and asked his contractor, Ditch Technologies, to submit a bid to do the labor required for the job. Ditch Technologies submitted a bid of \$5,037.50 for just the labor and \$14,387.50 for the total job including labor and materials (attached). Due to the large discrepancy between the Company's bid and the contractor's bid, Mr. Brewster would like his contractor to do the work.

Mr. Brewster filed an informal complaint with the Commission on December 18, 2009, in regard to his dispute with Verizon. Commission Staff contacted Verizon about allowing Mr. Brewster to use his contractor to place facilities and complete the line extension work. Verizon

restated its position that it does not allow private parties to place distribution cables as there is a binding contract with its single source provider as well as a labor contract to take into consideration.

STAFF RECOMMENDATION

Mr. Brewster was not satisfied with the outcome of the informal complaint. Consequently, he filed a formal complaint. See Rules 23, 25 and 54, IDAPA 31.01.01.023, .024 and .054. Staff recommends that the Commission issue a summons to Verizon Northwest, Incorporated and direct the Company to file a response to the complaint.

COMMISSION DECISION

Does the Commission wish to accept Mr. Brewster's formal complaint? Does the Commission wish to issue a Summons to Verizon?



Daniel Klein

udmemos/Brewster complaint dec memo

Copies to: Bev
Weldon
Daniel

BATT FISHER PUSCH & ALDERMAN LLP

ATTORNEYS AND COUNSELORS AT LAW

John R. Hammond, Jr.

Email: jrh@battfisher.com

February 3, 2010

Via Hand Delivery

Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington, P.O. Box 83720
Boise, Idaho 83720-0074

RECEIVED
2010 FEB -4 PM 4:45
IDAHO PUBLIC UTILITIES COMMISSION

Re: Request for Formal Complaint

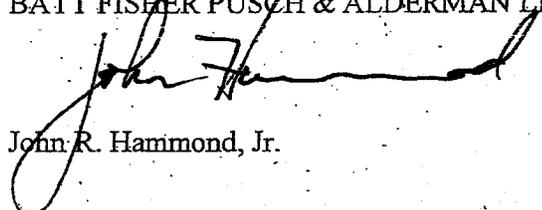
Dear Jean:

Our firm, Batt Fisher Pusch & Alderman LLP has been retained to assist John Brewster of Harrison, Idaho in obtaining a line extension to his residence (the "Project") so that he can receive telecommunication services from Verizon Northwest, Incorporated ("Verizon"). Mr. Brewster and Verizon disagree over a few matters which has stalled the completion of the Project. On December 17, 2009 our firm filed an informal complaint with the Commission in regard to these disagreements. The Commission Staff has attempted to resolve this matter but unfortunately was unable to get parties to compromise at this time. Accordingly, our client respectfully requests that our firm's letter of December 17, 2009 be processed for further proceedings as a Formal Complaint under the Commission's Rules of Procedure.

Please contact me if you have any questions.

Sincerely,

BATT FISHER PUSCH & ALDERMAN LLP



John R. Hammond, Jr.

JRH:dmb

Attachment 1
John Brewster Formal Complaint
Decision Memorandum
04/01/10 Page 1 of 5

12/18
Cons

BATT FISHER PUSCH & ALDERMAN LLP

ATTORNEYS AND COUNSELORS AT LAW

John R. Hammond, Jr.

Email: jrh@battfisher.com

December 17, 2009

Via U.S. Mail

Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington, P.O. Box 83720
Boise, Idaho 83720-0074

RECEIVED
2009 DEC 18 PM 4:19
IDAHO PUBLIC UTILITIES COMMISSION

Re: Informal Complaint

Dear Jean:

Our firm, Batt Fisher Pusch & Alderman LLP has been retained to assist John Brewster of Harrison, Idaho in obtaining a line extension to his residence (the "Project") so that he can receive telecommunication services from Verizon Northwest, Incorporated ("Verizon"). Mr. Brewster and Verizon disagree over a few matters which has stalled the completion of the Project. Although Verizon is a Title 62 telecommunication carrier, Mr. Brewster asserts that the Idaho Public Utilities Commission Staff (the "Staff") can review the disputes between the parties pursuant to the statutory authority granted to Idaho Public Utilities Commission (the "Commission") in *Idaho Code* §§ 62-604(3)(b), 62-616 & 61-538. *See also* IDAPA 31.01.01.021. Mr. Brewster respectfully requests the Staff's ("Staff") assistance in resolving the disputes he has with Verizon so that the Project can be completed. The disputes involve the amount of Verizon's cost estimate to complete certain portions of work for the Project and whether or not Mr. Brewster can use the contractor of his choice to perform certain tasks toward the completion of the Project.

The line extension that is necessary to provide telecommunication service to Mr. Brewster's residence is lengthy (over 7,900 feet). Due to the length and the estimated cost to complete the Project, Verizon's Price List would require Mr. Brewster to pay for all costs after Verizon applies a Three Thousand and No/100 Dollars (\$3,000.00) allowance.¹ Mr. Brewster has already paid a required, initial engineering fee of Nine-Hundred and No/100 Dollars (\$900.00) to Verizon. Mr. Brewster also hired Ditch Technologies, Inc., an Idaho corporation ("Ditch Technologies") at his own cost to construct a trench and place conduit for the length of

¹ Verizon's Price List provides that "the Company will provide line extensions up to \$3,000 regardless of the length of the extension. The customer shall pay 100% of all costs over \$3,000. *Price List*, at Section 4, Original Sheet 68.

Attachment 1
John Brewster Formal Complaint
Decision Memorandum
04/01/10 Page 2 of 5

the Project.² Copper wire must be pulled through this conduit for the Project so that Verizon's system can connect to Mr. Brewster's residence. Additionally, due to the length of the line extension, fifteen (15) pedestals must be placed along the length of the conduit and be attached to the main copper wire.

In two separate letters from Verizon, each dated January 9, 2009, the Company provided Mr. Brewster with two different cost estimates for the Project. This correspondence has been attached hereto as **Exhibit A**. The first Verizon estimate for the Project anticipated it would cost Twenty-Six Thousand Three Hundred Seventy-Nine and 77/100 Dollars (\$26,379.77) to pull 17,000 feet of copper wire in an underground conduit that had already been placed by Mr. Brewster's contractor, Ditch Technologies, Inc. Additionally, Verizon stated that pulling the wire would also include the placement of load cases, telephonic equipment and pedestal terminals to provide telephone service to Mr. Brewster's residence. The second estimate projected that it would cost Forty Eight Thousand Seven Hundred Eighty-Six and 72/100 Dollars (\$48,786.72) to plow 17,000 foot of copper wire into the ground to establish telephone service. Plowing wire into the ground is not an option at this location as there is nearly two miles of rock along this route that would have made using this method extremely cost prohibitive.

After receiving these estimates Chris Jasper of Ditch Technologies contacted Russell Joyner of the Verizon engineering office and asked how much it would cost, including the placement of load coils, to pull the copper wire 7,900 feet to the gate on Mr. Brewster's property. Mr. Joyner orally represented to Mr. Jasper that the cost estimate would be close to Twelve Thousand and No/100 Dollars (\$12,000.00) rather than the higher estimates previously provided.

Relying on Mr. Joyner's oral estimate and the cost savings it would provide Mr. Brewster decided to use this the roughly Fourteen Thousand and No/100 Dollars (\$14,000.00) difference to install fiber optic cable in the conduit from the gate to his residence that would provide better voice quality for telecommunications service and better video quality for the security system on his property.

After much discussion, the Parties agreed to change the route of the copper wire which reduced the length to 7,900 feet. On May 28, 2009, Verizon provided another estimate for the costs to complete the Project for the changed route, which has been attached hereto as **Exhibit B**. In this estimate, Verizon projects that it would cost Nineteen Thousand One Hundred Seventeen and 85/100 Dollars (\$19,117.85) to pull copper wire 7,900 feet and place fifteen pedestal terminals along its length, an amount much more than Mr. Joyner's oral representation discussed

² Pursuant to Verizon's Price List the conduit is likely the property of Mr. Brewster if this line extension is completed. See Section 4, Original Sheet 7 ("Where the Company determines that underground conduit is to be used for the service connection, the applicant/customer will provide the conduit and will own and maintain at his/her expense the conduit and underground supporting structure.")

Jean Jewell
December 17, 2009
Page 3 of 4

above. Verizon also estimated that it would cost Three Thousand Three Hundred Thirty-Three and 62/100 Dollars (\$3,333.62) for splicing labor. The sum of Verizon's estimate for completing the above matters is Twenty-Two Thousand Four Hundred Fifty-One and 47/100 Dollars (\$22,451.47).

Concerned with the amount of this estimate, Mr. Brewster obtained from Ditch Technologies (Chris Jasper). Chris Jasper is a licensed Idaho contractor (RCE 28440) who has performed this type of work for Verizon and Qwest Corporation on many occasions in the past. Ditch Technologies estimated the cost to pull 7,900 feet of copper wire for the Project would be Three Thousand Nine Hundred Fifty and No/100 Dollars (\$3,950.00). Additionally, Ditch Technologies estimated that it would cost Six Hundred Thirty-Seven and 50/100 Dollars (\$637.50) to place fifteen (15) pedestal terminals and Four Hundred Fifty and No/100 Dollars (\$450.00) for all splicing labor. This bid has also been attached to this correspondence as **Exhibit C**. The difference between Verizon's bid and Ditch Technologies' bid for the same matters is Seventeen Thousand Four Hundred Thirteen and 97/100 Dollars (\$17,413.97). It is unclear at this time why Verizon's bid for this same work is so much higher and attempts have been made to obtain information to explain this difference. Although Verizon has always willing to discuss this matter, to date, Mr. Brewster has not been provided with a suitable explanation or information to explain this difference.

On August 20, 2009, Verizon provided an updated bid for the Project which again changed the projected cost. In this bid, attached hereto as **Exhibit D**, Verizon estimates that it will cost Twenty-Four Thousand Two Hundred Fifty-Five and 21/100 Dollars (\$24,255.21) to pull 8700 feet of copper wire. Verizon also estimates that all work in relation to the pedestals will cost Two Thousand Eight Hundred Seventy-Three and 56/100 Dollars (\$2,873.56) and that splicing labor will cost One Thousand Three Hundred Forty-Four and 75/100 Dollars (\$1,344.75). The total projected cost to complete these tasks as estimated by Verizon is Twenty-Eight Thousand Four Hundred Seventy-Three and 52/100 Dollars (\$28,473.52). The difference between this bid and that provided by Ditch Technologies is Twenty-Three Thousand Four Hundred Thirty-Six and 02/100 Dollars (\$23,436.02).

Due to the significant difference in the bids between Ditch Technologies and Verizon, Mr. Brewster has requested that Verizon allow him to use Ditch Technologies to pull the copper wire and place the pedestals for this line extension. Verizon has informed Mr. Brewster that it cannot do this claiming that its Price List prohibits this. Further, Verizon has asserted that it is concerned about potential discrimination issues if it allows Mr. Brewster to use his own contractor. After reviewing Verizon's Price List Mr. Brewster does not believe that it would prevent the use of Ditch Technologies as the contractor who could contract directly with Verizon to pull the copper wire and place the necessary pedestals.

Jean Jewell
December 17, 2009
Page 4 of 4

Due to the length of this line extension it is reasonable that the unusual conditions portion of Verizon's line extension Price would be applicable. Section 4, Original Sheet 67 of the Price list provides that:

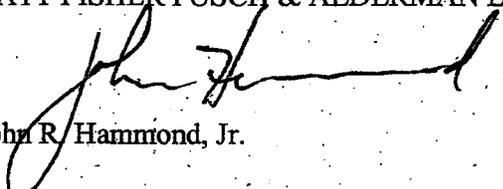
[a] departure from the rate and special conditions specified in this schedule may be made on behalf of the Company when a line extension involves unusual or disproportionately large construction expenditures as compared with the usual types of plant construction. Such departure may require a specific ruling by the Idaho Public Utilities Commission.

Based on this language, it appears that Verizon's Price List provides for a means of handling line extensions like the one necessary for Mr. Brewster's Project and would provide the Company with flexibility in how to complete such matters. For example, employing this language, Verizon could receive guidance or authority from the Commission or guidance from the Staff that would allow it to contract with Ditch Technologies to complete a portion of this Project. Such guidance or decision could help to insulate Verizon from potential discrimination claims in the future.

Based on the content of Verizon's Price List, the qualifications of Ditch Technologies, the disparity between the bids provided by Verizon and Ditch Technologies, and the fact that Ditch Technologies has already placed the conduit for this line extension, Mr. Brewster respectfully requests that Staff discuss with the parties the possibility of Ditch Technologies being allowed by Verizon to perform the tasks identified in that company's bid discussed above for the Project, either contracting with him or directly with Verizon, if necessary. In the alternative Mr. Brewster respectfully requests that the Staff review the bids of both parties to help determine an equitable cost estimate for the completion of the tasks identified herein.

Sincerely,

BATT FISHER PUSCH & ALDERMAN LLP



John R. Hammond, Jr.

JRH:dmh
Enclosure
cc: John Brewster

19001	W-BUILD	7247 B (SPJ)	SPL	PER-PLACE LOAD CAGE/REPEATER HOUSING - THIS UNIT COVERS THE PROPER FL	1	2.58	2.58	2.58	242210	0	0	0	183.03	183.03	183.03
19003	W-BUILD	7540 A (FLA)	PLA	PER-PLACE REPEATER - THIS UNIT COVERS THE REPEATER OF AN ABOVE GROUND	15	24.16	24.16	24.16	242210	0	0	0	4,680.2	99.88	99.88
19001	W-BUILD	7788 B (SPJ)	SPL	50A:STRAIGHT SLICE 1.80 PLS - 502A-502D COVERS THE REPEATER CONNECT	275	18.98	18.98	18.98	242210	0	0	0	3,444.75	4.88	4.88
19002	W-BUILD	7888 B (SPJ)	SPL	51A:SET-UP PEDESTAL - THIS UNIT INCLUDES PREPARATION OF THE SHEATH IN	16	19.36	19.36	19.36	242210	0	0	0	1,374.56	82.91	82.91
20002	ICGS	7564 A (FLA)	PLA	PER-PLACE COMP IN CONDUIT 1.5 - THIS UNIT COVERS THE REPEATER CONNECT	7900	284.4	284.4	284.4	242210	280025	8700	8700	2,428.21	2.25	2.25
20004	W-BUILD	7541 A (FLA)	PLA	PER-PLACE COMP IN CONDUIT 1.5 - THIS UNIT COVERS THE REPEATER CONNECT	1	3.77	3.77	3.77	242210	240189	240189	240189	404.85	404.85	404.85
TOTAL MATERIALS AND CONSTRUCTION/SPICING LABOR \$ 39866.8															

ICGS	PLA	ERRR REVISION DUE TO COST CHANGES 11	0	11	11	0	242210	0	0	0	0	0	825		
ICGS	PLA	ERRR REVISION DUE TO COST CHANGES 11	0	10	10	0	242210	0	0	0	0	0	790		
ICGS	PLA	ERRR REVISION DUE TO COST CHANGES 11	0	6	6	0	242210	0	0	0	0	0	480		
ICGS	PLA	ERRR REVISION DUE TO COST CHANGES 11	0	10	10	0	242210	0	0	0	0	0	790		
ICGS	PLA	ERRR REVISION DUE TO COST CHANGES 11	0	4	4	0	242210	0	0	0	0	0	300		
ICGS	PLA	ERRR REVISION DUE TO COST CHANGES 11	0	3	3	0	242210	0	0	0	0	0	225		
ICGS	PLA	ERRR REVISION DUE TO COST CHANGES 11	0	35	35	0	242210	0	0	0	0	0	2425		
TOTAL DIRECT INPUT DOLLARS FROM ICGS-WEB \$ 5925															

Misc/Verizon Northwest Corporate Loading dollars \$ 3148.18

TOTAL ESTIMATED COST TO CUSTOMER \$ 28332.28

PROPOSAL

Ditch Technologies, Inc.
4890 Industrial Pl.
Coeur d'Alene, Id. 83815

(208) 659-9439

PROPOSAL NO.
SHEET NO.
DATE 6/28/09

PROPOSAL SUBMITTED TO:

WORK TO BE PERFORMED AT:

NAME John Brewster
ADDRESS
PHONE NO. (208) 659-2388

ADDRESS Harrison Ranch Brewster Rd.
DATE OF PLANS
ARCHITECT

We hereby propose to furnish the materials and perform the labor necessary for the completion of

Ditch Technologies, Inc. Proposes to provide all Labor & Equipment to place approx 7900' of Cable in Pipe that is already bored. 504 / ft. \$3950.00

Ditch Technologies, Inc. Proposes to place 15 Poles per Verizon Specs. 42.50 EA \$637.50

All materials to be provided others.

IF Ditch Technologies is needed to provide materials then we recommend placing 6x19 BSW. Galvanneal. Cost of materials + 10% handling charge. Cost of wire 9350.00 approx.

Splicing of 6x19 BSW is \$30.00 per Pole \$450.00

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work, and completed in a substantial workmanlike manner for the sum of _____ Dollars (\$ _____)

with payments to be made as follows:

Respectfully submitted 
Per _____

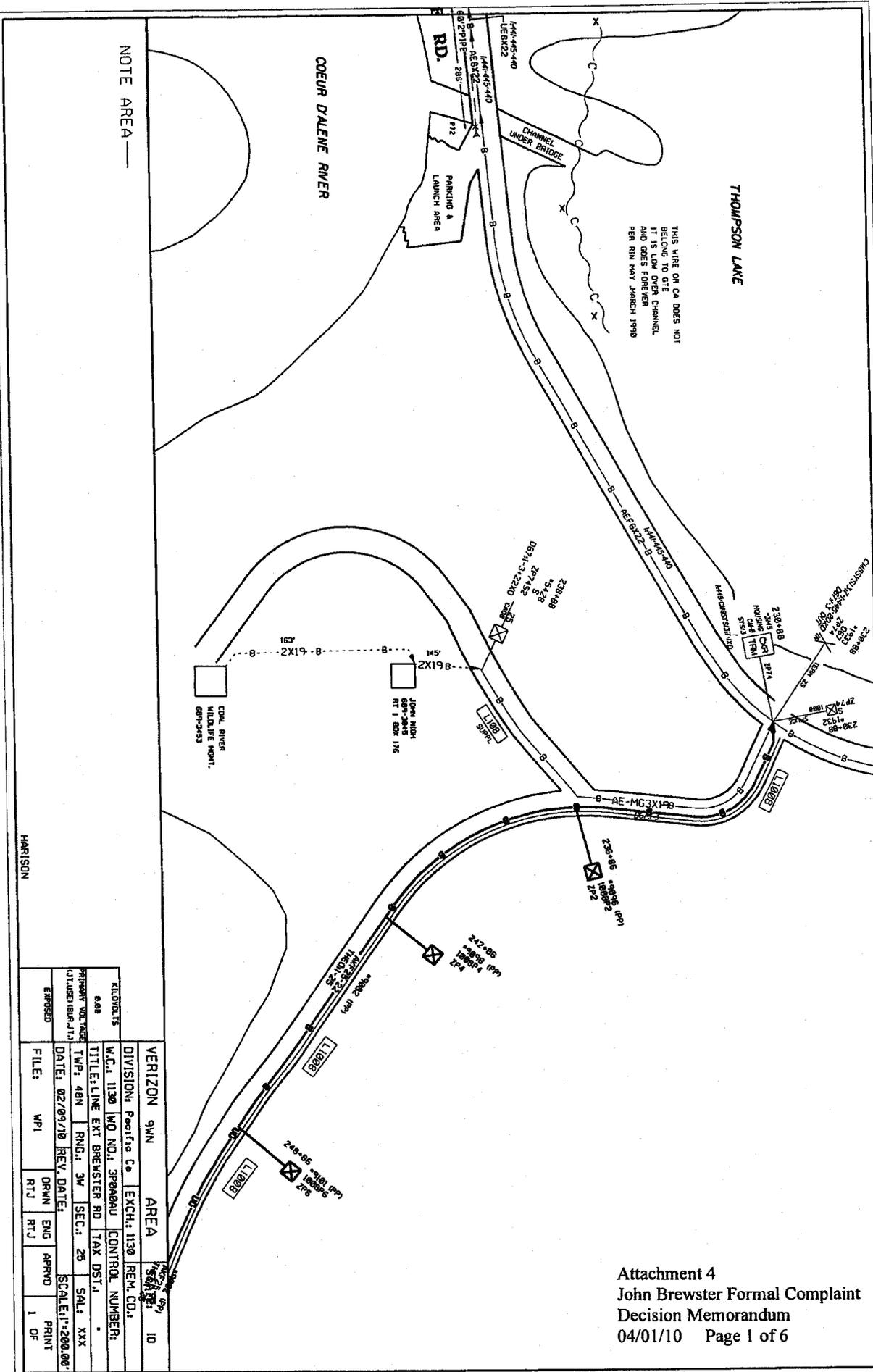
Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control

Note - This proposal may be withdrawn by us if not accepted within 30 days.

ACCEPTANCE OF PROPOSAL

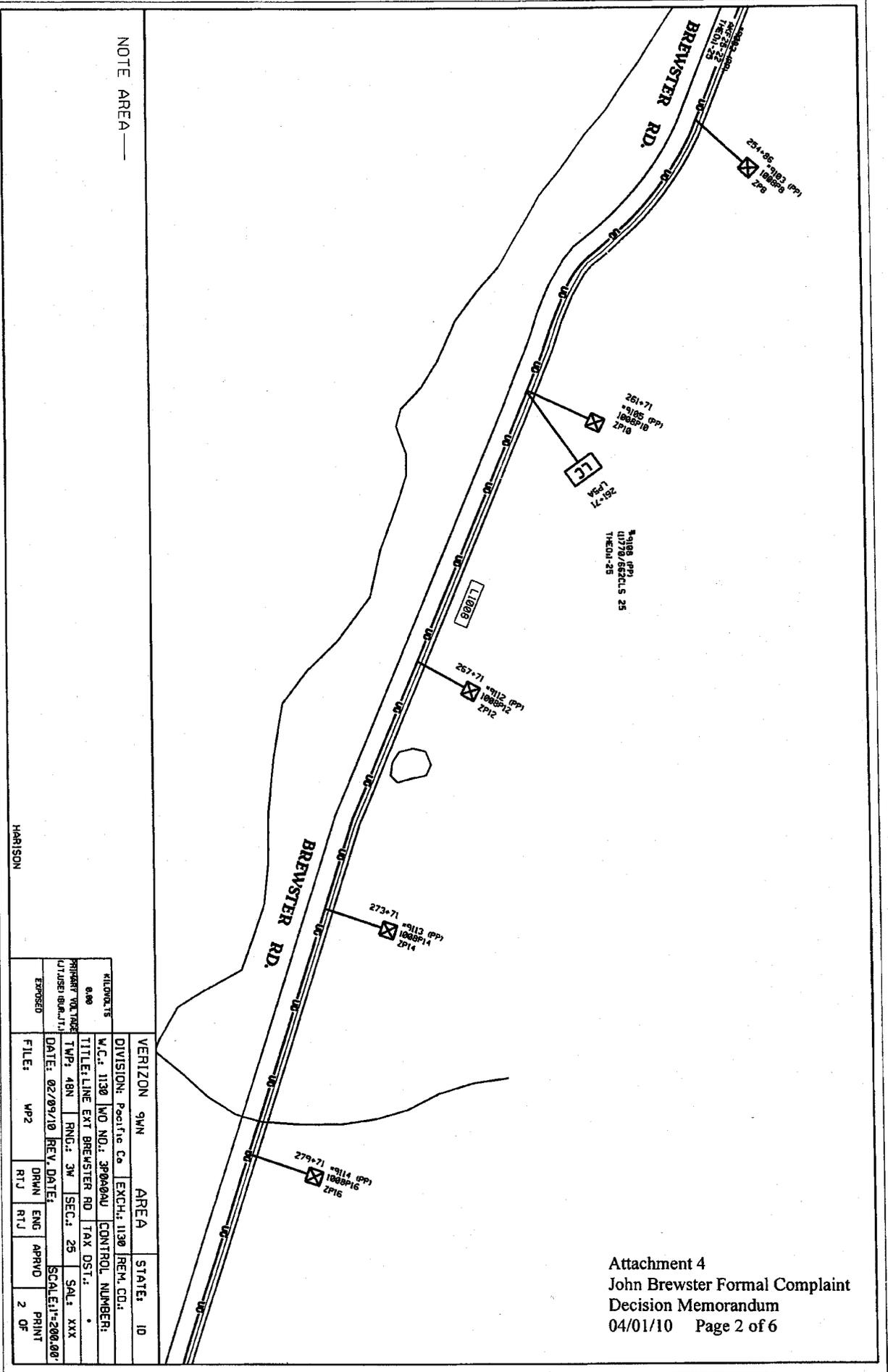
The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____
Date _____
Signature _____



NOTE AREA —

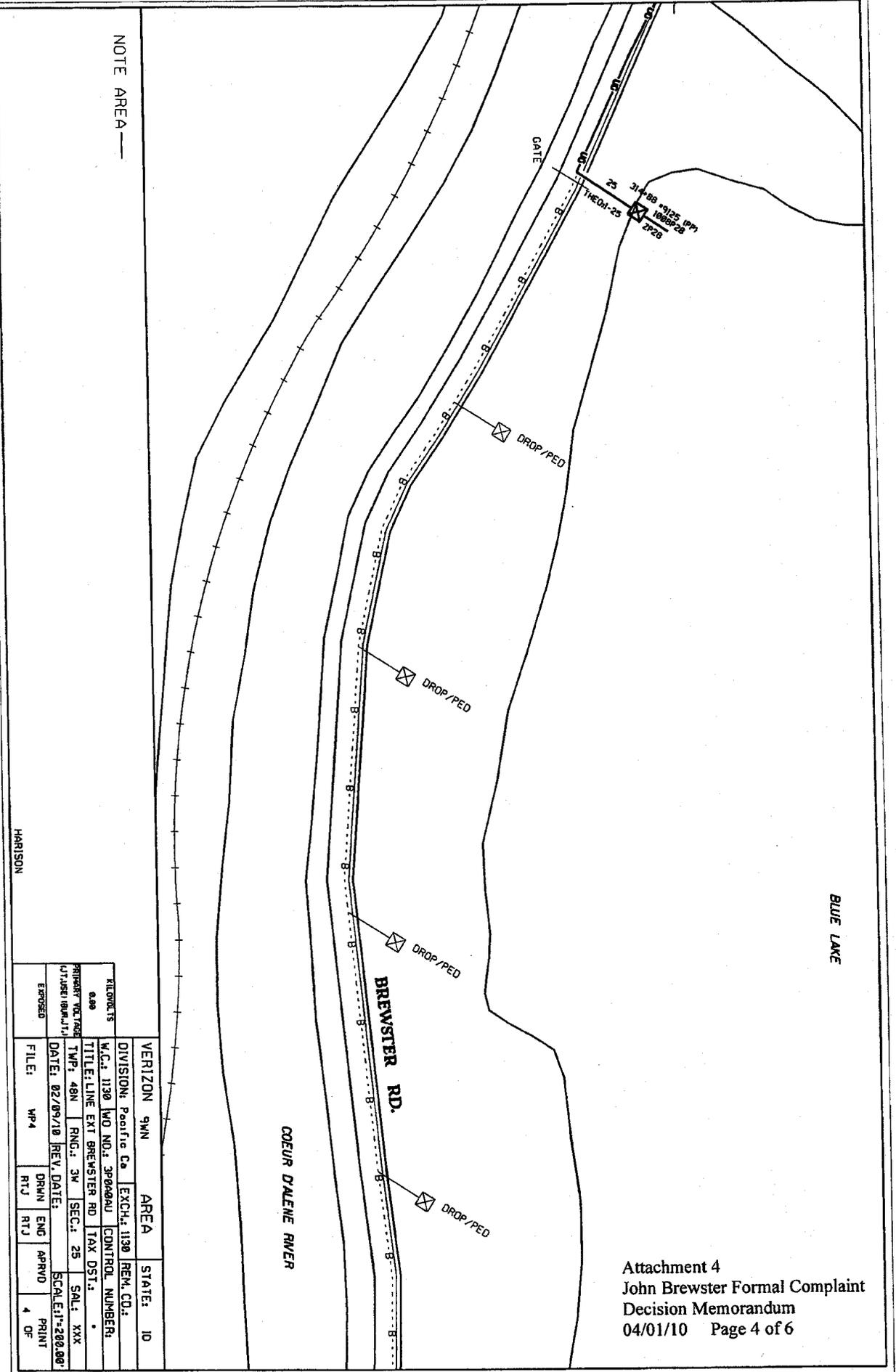
VERIZON 9WN		AREA		10	
DIVISION: Pacific Ca		EXCH: 1130		REM. CD:	
W.C.: 1130		WD NO.: 3708040		CONTROL NUMBER:	
TITLE: LINE EXT BREWSTER RD		TAX DIST.:		-	
TWP: 48N		RNG: 3W		SEC: 2S	
DATE: 02/09/10		REV. DATE:		SCALE: 1"=200.00'	
FILE: WP1		DRWN: RTJ		ENG: RTJ	
APPROVED:		APPROD:		1 OF	



NOTE AREA —

KILOWATT HOURS		VERIZON 9NN		AREA		STATE: ID	
DIVISION: Pacific Co		EXCH: 1190		REM. CD:			
M.C.: 1130		WD NO.: 3P0A0A		CONTROL NUMBER:			
TITLE: LINE EXT BREWSTER RD		TAX DST.:					
PRIMARY VOL. TAGS		TWP: 48N		RNG: 3W		SEC: 25	
UTILITY (BURN, J)		SAL: xxx					
DATE: 02/09/10		REV. DATE:		SCALE: 1"=200.00'			
EXPOSED		FILE: WP2		DRWN: RTJ		ENGR: RTJ	
				APPRD:		PRINT	
						2 OF	

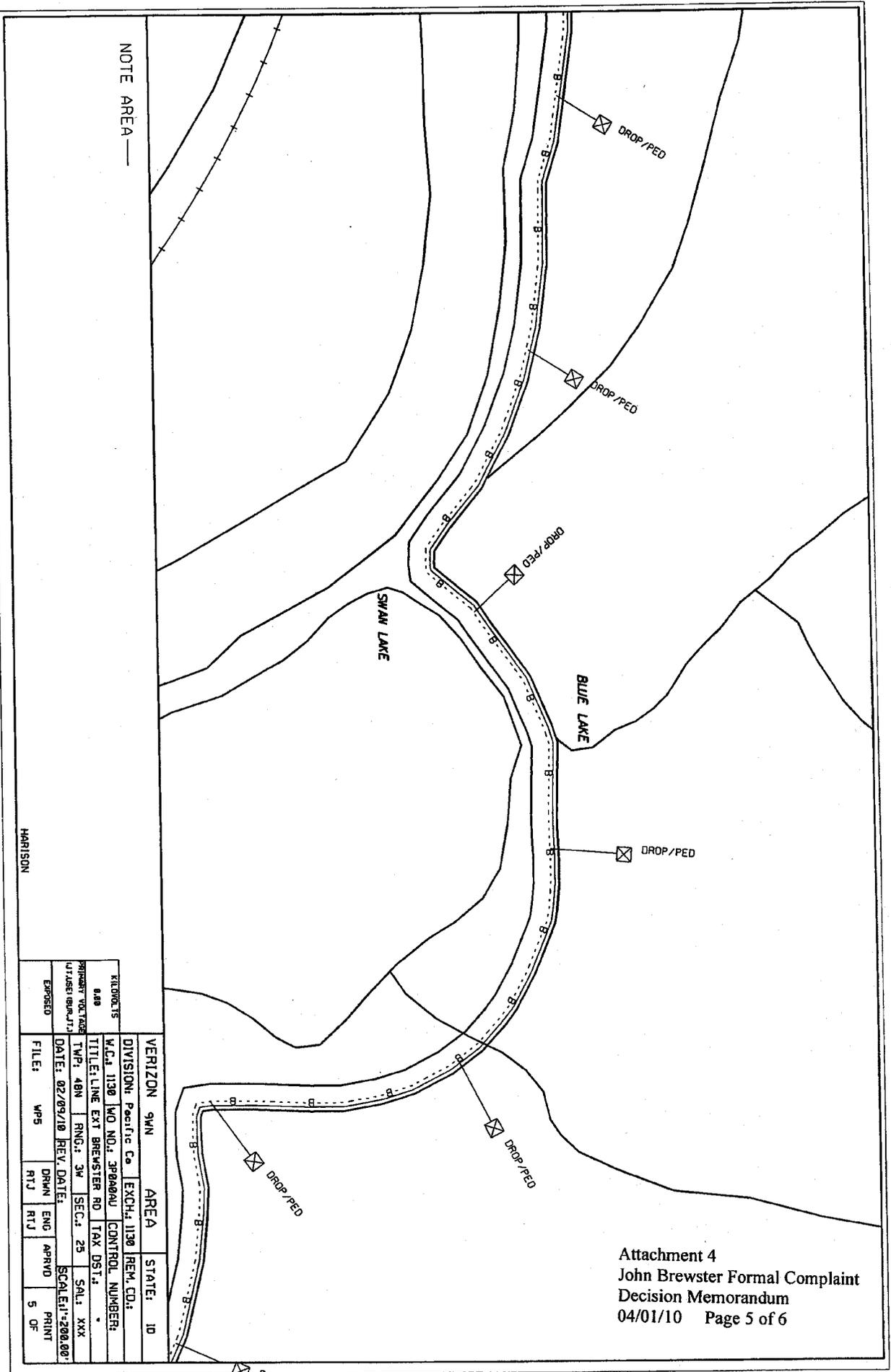
HARRISON



NOTE AREA —

HARRISON

KILOWATTS		VERIZON 9WN		AREA		STATE: ID	
DIVISION: Pacific Co		EXCH: 1130		REM. CD:			
W.C.: 1130		W/O NO.: 3P00000		CONTROL NUMBER:			
TITLE: LINE EXT BREWSTER RD		TAX DST:					
TWP: 48N		RNG: 3W		SEC: 25		SAL: XXX	
DATE: 02/09/10		REV. DATE:		SCALE: 1"=200.00'			
FILE: WP4		DRWN: RTJ		END: RTJ		APPRD: PRINT	
EMPOSED						4 OF	

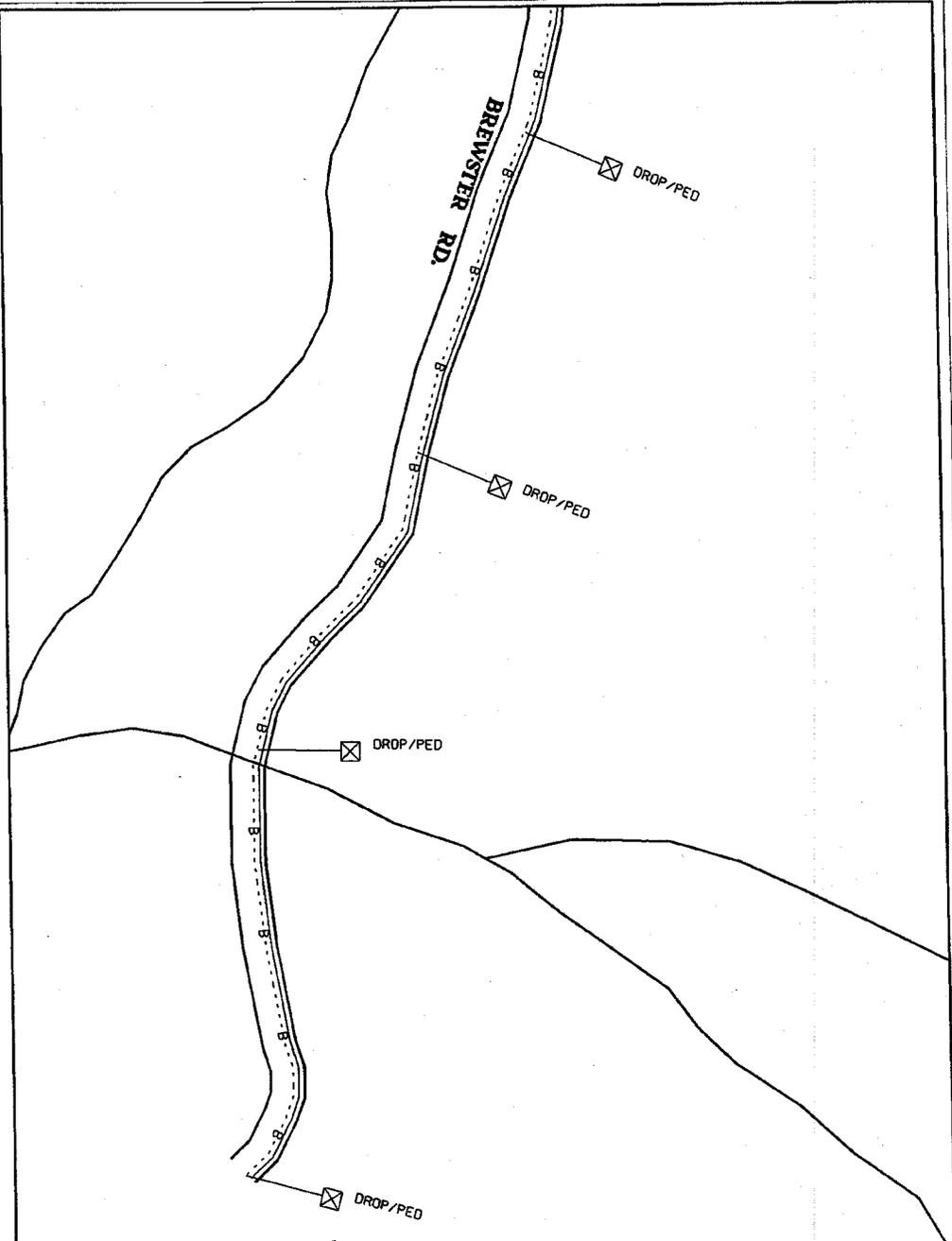


NOTE AREA —

HARRISON

VERIZON 9WN	AREA	STATE:	10
DIVISION: Pacific Co.	EXCH: 1130	REM. CD:	
M.C.A. 1130	MO. NO.: 3P6A0A	CONTROL NUMBER:	
TITLE: LINE EXT BREWSTER RD.	TAX DIST.:		
TWP: 48N	RNG: 3W	SEC: 25	SAL: XXX
DATE: 02/09/10	REV. DATE:	SCALE: 1"=200.00'	
EXPOSED	FILES:	WPS	DRWN RTJ
			ENG RTJ
			APPRD
			PRINT
			5 OF

NOTE AREA —



BREWSTER

KIDWOLF'S		DIVISION: Pacific Ca		AREA		STATE: ID	
000		M.C.: 1130		EXCH.: 1130		REV. CD.: 10	
PRISMATIC VOLTAGE		TWP.: 48N		RNG.: 3W		SEC.: 25	
DATE: 02/09/10		REV. DATE:		SCALE: 1"=200.00'		PRINT	
FILE: WP6		DRWN: RTJ		ENG: RTJ		APPRD:	
EXPOSED:		DATE:		SCALE:		PRINT	