

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: A29-07393
Date Received: 4/04/1990
Receipt No: 6012808
Received By: EV

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DEAN DAY
Address: P.O. BOX 112
LAVA HOT SPRINGS, ID 83246

OR

Name: ETHEL DAY
Address: P.O. BOX 112
LAVA HOT SPRINGS, ID 83246

2. Date of Priority: MAY 05, 1977

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	38E	20	SE	NE	SW		BANNOCK

5. Description of diverting works:
WELL AND PUMP. MAINLINE TO SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.480		

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

8. Total consumptive use is 310.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A29-07393

Page 1

Date: 04/04/90

MICROFILMED
NOV 13 1992

A2907393

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres		
09S	38E	20	NE	SW	2	IRR	8.0		3
			SE	SW	3	IRR	28.0	75	8
			NW	SE	2	IRR	20.0	100	23.5
			SW	SE		IRR	30.0	31	40
									6
						Section Acres	86.0		
		29	NE	NW		IRR	38.0		4
						Section Acres	38.0		
						Total Acres	124.0		

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:
37 SHARES DEMPSEY IRRIGATION CO.

14. Remarks:
SUBJECT TO BENEFICIAL USE FIELD EXAM

15. Basis of Claim: PERMIT

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 Y wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 0

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Dean Day Date: 4-4-90
Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of April 19 90

[Signature]
Notary Public

Seal

Residing at Red Falls, Id.
My Commission Expires 22 Aug 1994

Log for claim A29-07393

Spatial Dynamics PJM

9/11/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
09s38e	20	NESW	8	32	Indiscernible
09s38e	20	SESW	28	30	
09s38e	20	NWSE	20	27	Indiscernible
09s38e	20	SWSE	30	40	Indiscernible
09s38e	29	NENW	38	31	
Totals:			124	160	

MEMO

To: Dave Tuthill
From: Harold Jones
Re: License 29-07393

The field exam for license 29-07393 was done in 1995 by summer temp and Keith Wilson. When the place of use map was done our agent put the east section line for Section 20 ¼ mile too far west of the actual section line. This mistake was not noticed and the ground was licensed with the wrong ¼ of ¼.

In 1999 the City of Lava wanted to buy this right and talked to us about filing a transfer. We then caught the legal description mistake but the transfer was never pursued.

There are at least 2 parties who own this place of use listed in 29-07393. This is reflected by claims A29-07393 & A29-07393A.

Dean Day has incorrectly filed on the whole right under A29-07393. He only owns a part of the ground under the place of use.

The Beenken Family Trust owns approximately 26 acres of the original farm. This was leased by Mr. Day who farmed the entire entity

We would now like to correct license 29-07393 via the adjudication process or have water allocations review our revised map and make said change.

THE PLAN

WITH RESPECT TO THE OBVIOUS LICENSING ERROR THE FOLLOWING IS THE COURSE OF ACTION.

- 1.) GO TO COUNTY ASSESSOR TO DETERMINE OWNERSHIP OF LANDS INVOLVED.
- 2.) SEEK AMENDMENTS FROM CLAIMANTS
 - a.) ABSENT AMENDMENTS - REFER TO LEGAL STAFF
- 3.) WITH AMENDMENTS - ACCOUNT FOR ALL PARTS OF LICENSE
 - a.) POTENTIALLY AN UNCLAIMED PART IN SECTION 29.
 - 1.) IF SO, SEEK A CLAIM
 - 2.) IF NOT, PROCEED WITH DAY & BEENKEN CLAIMS - PROPORTIONAL
- 4.) ANY OTHER WR/AJ CLAIMS? (BESIDES CANAL CO. SHARES)
- 5.) FIX THE ERROR(S) WITH ADJ. RECOMMENDS —

29-7393 (ERROR OF LICENSING)

SEE ATTACHED MEMO TO CORRECT ERROR, AND PLAN

Water Right Number - 29-07393

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***

DAY

DEAN

1 - PO BOX 112

2 -

3 -

City- LAVA HOT SPRINGS

State- ID Zip- 83221

Phone - 208-000-0000

DAY

ETHEL

1 - PO BOX 112

2 -

3 -

City- LAVA HOT SPRINGS

State- ID Zip- 83221

Phone - 208-000-0000

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
11/04/1982 15 EASTERN L - LICENSE

+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
GROUNDWATER

Tw	Rng	Sec	Tract	Lot	Rflg	County	Point of Diversion	Diversion Name	Diversion Rate	Diversion No.
09S	38E	20	NW SE			(5)	BANNOCK			

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/15	10/15		1.690	

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
1.690 1.970 0.0

Tw	Rng	Sec	Tract	Lot	Acres	Place of Use	Description	County
09S	38E	20	NE SW	2	3.0	01	IRRIGATION	(5) BANNOCK
09S	38E	20	SE SW	3	8.0	01	IRRIGATION	(5) BANNOCK
09S	38E	20	NW SE	2	23.5	01	IRRIGATION	(5) BANNOCK
09S	38E	20	SW SE		40.0	01	IRRIGATION	(5) BANNOCK
09S	38E	20	SE SE		6.0	01	IRRIGATION	(5) BANNOCK
09S	38E	29	NW NE		2.5	01	IRRIGATION	(5) BANNOCK
09S	38E	29	NE NW		1.5	01	IRRIGATION	(5) BANNOCK

Total Acres: 84.5

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

*THIS POOL IS IN ERROR
TO BE FIXED BY ADJUSTMENT.*

Water right number - 29-07393

Prefix Translation: WATER RIGHT

+ - - - - Remarks - - - - - +

This right when combined with all other rights shall provide
no more than .02 cfs per acre nor exceed a combined annual
diversion volume of 295.8 af for the lands above.

+ - - - - Old Water Right Numbers - - - - - +

No Old Water Right Numbers found.

+ - - - - Conditions of Approval - - - - - +

- R25 - This right when combined with all other rights shall provide no
- more than 3.5 afa per acre for irrigation of the lands above.
- 065 - The right holder shall use the full allotment of appurtenant
- surface water rights in conjunction with groundwater diverted
- under this right and shall only divert groundwater under this
- right when water from the appurtenant surface water rights cannot
- be delivered to the right holder.
- 079 - This right shall not be used if the surface water right(s)
- appurtenant to the place of use is sold, transferred, leased or
- used on any other place of use.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +

00/00/0000

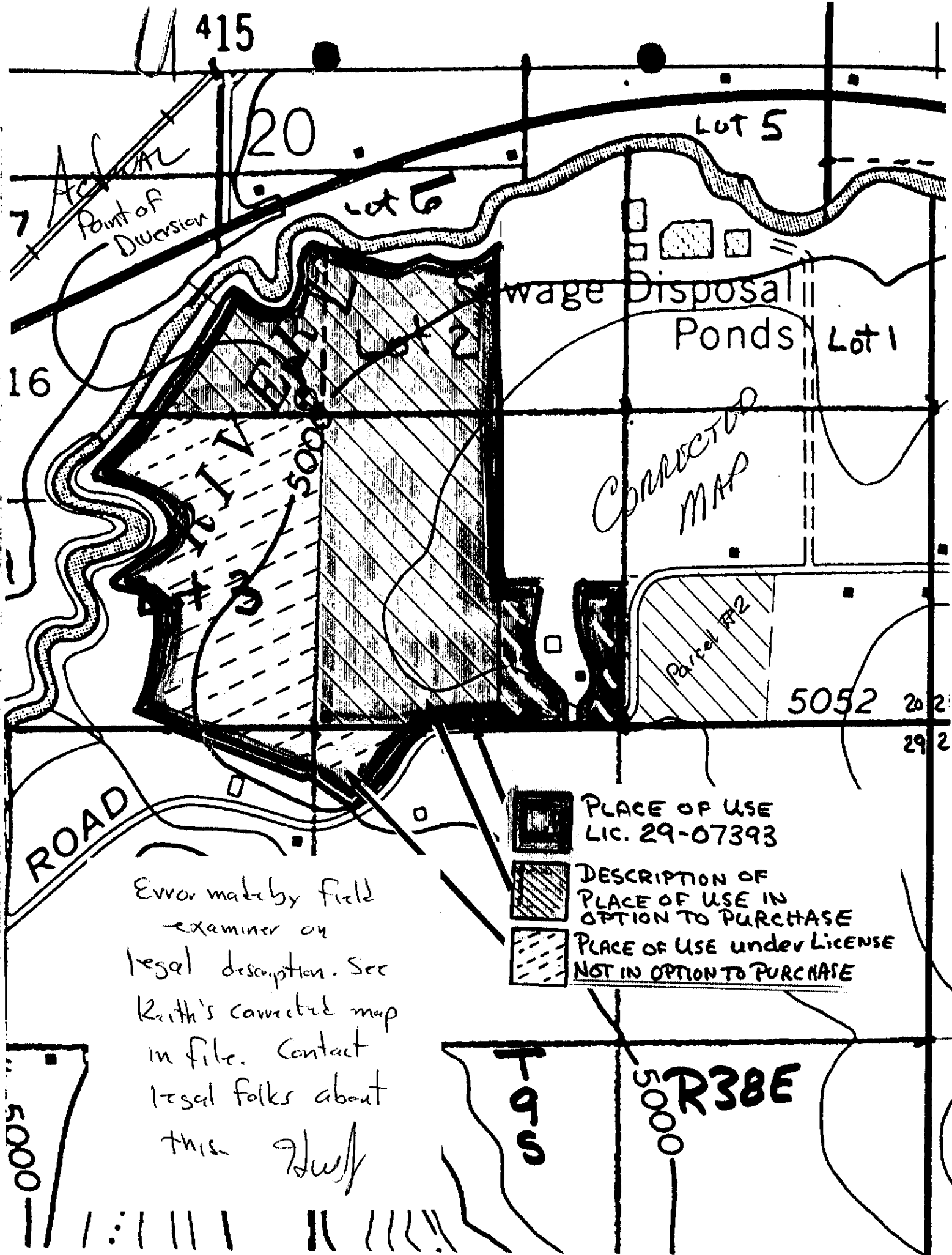
+ - - - - Comments - - - - - +

Date: 12/17/1991 User Id: VAULT Subject: Proof of Beneficial Use Rcvd
Proof of Beneficial Use Rcvd

+ - - Audit Fields - 04/07/88 05/22/88 CONVERT 12/17/91 COMMENTS 12/23/91 MILLER 12/31/91 MILLER
04/27/94 CURTIS 08/21/95 KWILSON 01/18/96 KWILSON 03/10/97 SCURTIS 03/17/97 SCURTIS
03/20/97 SCURTIS 06/03/97 SCURTIS

+ - - - - Water Rights Dates and Flags Area - - - - - +

Proof Due Date - 06/01/1982	Field Exam Made - 08/15/1995	Field Exam Fee -
Approved/Denied - 06/29/1977	Protested Date - 00/00/0000	Swan Falls - Z
Proof Made Date - 04/11/1982	Hearing Date - 00/00/0000	Temporary Right - P
Exam to S.O. Date - 01/19/1996	Verified Date - 00/00/0000	DLE/Carey Act -
Order Show Cause - 00/00/0000	Receipt Number -	Water District -
Licensed Date - 05/20/1997	Appl Received - 05/05/1977	Transfer/Amended -
Presumption Flag -	Name Connector -	POU Ownership Flag- Y
SRBA Decreed Flag -		



Error made by field
examiner on
legal description. See
Keith's connected map
in file. Contact
legal folks about
this. *HW*

-  PLACE OF USE
LIC. 29-07393
-  DESCRIPTION OF
PLACE OF USE IN
OPTION TO PURCHASE
-  PLACE OF USE under License
NOT IN OPTION TO PURCHASE

AJ5809NP
No. A29-07393

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/22/00
PAGE: 170

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	DEAN DAY	05/05/1977	IRRIGATION	04-01 11-01	2.480 CFS	
C	ETHEL DAY PO BOX 112 LAVA HOT SPRINGS ID 83246					
TOTAL DIVERSION:					2.480 CFS	
CONSUMPTIVE USE:						310.00 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: PERMIT

Point(s) of Diversion:

T09S R38E S20

SENESEW

BANNOCK County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
09S	38E	20	:											08		28		20	30	:	86.0
09S	38E	29	:							38										:	38.0
TOTAL ACRES																				124.0	

POU County: BANNOCK

Non-Irrigation Uses: NONE

Other Rights: 37 SHARES DEMPSEY IRRIGATION CO.

Other Water Rights Listing Overlapping Place(s) of Use:

A29-00036 A29-00037 A29-00147 A29-00180 A29-11773 A29-11774

Remarks: GEN SUBJECT TO BENEFICIAL USE FIELD EXAM

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:

Presumption Flag:

Audit: 04/04/90 VERNER 07/27/94 THOMPSON 03/29/95 POST-STD

WATER RIGHT LICENSE

1.69 CFS

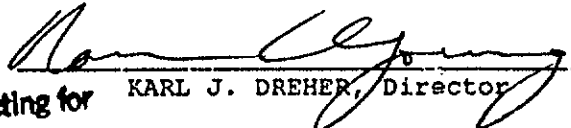
de MICROFILMED
JUN 9 1967

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 29-07393

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 20TH
day of MAY, 1997.


Acting for KARL J. DREHER, Director

MICROFILM
JUN 8 1997

State of Idaho
Department of Water Resources

RECEIVED
MAY 14 1997

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 29-07393

Department of Water Resources

Date of Priority: November 4, 1982
Comes now DEAN DAY
ETHEL DAY

Maximum Diversion Rate: 1.69 CFS

PO BOX 112
LAVA HOT SPRINGS ID 83221

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 29-07393, and requests that the permit be changed as follows:

Source: GROUNDWATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	1.69 CFS	

LOCATION OF POINT(S) OF DIVERSION: NWSE, Sec. 20, Township 09S, Range 38E
BANNOCK County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
09S	38E	20	Lot 2(NESW) 3	Lot 3(ESW) 8	Lot 2(NWSE) 23.5	
			SWSE 40	SESE 6		80.5
		29	NWNE 2.5	NENW 1.5		4

Total number of acres irrigated: 84.5

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at man, this 6 day of May, 1997.

MICROFILMED
100 0 4 107
Dean Day
(Signature)

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 29-07393

FOR DEPARTMENT USE ONLY

Preliminary check by SWK Fee = 50.00 Received by JW # C038894 Date 5-14-97

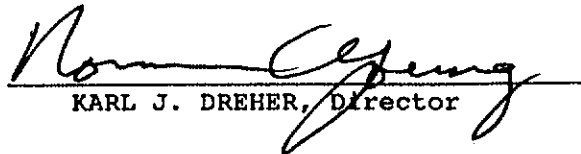
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 29-07393 with the following;

CONDITIONS OF APPROVAL AND REMARKS

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.
5. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
6. This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
7. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 295.8 af for the lands above.

Witness my hand this 20TH day of MAY, 1997.


KARL J. DREHER, Director

RECORDED
JUN 9 1997

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT)
NO. 29-7393 IN THE NAME OF)
DEAN &/OR ETHEL DAY)

ORDER OF REINSTATEMENT

This matter having come before the Department of Water Resources (Department) as a result of preparing Permit No. 29-7393 for issuance of a license, the Department finds, concludes and orders:

FINDINGS OF FACT

1. The Department approved Application for Permit No. 29-7393 to appropriate the public waters of the State of Idaho with a proposed priority of MAY 05, 1977.

2. On APRIL 17, 1986 the Department advised the permit holder that a license examination fee was required before an examination could be conducted to confirm the extent of use developed under the permit. The examination fee was due on JUNE 16, 1986.

3. The license examination fee was not paid within one year of the date, and the permit lapsed for failure to pay the license examination fee.

RECEIVED

JAN 15 1992

4. The license examination fee was received on
DECEMBER 16, 1991, 2008 day(s) late.

CONCLUSIONS OF LAW

1. The Director may advance the priority date of the permit one day for each day the license examination fee is late, pursuant to the provisions of Section 42-217, Idaho Code.

2. The date of priority of Permit No. 29-7393 should be advanced 2008 day(s).

ORDER

IT IS HEREBY ORDERED that Permit to Appropriate Water No. 29-7393 is reinstated.

IT IS FURTHER ORDERED that the date of priority of Permit No. 29-7393 is advanced to NOVEMBER 04, 1982.

Dated this 23rd day of December, 1991.

J. Glen Sayton
Chief, Water Allocation Bureau

JAN 15 1992

Identification No. 29 7393
Application No.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT **APPROVED**

To appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

- 1 Name of applicant Dean &/or Ethel Day Phone 776-5356
post office address Lava Hot Springs, ID
- 2 Source of water supply ground water which is a tributary of _____
- 3 a Location of point of diversion is NE 1/4 of SW 1/4 of Section 20 Township 9S
Range 38E 8M Bannock County; additional points of diversion if any: _____
b If water is not consumed, it will be discharged into _____ at a point in _____
of _____ 1/4 of Section _____ Township _____ Range _____ 8M
- 4 Water will be used for the following purposes:
Amount 2.48 for irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
- 5 Total quantity to be appropriated
a 2.48 cubic feet per second and/or
b _____ acre feet per annum.
- 6 Proposed diverting works:
a Description of ditches, flumes, pumps, headgates, etc. well, pump and sprinkler system
b Height of storage dam _____ feet, active reservoir capacity _____ acre feet, total reservoir capacity _____ acre feet, materials used in storage dam _____
Period of year during which storage will occur _____ to _____ inclusive.
c Proposed well diameter is 16 inches, proposed depth of well is 150 feet
- 7 a Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years
b Estimated construction cost is \$ 20,000.00
- 8 Description of proposed uses
a If water is not for irrigation
(1) Give the place of use of water _____ 1/4 of _____ 1/4 of Section _____ Township _____
Range _____ 8M
(2) Amount of power to be generated _____ hp under _____ feet of head
(3) List number of each kind of livestock to be watered _____
(4) Name of municipality to be served _____ or number of families to be supplied with domestic water _____
(5) If water is to be used for other purposes describe _____

Identification No. 29 7393
Application No.

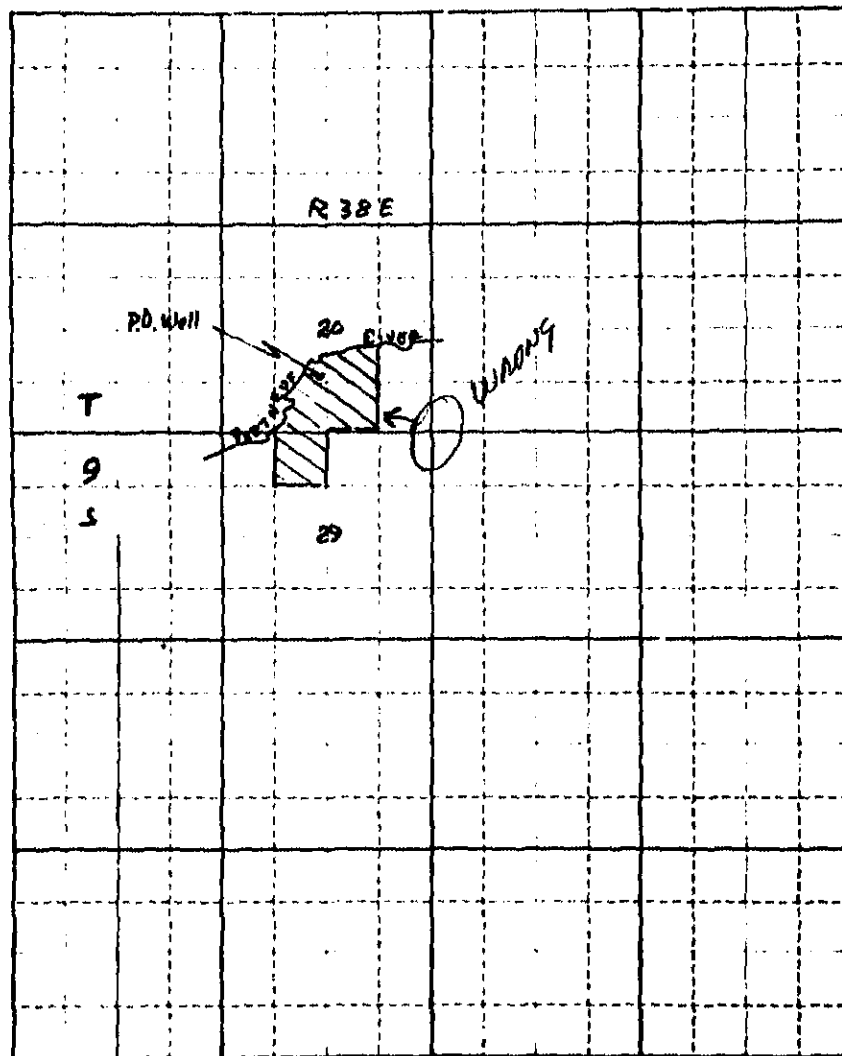
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT **APPROVED**

To Appropriates the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

- 1 Name of applicant Dean &/or Ethel Day Phone: 776-5356
post office address Lava Hot Springs, ID
- 2 Source of water supply ground water which is a tributary of _____
- 3 a Location of point of diversion is NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 20 Township 9S
Range 38E B M Bannock County: additional points of diversion if any: _____
b If water is not consumed, it will be discharged into _____ at a point in _____
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B M _____
- 4 Water will be used for the following purposes:
Amount 2.48 for irrigation purpose from Apr. 1 to Nov. 1 (both dates inclusive)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
- 5 Total quantity to be appropriated
a 2.48 cubic feet per second and/or
b _____ acre feet per annum.
- 6 Proposed diverting works
a Description of ditches, flumes, pumps, headgates, etc. well, pump and sprinkler system
b Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet; materials used in storage dam _____
Period of year during which storage will occur _____ to _____ inclusive
c Proposed well diameter is .16 inches; proposed depth of well is 150 feet
- 7 a Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years
b Estimated construction cost is \$20,000.00
- 8 Description of proposed uses
a If water is not for irrigation
(1) Give the place of use of water _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B M _____
(2) Amount of power to be generated _____ hp under _____ feet of head
(3) List number of each kind of livestock to be watered _____
(4) Name of municipality to be served _____ or number of families to be supplied with domestic water _____
(5) If water is to be used for other purposes describe _____

13. Map of proposed project showing the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Dean Day
(Signature)

Proposed Priority 5/ 5/77

Received by W Date 5-5-77 Time 9:30

Preliminary check by W Fee \$46.00

Received by W Date 5-5-77

Publication prepared by W Date 5-5-77

Published in The Idaho State Journal

Publication dates May 19 & 26, 1977

Publication approved W Date 5-6-77

Priority referred to _____ Reason _____

Protests filed by _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial ROC

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 29-7393 and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 19 82.

Other: A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

The rate of diversion of water for irrigation under this permit and all other water rights on the small land shall not exceed 0.02 cubic feet per second for each acre of land.

The issuance of this permit in no way grants any right-of-way or easement across the land of another person.

Witness my hand this 29 day of June, 19 77.


Deputy Director

0 1578

23.

[illegible]

It is alleged, that persons will be subjected to all prior order rights. Through against the granting of the permit itself be filed with the Idaho Department of Highways, 2222 Lincoln Road, Idaho Falls, Idaho, 83401 on or before June 2, 1977.

C. M. John ALRED
DIRECTOR
MAY 19, 1971
100-304

Patricia Beck

being first duly sworn on oath deposes and says: That Shaw was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

MAY	19	1977	19
MAY	26	1977	19
		19	19
		19	19
		19	19

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

the meaning of the laws of today.

Subscribed and sworn to before me this

day of June 1977

Notary Public, State of Idaho
Residence: Pocatello, Idaho

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

JAN 22 1996

Department of Water Resources

(Reinstated)

A. GENERAL INFORMATION

Permit No. 29-7393

1. Owner: Dean or Ethel Day Phone No. 776-5356

Current Address: Box 112, Lava Hot Springs Id

2. Accompanied by: Dean Day EXAM DATE: 15 Aug 95

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: Shares in Dimpsey Irrig. Comp

2. Other water rights with the same point of diversion: NA.

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			NW	SE	20	9S	38E	Bannock	

2. Place(s) of Use:

Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9S	38E	20									3			8		23.5	40	6	80.5
											L-2			L-3		L-2			
		29					4												4

UNFILMED

JUN 09 1997

84.5

F. FLOW CALCULATIONS

Additional Computation Sheets Attached

Measured Method: Sonic metera/ 1.97 cfs capacityb/ 84.5 acres @ 0.02 cfs max = 1.69 cfs for licensing**G. VOLUME CALCULATIONS****1. Volume Calculations for Irrigation:**

$$V_{LR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{84.5 \text{ acres} \times 3.5 \text{ af} = 295.7}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{1.69 \text{ cfs} \times 183 \text{ d.} \times 1.9835 = 613.4}$$

$$V = \text{Smaller of } V_{LR} \text{ and } V_{D.R.} = \underline{295.7}$$

2. Volume Calculations for Other Uses:**H. RECOMMENDATIONS****1. Recommended Amounts**

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>Irrigation</u>	<u>4-15</u>	<u>10-15</u>	<u>1.69 cfs</u>	<u>295.7</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			<u>1.69 cfs</u>	<u>295.7</u>

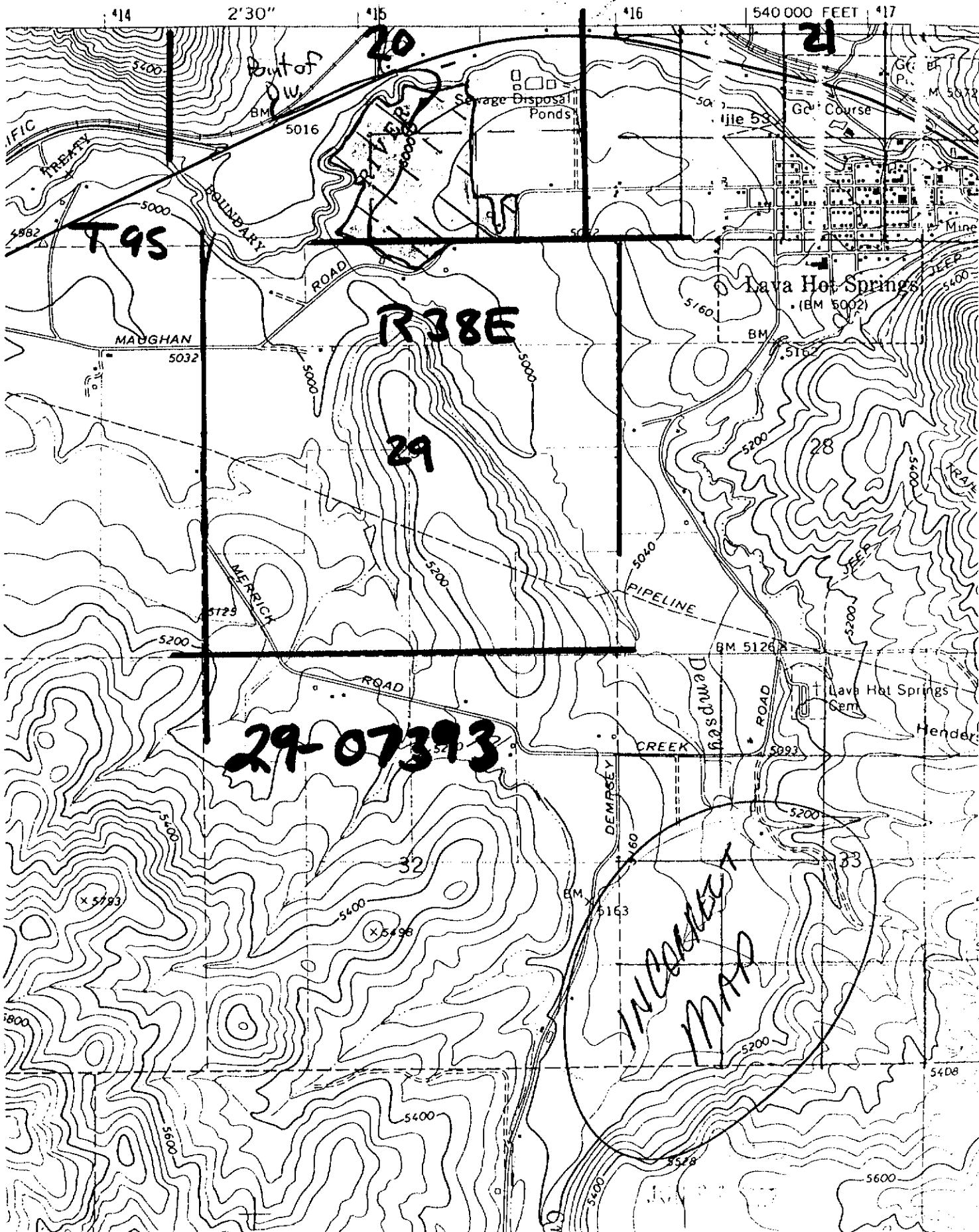
2. Recommended Amendments☒ Change P.D. as reflected above☐ Add P.D. as reflected above☐ None☐ Change P.U. as reflected above☒ Add P.U. as reflected above☐ Other**I. AUTHENTICATION**Field Examiner's Name Steve Mueller / Keith Wilson Date 8-15-95Reviewer W. Jones Date 8-20-95

SEAL

MICROFILMED

JUN 09 1997

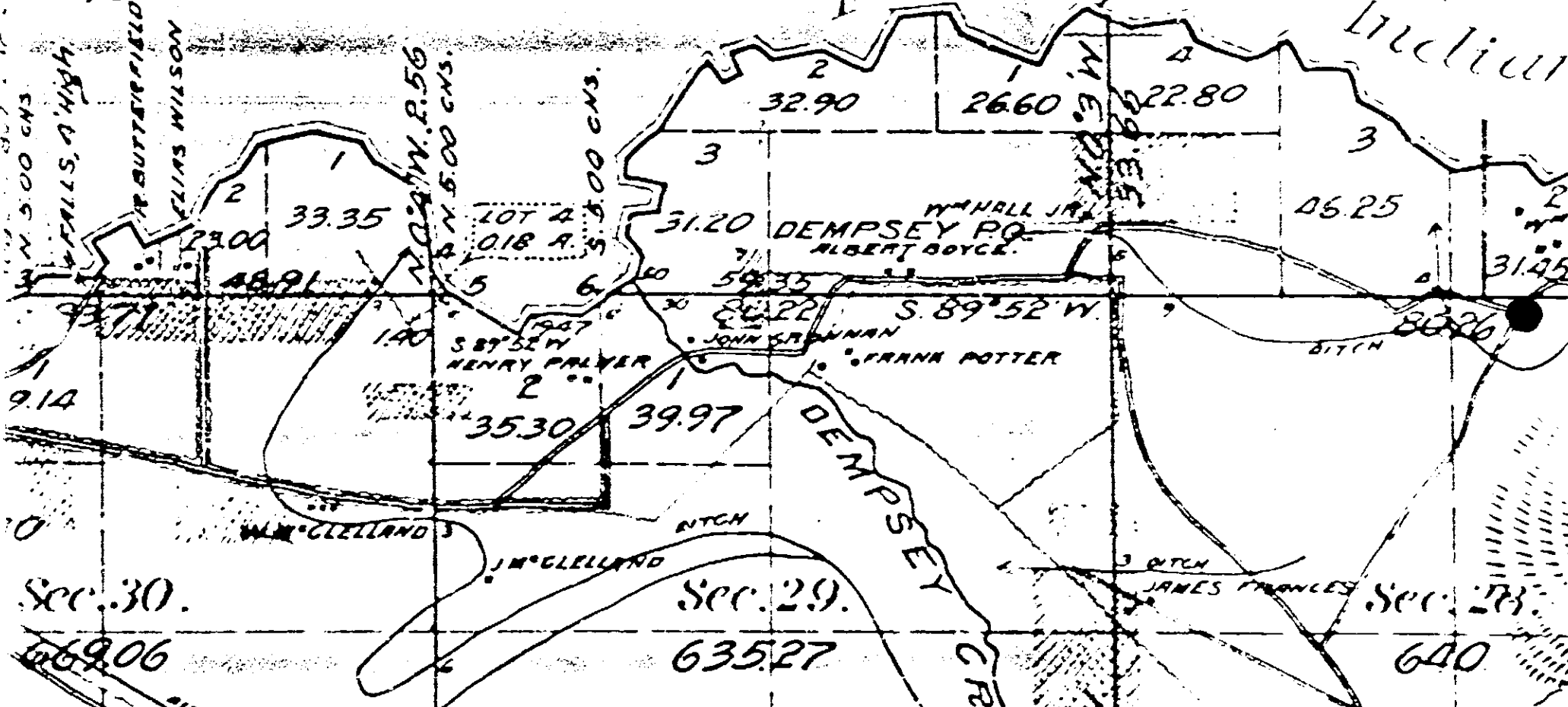
LAVA HOT SPRINGS QU,
IDAHO--BANNOCK (C
7.5 MINUTE SERIES (TOPC



75.95

170.88

160.70



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 29-07393A
Date Received: 8/14/00
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

Name: THE BEENKEN FAMILY REVOCABLE LIVING TRUST UTD 12-11-91 Phone:
(407) 671-8266

Address: C/O HAROLD BEENKEN
200 S ANDREWS BLVD APT 1203
WINTER PARK FL USA 32792

2. Date of Priority: 11/04/1982

3. Source: GROUND WATER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
09S	38E	20	NW SE 2	BANNOCK

5. Description of diverting works:

WATER SUPPLY IS FROM WELL ON NEIGHBOR'S PARCEL. THE WELL IS LISTED AND
DESCRIBED ALSO UNDER WATER RIGHT NO. 29-07393.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.53	92.77

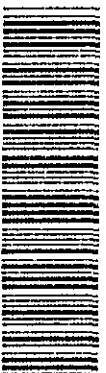
7. Total Quantity Appropriated is:

0.53 C.F.S. and/or 66.25 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

A2907393A



10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	38E	20	SE	SW	3	IRRIGATION 25 ✓
						Section Acres 25
09S	38E	29	NE	NW	1	IRRIGATION 1.5 ✓
						Section Acres 1.5
						Total Acres 26.5

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:
ALSO PART OF 29-07393

14. Remarks:

FOR IDENTIFICATION AT THE BOTTOM: THE BEENKEN FAMILY REVOCABLE LIVING TRUST
WILL BE LISTED AS BEENKEN TRUST.

IDWR HAS IDENTIFIED THE INITIAL DESCRIPTION UNDER WATER RIGHT DENOTED AS CLAIM 29-
07393 TO BE INCORRECT AND IT IS CURRENTLY BEING REVIEWED BY IDWR FOR A NEW
DETERMINATION.

DATE THAT THIS WATER RIGHT WAS PUT TO BENEFICIAL USE IS BASIS OF CLAIM.

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: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct. _____
Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this
of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

**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

A29-02393A

Date Received

8-14-2000

Receipt Number

ED26070

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly The Beenken Family Revocable

1. Name of Claimant (s) Living Trust UTD 12-11-91 Phone (407) 671-8266Mailing Address %Harold Beenken, Apt 1203, 200 S. Andrews Blvd. Zip 32792
Winter Park, FL2. Date of Priority (Only one (1) per claim) 11-04-19823. Source of water supply (a) groundwater
which is tributary to (b) _____4. a. Location of existing point of diversion is: Township 09S Range 38E Section 20,
1/4 of NW 1/4 of SE 1/4, Govt. Lot, #2 B.M., County of Bannock

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. _____Water supply is from well on neighbor's parcel. The well is listed and described
also under water right no. 29-07393.Date that this water right was put to beneficial use is ~~XXXXXXXXXX~~ basis for claim

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 4/15 to 10/15 amount 0.53 or 92.77

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.53 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 66.25 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
09S	38E	20												lot 3 25					25
09S	38E	29					lot 1 1.5												1.5

Total number of acres irrigated 26.5

11. In which county (ies) are lands listed above as place of use located? Bannock County

12. Do you own the property listed above as place of use? Yes X No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

or None ()

14. Remarks:

For identification at the bottom: The Beenken Family Revocable Living Trust will be listed as Beenken Trust.

IDWR has identified the initial description under water right denoted as Claim 29-07393 to be incorrect and it is currently being reviewed by IDWR for a new determination.

Last Name Beenken Trust Ident No. _____

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License X Permit _____

Decree _____

If applicable provide IDWR Water Right Number also part of 29-07393

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Trustee _____

Title

of The Beenken Family Revocable Living Trust _____, that I have signed the foregoing
Organization

document in the space below as _____ Trustee _____ of The Beenken Family Revocable
Title Organization Living Trust

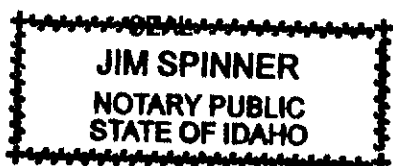
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Harold S. Beenken

Title and Organization The Beenken Family Revocable Living Trust Date Aug 7, 2000

State of Idaho/or _____)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 7th day of August, 2000



Notary Public Jim Spinner

Residing at Pocatello, Idaho

My Commission Expires 3-16-06

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Jim Spinner will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Jim Spinner, Esq.

Address P.O. Box 6009, Pocatello, ID 83205-6009

Date August 7, 2000

Last Name Beenken Trust Ident. Number _____

Copies White-State, Yellow-Claimant

MEMO

To: Dave Tuthill
From: Harold Jones
Re: License 29-07393

The field exam for license 29-07393 was done in 1995 by summer temp and Keith Wilson. When the place of use map was done our agent put the east section line for Section 20 ¼ mile too far west of the actual section line. This mistake was not noticed and the ground was licensed with the wrong ¼ of ¼.

In 1999 the City of Lava wanted to buy this right and talked to us about filing a transfer. We then caught the legal description mistake but the transfer was never pursued.

There are at least 2 parties who own this place of use listed in 29-07393. This is reflected by claims A29-07393 & A29-07393A.

Dean Day has incorrectly filed on the whole right under A29-07393. He only owns a part of the ground under the place of use.

The Beenken Family Trust owns approximately 26 acres of the original farm. This was leased by Mr. Day who farmed the entire entity

We would now like to correct license 29-07393 via the adjudication process or have water allocations review our revised map and make said change.

THE PLAN

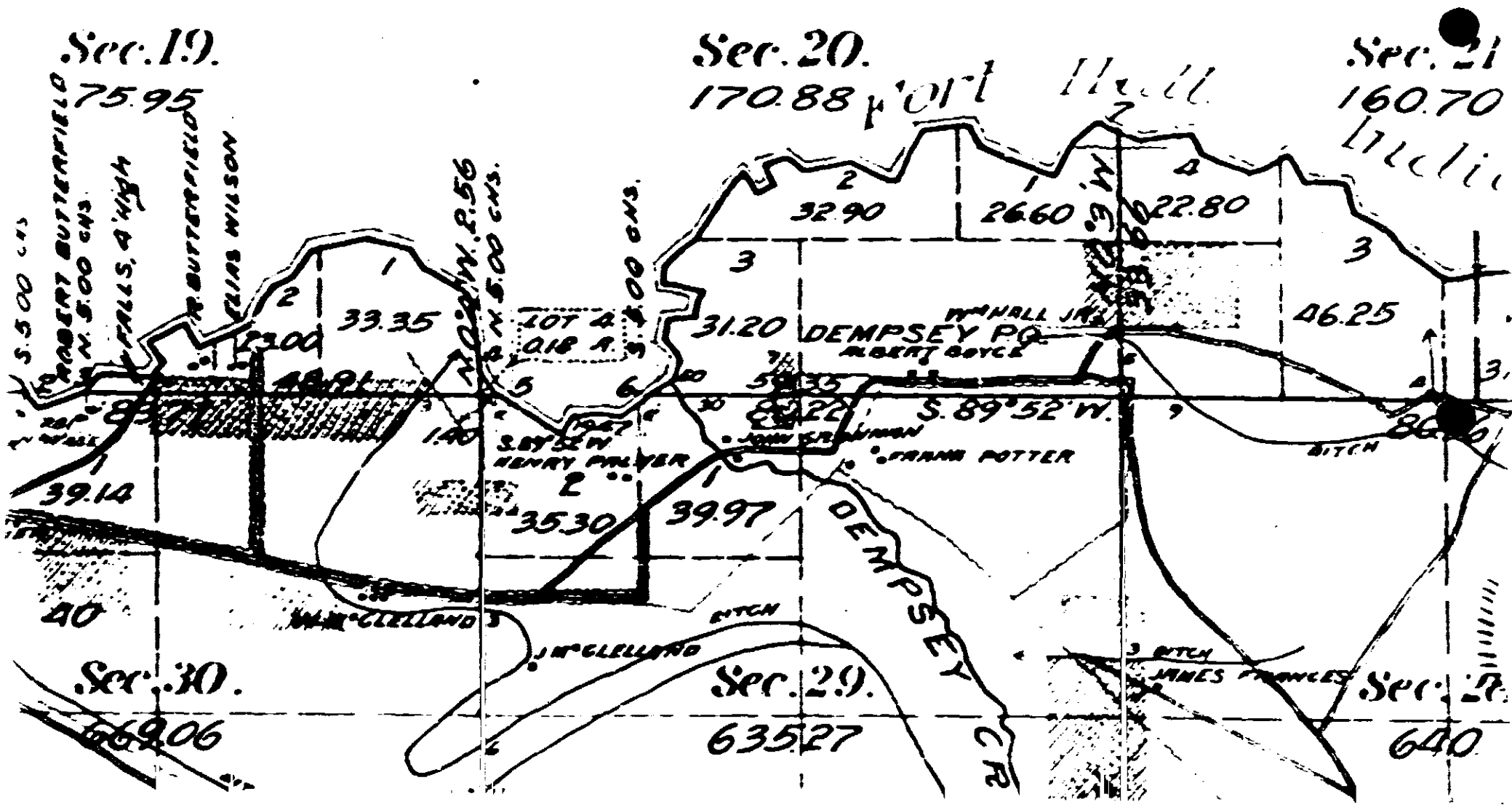
WITH RESPECT TO THE OBVIOUS LICENSING ERROR THE FOLLOWING IS THE COURSE OF ACTION.

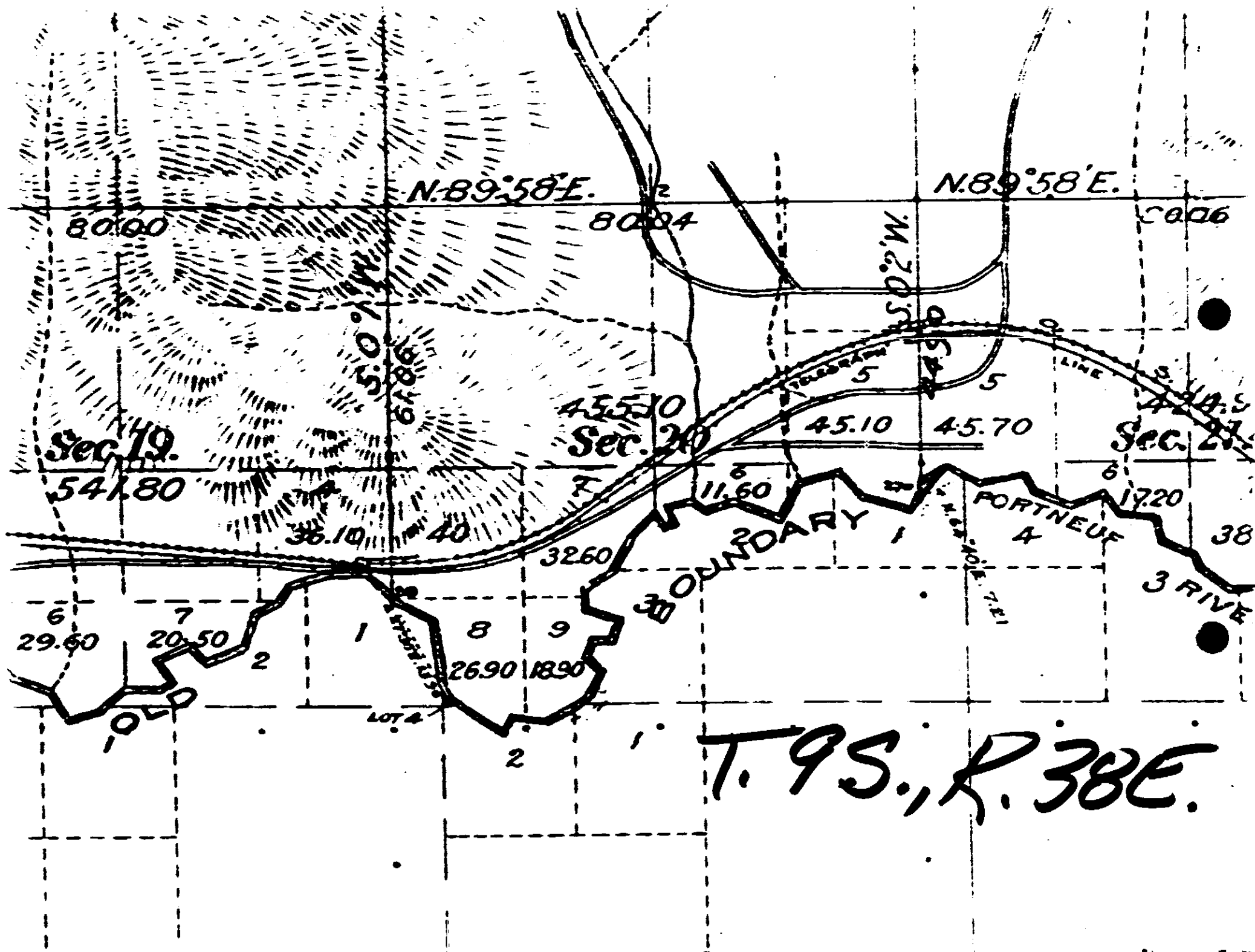
- 1.) GO TO COUNTY ASSESSOR TO DETERMINE OWNERSHIP OF LANDS INVOLVED.
- 2.) SEEK AMENDMENTS FROM CLAIMANTS
 - a.) ABSENT AMENDMENTS - REFER TO LEGAL STAFF
- 3.) WITH AMENDMENTS - ACCOUNT FOR ALL PARTS OF LICENSE
 - a.) POTENTIALLY AN UNCLAIMED PART IN SECTION 29.
 - 1.) IF SO, SEEK A CLAIM
 - 2.) IF NOT, PROCEED WITH DAY & BEENKEN CLAIMS - PROPORTIONAL
- 4.) ANY OTHER WR/AJ CLAIMS? (BUSINESS CANAL CO. SHARES)
- 5.) FIX THE ERROR(S) WITH ADJ. RECOMMENDS —

29-7393A (ERROR OF LICENSING)

SEE ATTACHED MEMO AND PLAN TO CORRECT.

T. 9 S., R. 38 E.





Water Right Number - 29-07393

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***

DAY

DEAN

1 - PO BOX 112

2 -

3 -

City- LAVA HOT SPRINGS

State- ID Zip- 83221

Phone - 208-000-0000

DAY

ETHEL

1 - PO BOX 112

2 -

3 -

City- LAVA HOT SPRINGS

State- ID Zip- 83221

Phone - 208-000-0000

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
11/04/1982 15 EASTERN L - LICENSE+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
GROUNDWATER+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.
09S 38E 20 NW SE (5) BANNOCK+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/15 10/15 1.690+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
1.690 1.970 0.0+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
09S 38E 20 NE SW 2 3.0 01 IRRIGATION (5) BANNOCK
09S 38E 20 SE SW 3 8.0 01 IRRIGATION (5) BANNOCK
09S 38E 20 NW SE 2 23.5 01 IRRIGATION (5) BANNOCK
09S 38E 20 SW SE 40.0 01 IRRIGATION (5) BANNOCK
09S 38E 20 SE SE 6.0 01 IRRIGATION (5) BANNOCK
09S 38E 29 NW NE 2.5 01 IRRIGATION (5) BANNOCK
09S 38E 29 NE NW 1.5 01 IRRIGATION (5) BANNOCK

Total Acres: 84.5

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

Water right number - 29-07393

Prefix Translation: WATER RIGHT

+ - - - - Remarks - - - - - +

This right when combined with all other rights shall provide
no more than .02 cfs per acre nor exceed a combined annual
diversion volume of 295.8 af for the lands above.

+ - - - - Old Water Right Numbers - - - - - +

No Old Water Right Numbers found.

+ - - - - Conditions of Approval - - - - - +

- R25 - This right when combined with all other rights shall provide no
- more than 3.5 afa per acre for irrigation of the lands above.
065 - The right holder shall use the full allotment of appurtenant
- surface water rights in conjunction with groundwater diverted
- under this right and shall only divert groundwater under this
- right when water from the appurtenant surface water rights cannot
- be delivered to the right holder.
079 - This right shall not be used if the surface water right(s)
- appurtenant to the place of use is sold, transferred, leased or
- used on any other place of use.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

00/00/0000

+ - - - - Comments - - - - - +

Date: 12/17/1991 User Id: VAULT Subject: Proof of Beneficial Use Rcvd
Proof of Beneficial Use Rcvd

+ - - Audit Fields - 04/07/88 05/22/88 CONVERT 12/17/91 COMMENTS 12/23/91 MILLER 12/31/91 MILLER
04/27/94 CURTIS 08/21/95 KWILSON 01/18/96 KWILSON 03/10/97 SCURTIS 03/17/97 SCURTIS
03/20/97 SCURTIS 06/03/97 SCURTIS

+ - - - - Water Rights Dates and Flags Area - - - - - +

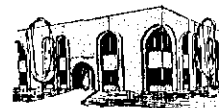
Proof Due Date - 06/01/1982	Field Exam Made - 08/15/1995	Field Exam Fee -
Approved/Denied - 06/29/1977	Protested Date - 00/00/0000	Swan Falls - Z
Proof Made Date - 04/11/1982	Hearing Date - 00/00/0000	Temporary Right - P
Exam to S.O. Date - 01/19/1996	Verified Date - 00/00/0000	DLE/Carey Act -
Order Show Cause - 00/00/0000	Receipt Number -	Water District -
Licensed Date - 05/20/1997	Appl Received - 05/05/1977	Transfer/Amended -
Presumption Flag -	Name Connector -	POU Ownership Flag- Y
SRBA Decreed Flag -		

SERVICE GASSER & KERL

ATTORNEYS AND COUNSELORS AT LAW

2043 EAST CENTER STREET
P.O. BOX 6009
POCATELLO, ID 83205-6009

TEL: (208) 232-4471
FAX: (208) 232-1808
SENDER'S E-MAIL: JAS@SGKLAW.NET



RON KERL
STEVEN V. RICHERT
JAMES A. SPINNER

ARCHIE W. SERVICE
MONTE C. GRAY

CLARK GASSER
OF COUNSEL

DARCY L. TAYLOR
PARALEGAL

RECEIVED

AUG 14 2000

Department of Water Resources
Eastern Region

August 11, 2000

Harold Jones
IDWR Eastern Region
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Harold Beenken - The Beenken Family Revokable Living Trust
Interest in Water Right License No. 29-07393

Dear Mr. Jones:

Pursuant to our recent phone conversations enclosed please find an original Notice of Claim to a Water Right Acquired Under State Law to be filed on behalf of the Beenken Family Revokable Living Trust, together with our check in the amount of \$126.50 which equals the \$50.00 claim fee, \$50.00 late fee and \$1.00 per acre on the claim. I appreciate your assistance in getting that filed pending the redetermination of the acreage by the IDWR. If you have any questions or need anything further, please let me know. I understand that you may denote the claim as claim number 29-07393 A. Best regards.

Very truly yours,

SERVICE, GASSER & KERL

Jim Spinner

JS/jc

Enc.

cc: Harold Beenken