

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A01-10388
Date Received: 9/13/1999
Receipt No: FO25300
Received By: B. Carter

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ALLRED BROTHERS PARTNERSHIP 208-745-6976
Address: 4101 E MENAN-LORENZO HWY
RIGBY ID 83442

2. Date of Priority: FEB 15, 1945

3. Source: SNAKE RIVER, SOUTH FORK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05N	39E	35	SE	NE	SE		MADISON

5. Description of diverting works:
HEADWORKS OF LIBERTY PARK CANAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	2.190		

7. Total Quantity Appropriated is:
2.190 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
05N	39E	21	NE	SE		IRR	5.0
			NW	SE		IRR	6.0
			SW	SE		IRR	22.0
			SE	SE		IRR	31.0



10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	64.0
					Total Acres	64.0

11. Place of use in counties: MADISON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
LIBERTY PARK CANAL

14. Remarks:

USE OF THIS RIGHT WITH RIGHT NO. 01-00049A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.00 CFS.

USE OF THIS RIGHT WITH RIGHT NO. 01-00049A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 53 ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 53 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

FILED AS ENLARGEMENT OF A01-00049A. THIS IS NOT TRULY AN ENLARGEMENT BUT RATHER REPRESENTS A PERMISSIBLE PLACE OF USE AS CO-MINGLED WITH LIBERTY PARK CANAL WATER. A01-00049A IS DELIVERED THROUGH LIBERTY PARK CANAL VIA CARRIAGE AGREEMENT; CO-MINGLED WATERS ARE INDISTINGUISHABLE AND HAVE BEEN HISTORICALLY DELIVERED TO ENTIRE PLACE OF USE. PRIORITY DATE BASED UPON DOCUMENTATION OF THIS DELIVERY PRACTICE.

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT 01.

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 01-00049A PURSUANT TO SECTION 42-1426, IDAHO CODE.

THIS RIGHT IS FOR AN ENLARGEMENT OF 64 ACRES WITHIN THE PLACE OF USE DESCRIBED FOR THIS RIGHT.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 5

For Organizations:

I do solemnly swear or affirm that I am Partner of
Title
Allred Bros. Partnership, that I have signed the foregoing
Organization
document in the space below as Partner of
Title
Allred Bros. Partnership and that the statements contained in the
Organization
foregoing document are true and correct.

William E. Allred
Signature of Authorized Agent

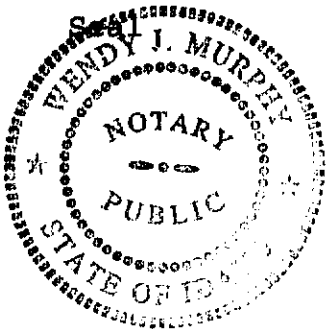
Allred Bros Partnership
Title and Organization

09/14/99
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 14th day
of September 19 99

Wendy J. Murphy
Notary Public



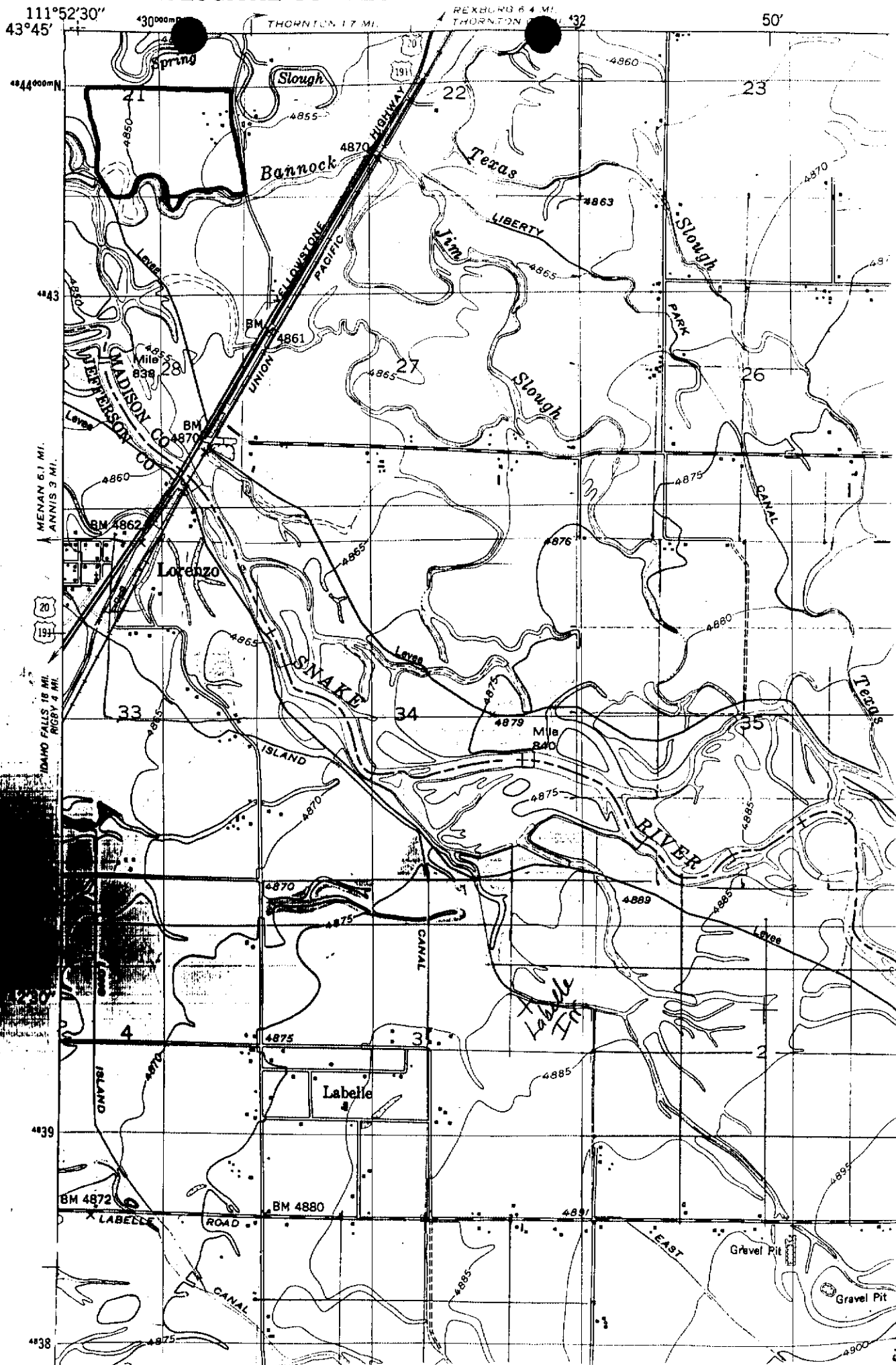
Residing at Idaho Falls
My Commission Expires 6/23/2000



PSA Photo Supplied by
owner, date unknown.

Byron A. Conlon

50'



To: A01-00049A
A01-10388
A01-10392
A01-10393
Fr: Bryce Contor
Date: 10/2/2000



Re: Split by change of ownership.

Issues:

1. Intent of A01-10388 and A01-00049A.

The original intent of claimant Allred was to put all of 01-00049A on all of his POU on a comingled Permissible Place of Use basis with his Liberty Park canal shares. 01-00049A is delivered through Liberty Park Canal via a carriage agreement.

Initially I prepared and accepted A01-10388 as an enlargement claim to accomplish this. Upon receiving more guidance, I prepared an amended version of A01-00049A to simply make a Permissible Place of Use, with an invitation to the claimant to withdraw A01-10388 to clarify the record.

Two blunders occurred, however. First, when signed amended claim A01-00049A came back, it was never released from the temporary host to the permanent host, so the pre-amendment version was copied to the new Enterprise database. Second, A01-10388 was never withdrawn.

The clear intent of Mr. Allred as he and I met in the fall of 2000 was to arrange the water rights so that he could sell off part of the property and with it sell a proportionate share of both the Liberty Park canal shares and a proportionate share of decreed right 01-00049A.

2. Documentation of Chain of Ownership

File A01-00049A contains the documentation submitted by purchaser Ferguson. It includes the deed and exhibit "A" for the parcel in question here, as well as an unnecessary and confusing exhibit "A" for a different parcel. Note the court house document numbers.

3. Calculation of split amounts

The deed specifies that Ferguson shall receive "95 inches of a water right" and references number 01-00049. The deed also states the right "consists of a total of 300 inches of which Sellers own a portion and are transferring herewith 95 inches of said water." Claim A01-00049A is for 4.0 cfs, or 200 inches.

I assume based on the above that the intent was for Ferguson to receive 95 inches or 1.9 cfs, and for Allred to retain $200 - 95 = 105$ inches, or 2.1 cfs.

The original claim as amended was for 53 acres of irrigation within a 117 acre PPU. Calculating $53/4.0 * 1.9 = 25.2$ acres allocated to Ferguson. $53 - 25.2 = 27.8$ acres allocated to Allred.

Of the 117 acres originally claimed for the PPU, 40 are in quarter-quarters deeded to Ferguson. Therefore I allocate 40 to Ferguson and 77 to Allred.

4. Claim A01-10388

This claim is not claimed on any lands conveyed to Ferguson, so no part is split off to Ferguson. Since this claim is 100% overlapped with A01-00049A as amended, and since it is for no additional Q, in reality A01-10388 does not do anything, even though it was not withdrawn.

Allred-Ferguson Change of Ownership & Split of A01-49A.

Blue = lands described in deed. Yellow = approximate irrigated lands, 43 acres.

Black = Lands retained by Allred.



has 10/2/22.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 17, 1999

William E. Allred
Allred Bros. Partnership
4101 East Menan-Lorenzo Highway
Rigby, Idaho 83442

Dear Mr. Allred:

Enclosed are an Amended Claim for decreed right A01-00049A and a notice of withdrawal for claim A01-10388.

The amended claim is for your use of 4.00 cfs of decreed water on 53 acres within the permissible place of use of 117 acres. This claims lands historically irrigated by co-mingling the decreed water with the shares of Liberty Park Canal. The claim is based upon a 1945 transfer of point of diversion of the decreed right to the headworks of Liberty Park Canal.

If part of the property is sold, the Change of Ownership will result in the 4.00 cfs and the 53 acres of permitted use being split proportionally according to the irrigated acres of the new parcels (or according to the deed if another agreement is reached).

With this amendment to A01-00049A, A01-10388 is not needed. The attached withdrawal request will allow us to refund your filing fees on that claim.

However, if you wish, you may retain claim A01-10388 and amend it to be a true enlargement claim. This would claim irrigation of the full 117 acres with the decreed water in the unlikely event that the decreed water was available to you but the Liberty Park water was not. This might occur if the Liberty Park Canal were distributing water on a rotation basis, rather than an on-demand basis. The Liberty Park water right is senior to your water right, so there is probably not any other circumstance where an enlargement claim would be helpful.

Please review these documents and call me at 525-7161 if you have questions. I'm going on vacation Wednesday, so please call early in the week. If these changes reflect your intent, please sign the Amended Claim before a notary and sign the withdrawal request, and return them to the office.

Sincerely,

Bryce A. Contor

*Note:
Amended claim A01-00049A
was rec'd but withdrawal of
A01-10388 was not.*

**NOTICE OF INTENT TO WITHDRAW ADJUDICATION CLAIM
A01-10388**

To: Idaho Department of Water Resources

I, William E. Allred, am a partner in Allred Bros. Partnership. I executed Adjudication Claim number A01-10388 to fully claim the use of the decreed right represented by A01-00049A. I have now amended claim A01-00049A to reflect this use and wish to withdraw claim A01-10388.

Please withdraw claim A01-10388 and refund to me the filing fees paid.

William E. Allred
Partner

Allred Bros. Partnership

Date

A01-10388

To: File A01-00049A
Fr: Bryce A. Contor
Date: 9/10/1999

Bryce A. Contor

Re: Permissible Place of Use

Friday Mr. Allred filed this claim with Paul, as originally decreed. However, historically this wr has been co-mingled with canal shares from Liberty Park Canal. Water under this wr has been delivered through Liberty Park's system per a "carrying share" agreement since the 1940's. Historically the comingled water from both sources has been applied to a larger place of use.

Mr. Allred would like to amend this claim to reflect a permissible place of use of the original acres within a larger farm that includes the land originally associated with the Liberty Park shares. This will result in no enlargement or expansion of acres or diversion rate but simply reflect an accomplished transfer.

I don't know how to code this on an AJ claim so I'm documenting it with this memo.

Proposed Permissible Place of Use: See attached.

Please prepared amended claim ASAP to facilitate sale. Please have ready for signature by Sept 17th.

9/13/99 -

Per Allen Rubeck the smoothest way to handle this is with an enlargement claim. Before calculating per-acre charge see if Liberty Park has paid the per-acre.

BAC.

9/13/99

A01-10388 is on temp host. Adj, just priority per documentation of carriage agreement, print claim form fee = \$50 late + \$50 filing = \$100. No acres; acres paid already by Liberty Park A01-00104

BAC

A01-00049A Permissible Plant of Use															
	NE				NW				SW				SE		
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW
	NE	NE	NE	NE	NW	NW	NW	NW	SW	SW	SW	SW	SE	SE	SE
5N39E													5	6	25
21															
27						10									
28	30	10													

FSA Map

27.6

28.3

5.5

2.6

2.8

3.5

1.7

7.8

17.1

20.1

117.0

$$\begin{array}{r} 67 \\ 10 \\ 40 \\ \hline 117 \end{array}$$

FSA Map

27.6
28.3
5.5
2.6
2.8
3.5
11.7
7.8
17.1
29.1
117.0

Bill Allred 745- 6976
526- 5052



#2850

(906)

②
27.6 NH-1

NH-1
③
28.3

NH-1
①
3.5

NH-1
①
2.6

NH-1
④
3.5

NH-1
⑤
2.8

NH-1
⑥
1.7

NH-1
⑧
7.8

NH-1
⑨
17.1

NH-1
⑩
20.1

Nelson

PSA Photo supplied by
owner, date unknown.

Bryce A. Corton

Replung Decree - this is the water

Geo L & Lester S Corey 300 inches
June 1, 1887. S Fork of Snake River

N $\frac{1}{2}$ NW $\frac{1}{4}$ S 27

N $\frac{1}{2}$ NE $\frac{1}{4}$ S 28

TSP 5 N Rge 39

0100049 AT #

Kath Wilson

FSA Aerial photo

27.6
28.3
2.8
26
30
64.3
50
114.3

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application of

H. S. GIDEON AND CORAL ALLRED
Thornton, Idaho

For a Change of Point of Diversion on Snake River,
Water District # 36, Madison County

ORDER GRANTING CHANGE

No. 178

WHEREAS, On the 15th day of February, 1945, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, the application of H. S. Gideon and Coral Allred, of Thornton, Idaho, for a change of point of diversion on Snake River came on regularly for hearing, pursuant to published notice, in due and statutory form; and,

WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant with the application shows that it became necessary to change the point of diversion, and that no other decreed water right or water user will be injured thereby; and,

WHEREAS, The said change in point of diversion has been approved by the Watermaster of the Snake River, and the said ditch from which the water is being transferred is an unincorporated community ditch; and,

WHEREAS, During the low water season it is too expensive to maintain a diversion dam at the head of the Nelson-Corey Canal;

NOW, THEREFORE, IT IS HEREBY ORDERED That the said application be and the same is hereby granted, and that Certificate of Change in Point of Diversion be issued to the applicants herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 17th day of March, A. D. 1945.

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

Certified to be a true and correct copy
of the document held by the State
Department of Reclamation on this 13th
day of Sept. 19 45

[Signature]
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

CERTIFICATE OF CHANGE IN POINT OF DIVERSION OF DECREED WATER RIGHT

No. 178

THIS IS TO CERTIFY THAT H. S. GIDEON AND CORAL ALLRED, of Thornton, Idaho, are the owners of and using certain water rights, bearing date of priority of June 1, 1887, for Six (6) cubic feet per second of the waters of Snake River, County of Madison, State of Idaho, decreed to George L. and Lester S. Corey, by decree of Judge J. M. Stevens, of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Fremont, in the case of

REXBURG IRRIGATION COMPANY,

Plaintiff,

vs.

TETON IRRIGATION COMPANY,

Defendant,

being appurtenant to the following described lands, to-wit:

N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 27;
N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 28;
Township 5 North, Range 39 East, B.M.

That the said decree bears date of December 16, 1910, and is entered in the records of the Department of Reclamation, in Volume 3 of Decrees, at page 450.

That the said applicants, H. S. Gideon and Coral Allred, have become the owners of said water rights and of said lands by purchase.

That now upon the application of H. S. Gideon and Coral Allred, of Thornton, Idaho, for a Certificate of Change in Point of Diversion, made before the State Reclamation Engineer of the State of Idaho, and the said application having been granted, the right to change such point of diversion is hereby confirmed.

That said change in point of diversion shall not modify in effect said decree, water right, or place of use. Said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

Six (6) cubic feet per second of the waters of Snake River, with priority of June 1, 1887.

That said water right is appurtenant to the following described lands, to-wit:

N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 27;
N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 28;
Township 5 North, Range 39 East, B.M.

That the water right above described from the Snake River has been conducted to the place of use through the Nelson-Corey Ditch, with point of diversion located in the Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 35, Township 5 North, Range 39 East, B.M.

That the water right above described will hereafter be conducted to the place of use through the Texas Feeder and Liberty Park Ditch, with point of diversion located in the Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 8, Township 4 North, Range 39 East, B.M.

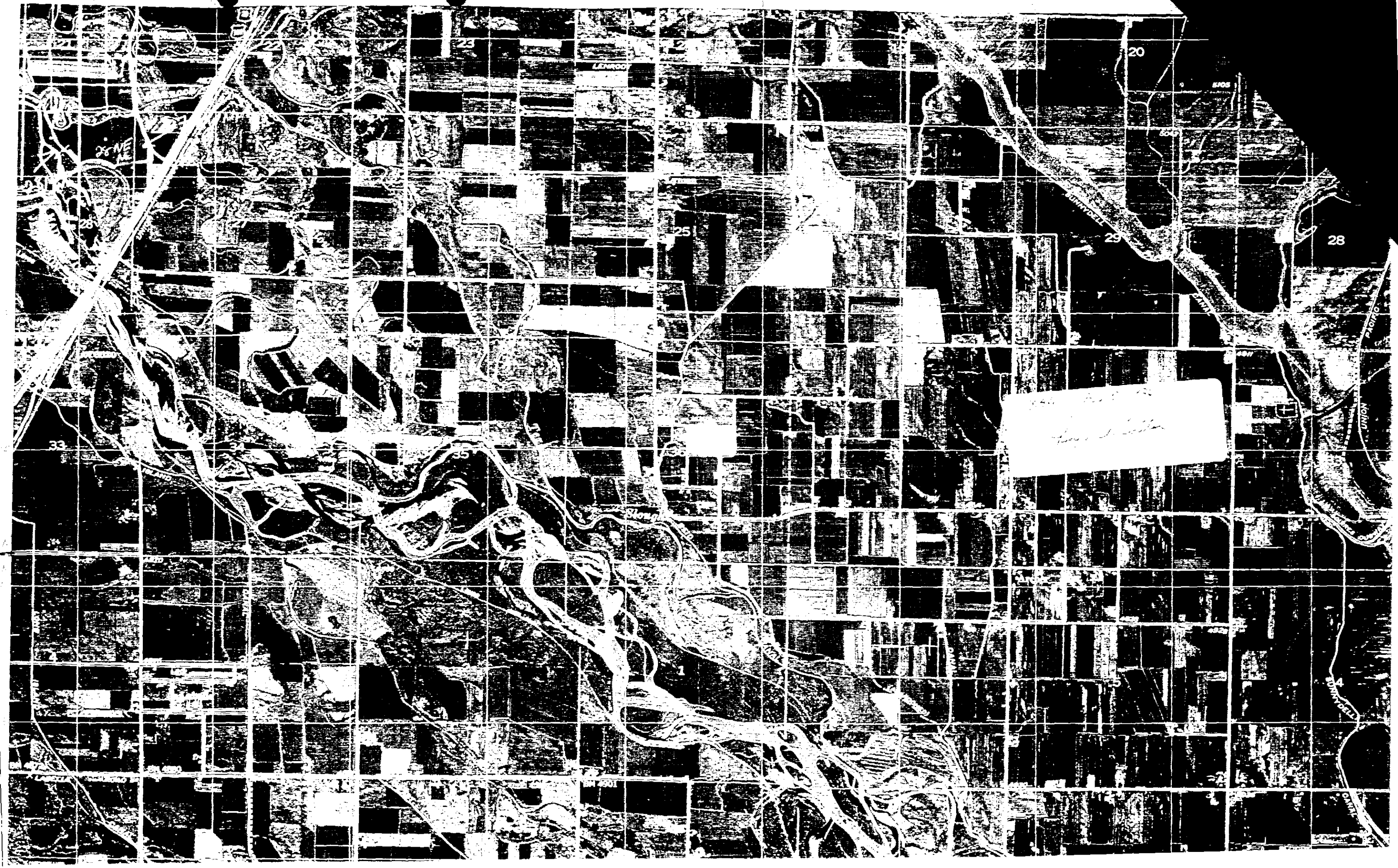
IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 17th day of March, A. D. 1945.

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Resources

Certified to be a true and correct copy
of the document held by the State
Department of Reclamation on this 13th
day of SEPT 19 45

Stephen C. Clark
Asst. State Reclamation Engineer



Handwritten text on a white rectangular label, possibly a name or date, located in the center-right area of the image.