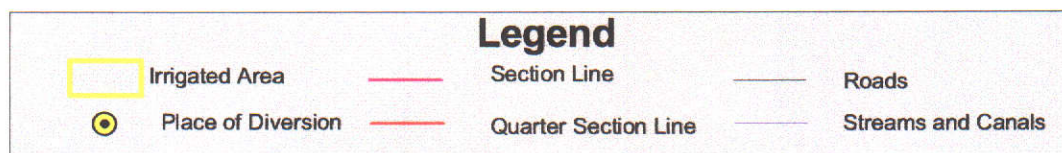
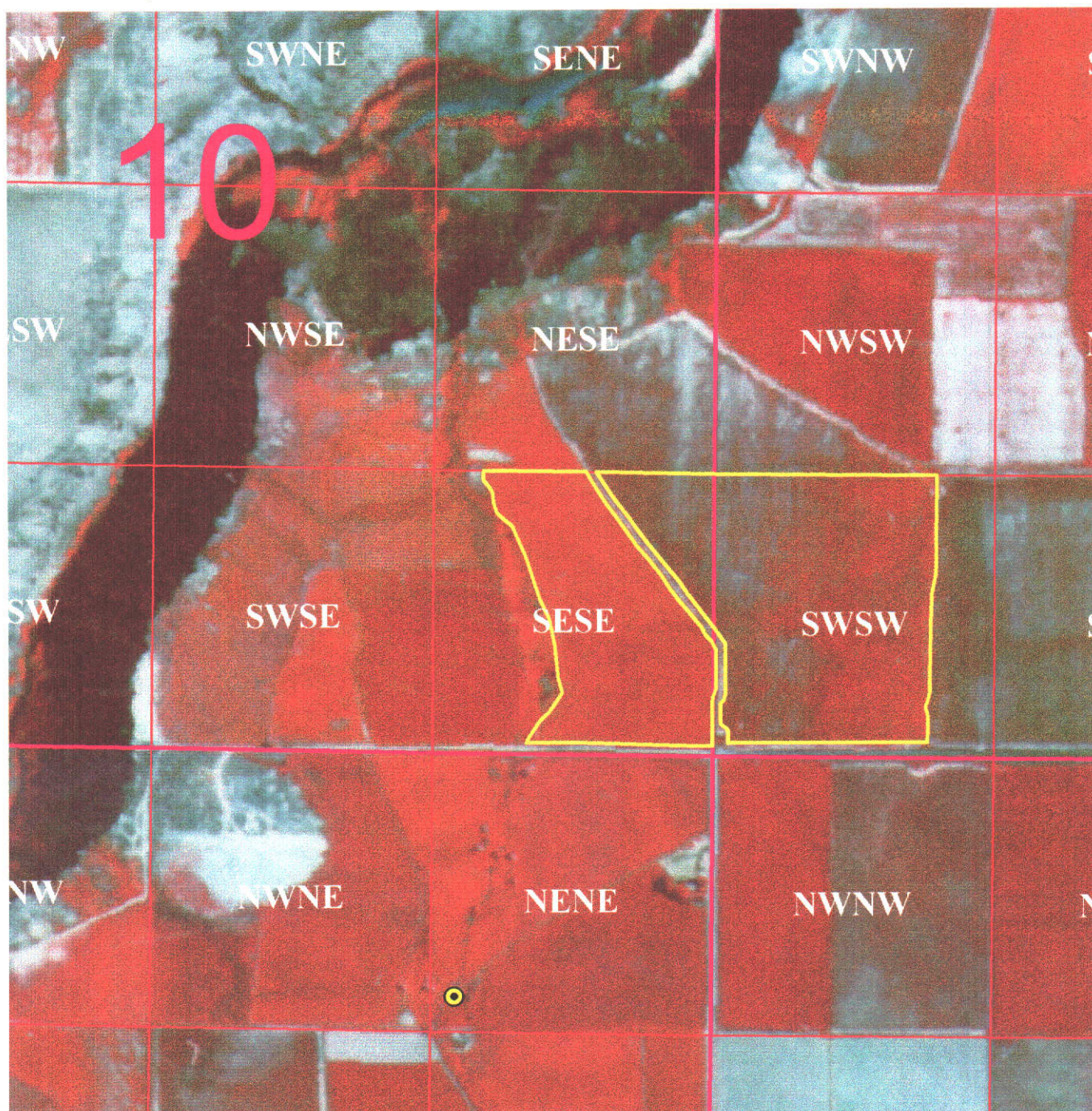


Water Right Claim Number 47-04196  
Township , 10S13E

03/20/2001

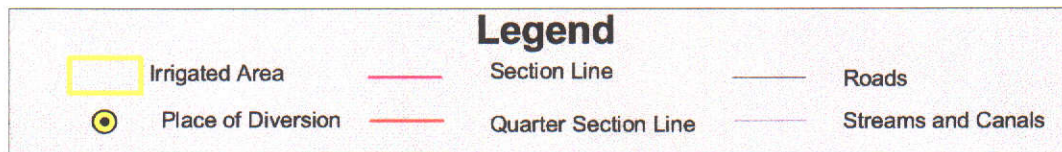
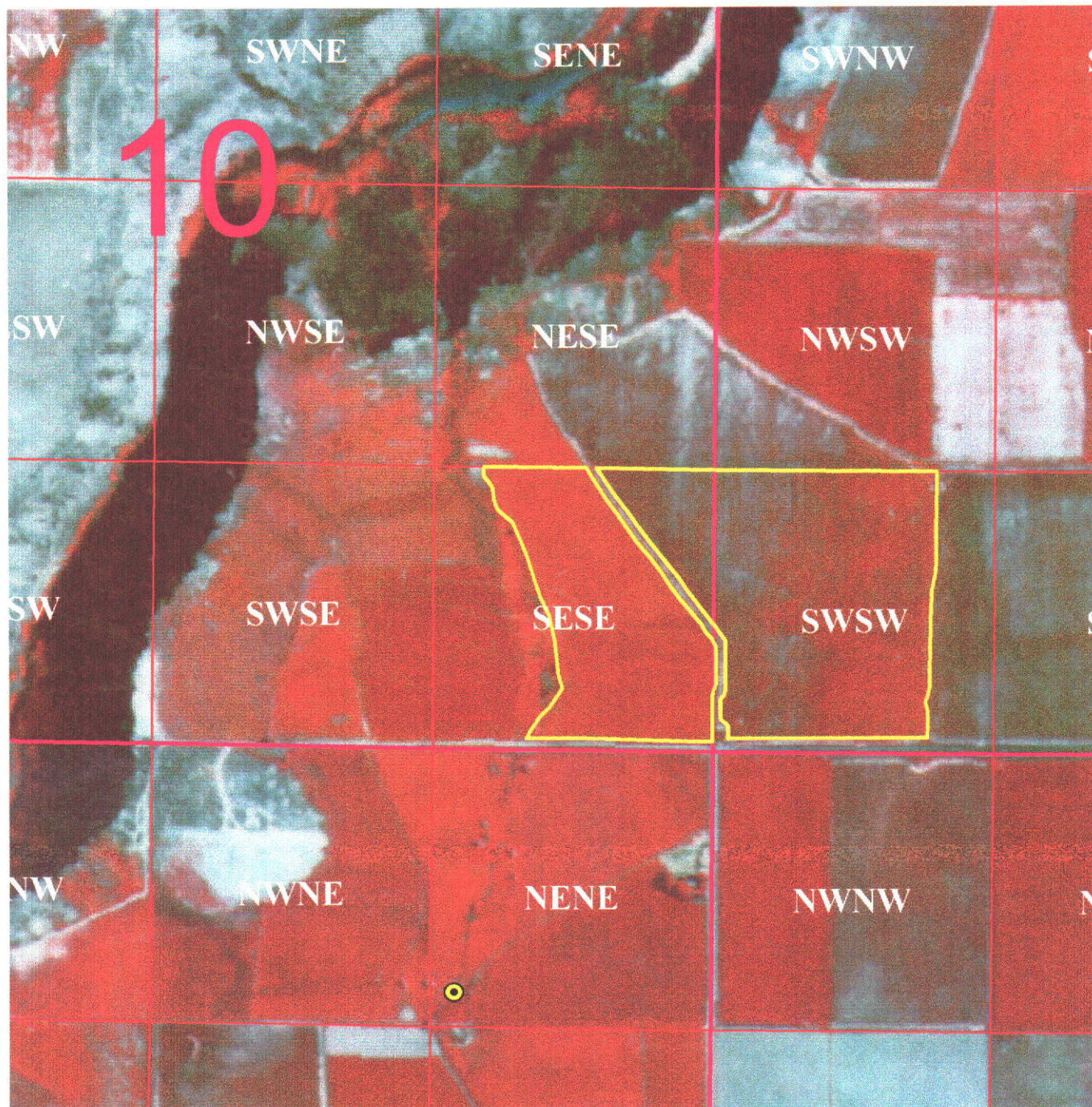


500 0 500 1000 Feet



Water Right Claim Number 47-04196  
Township , 10S13E

03/20/2001



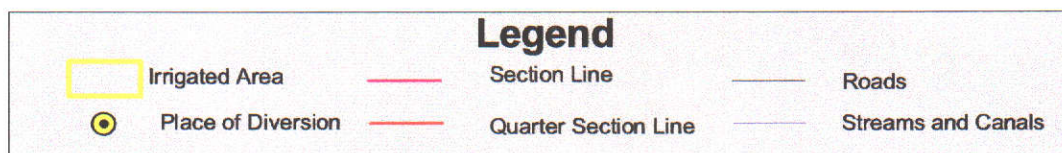
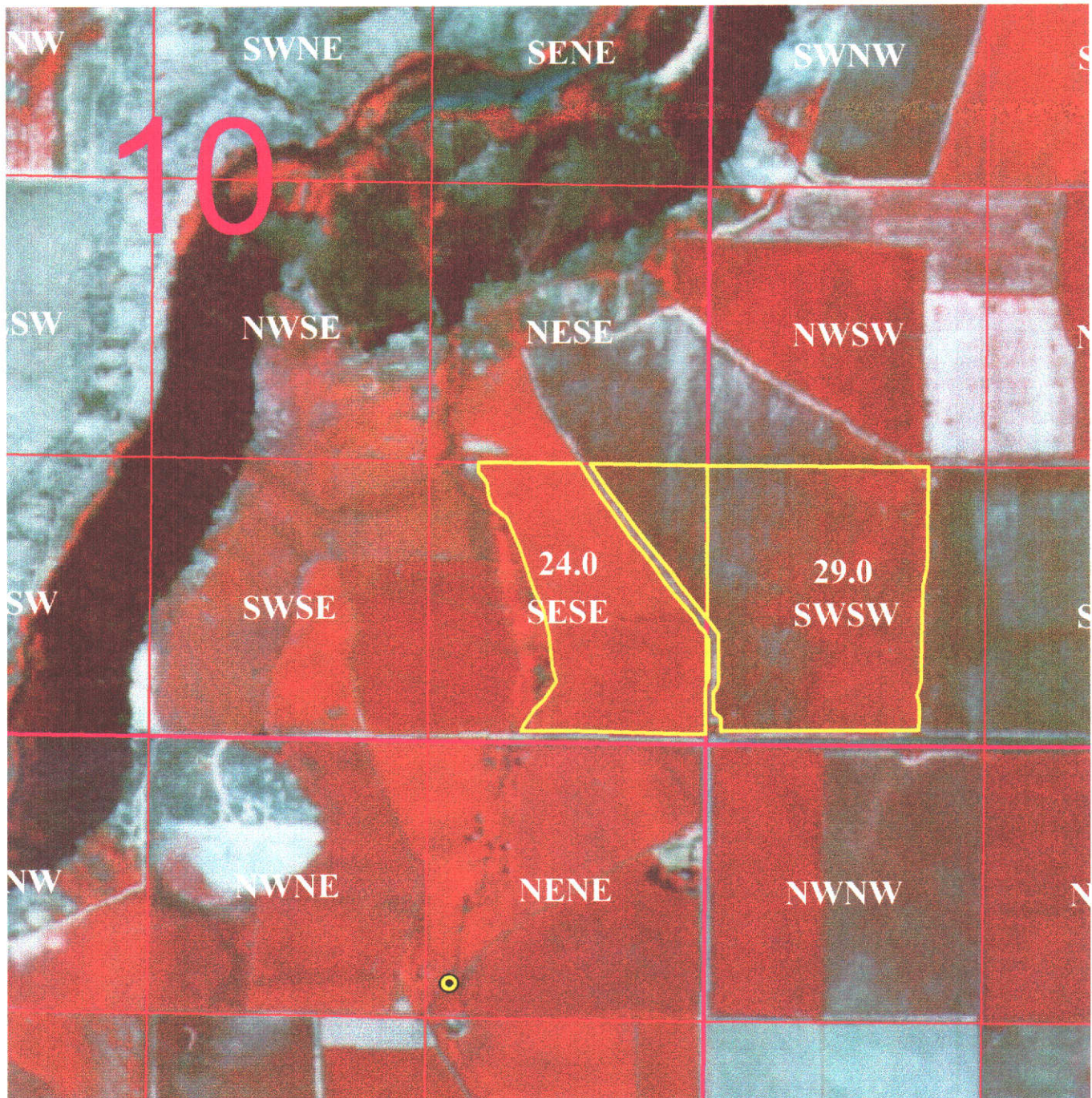
500 0 500 1000 Feet



 SPATIAL  
DYNAMICS

Water Right Claim Number 47-04196  
Township , 10S13E

03/20/2001



500 0 500 1000 Feet



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: A47-04196  
Date Received: 7/26/1988  
Receipt No: S001106  
Received By: \_\_\_\_\_

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: JOSE BARINAGA TRUST 208-537-6645  
Address: C/O MARILYN BARINAGA  
TRUSTEE  
854 E 3600 N  
CASTLEFORD ID 83321

2. Date of Priority: JUL 6, 1909

3. Source: WASTE WATER Trib. to: SALMON FALLS CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County     |
|----------|-------|---------|--------|--------|-----|-----|------------|
| 10S      | 13E   | 15      | NE     | NE     |     |     | TWIN FALLS |

5. Description of diverting works:  
CHECK DAM AND DITCH

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 4.000 |      |        |
| STOCKWATER | 03/15 | 11/15 | 0.070 |      |        |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
S/300 RANGE, 3000 SHEEP

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|----------|-------|---------|--------|-----|-----|-----|-------|
| 10S      | 13E   | 10      | SE     | SE  |     | IRR | 29.0  |

MICROFILMED  
NOV 29 1995

10. Place of Use: Continued

| Township | Range | Section | 1/4 of 1/4 | Lot | Use           | Acres |
|----------|-------|---------|------------|-----|---------------|-------|
|          |       |         |            |     | Section Acres | 29.0  |
|          |       | 11      | SW         | SW  | IRR           | 35.0  |
|          |       |         |            |     | Section Acres | 35.0  |
|          |       |         |            |     | Total Acres   | 64.0  |

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:

14. Remarks:

NAME CHANGE MADE 3-30-95 BY TLB. MADE INTO A TRUST.

15. Basis of Claim: STATUTORY CLAIM

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 Individuals:**

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

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

**MICROFILMED**

State of Idaho )  
County of \_\_\_\_\_ ) SS.

Subscribed and sworn (or affirmed) before me this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Seal

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

MICROFILMED

NOV 29 1995

Water Right Number - R47-04196

Prefix Translation: RESEARCH

Old (D) Number -

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

\*\*\* C - CURRENT OWNER \*\*\*  
BARINAGA TRUST

JOSE

1 - C/O MARILYN BARINAGA  
2 - TRUSTEE  
3 - 854 E 3600 N  
City- CASTLEFORD  
Phone - 208-537-6645

State- ID Zip- 83321

\*\*\* O - ORIGINAL OWNER \*\*\*  
BARINAGA

MARILYN R.

1 - 854 E 3600 N  
2 -  
3 -  
City- CASTLEFORD  
Phone - 208-537-6645

State- ID Zip- 83321

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - - +  
07/06/1909 17 SOUTHERN S - STATUTORY CLAIM+ - - - - Source - - - - - + + - - - - Tributary - - - - - +  
WASTE WATER SALMON FALLS CREEK+ - - - - Point of Diversion - - - - - +  
TwN Rng Sec Tract Lot RFlg County  
10S 13E 15 NE NE (83) TWIN FALLS+ - - - - Water Use - - - - - +  
Code Description Period From Period To Diversion Rate Diversion Volume  
01 - IRRIGATION 03/15 11/15 4.000  
04 - STOCKWATER 03/15 11/15 0.070+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
4.000 0.0+ - - - - Place of Use - - - - - +  
TwN Rng Sec Tract Lot Acres Code Description County  
10S 13E 10 SE SE 29.0 01 IRRIGATION (83) TWIN FALLS  
10S 13E 11 SW SW 35.0 01 IRRIGATION (83) TWIN FALLS

Total Acres: 64.0

+ - - Diversion Means - CHECK DAM AND DITCH

+ - - Non-Irrigation Use - S/300 RANGE, 3000 SHEEP

+ - - Other Rights for Same Use -

+ - - - - Remarks - - - - - +  
NAME CHANGE MADE 3-30-95 BY TLB. MADE INTO A TRUST.MICROFILMED  
NOV 29 1996

Water right number - R47-04196

Prefix Translation: RESEARCH

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

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

No Old Water Right Numbers Found

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

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +  
00/00/0000

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

Date: 03/30/1995 User Id: TBACKLUN Subject: COPIED FROM REMARKS  
NAME CHANGE MADE 3-30-95 BY TLB. MADE INTO A TRUST.

+ - - Audit Fields - - +

03/30/95 TBACKLUN

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 00/00/0000 | Verified Date         | - 00/00/0000 | Old Judicial District   | -       |
| Claim Received Date  | - 07/26/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - T     |
|                      |              | Receipt Number        | - X777777    | Water District          | -       |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | -            | Presumption Flag        | -       |
|                      |              |                       |              | Notice of Error Flag    | -       |

MICROFILMED  
NOV 25



# NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type  
(see instructions on back of page)

DATE OF CLOSING: \_\_\_\_\_

LEGAL DESCRIPTION OF PROPERTY: Township \_\_\_\_\_ Range \_\_\_\_\_  
Section \_\_\_\_\_, 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_, BM.  
Lot \_\_\_\_\_, Block \_\_\_\_\_, Subdivision/Townsite \_\_\_\_\_.  
If you have additional legal descriptions, please attach separate sheet.

- [ ] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- [ ] Water Right Number(s) Assigned by IDWR: # A47-04199: 47-04439: 47-04196:  
# A47-04197:
- [ ] Name and Address of Former Owner/Claimant(s)(Seller): Jose Barinaga Rt. 1 Castleford, Id. 83321  
Marilyn R. Barinaga Rt. Castleford, Id. 83321
- [ ] New Owner/Claimant (Purchaser): Jose Barinaga Trust - Marilyn R. Barinaga TTEE
- [ ] New Mailing Address: 854 E 3600 N  
Castleford, Idaho 83321
- [ ] New Telephone Number: (208) 537-6645
- [ ] Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no  
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- [ ] Attach proof of ownership, describe proof attached: \_\_\_\_\_

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- [ ] Signature of New Owner/Claimant(s) Jose Barinaga Trust Date 3-23-95  
Marilyn R. Barinaga TTEE Date 3-23-95
- [ ] Signature of Former Owner/Claimant(s): Jose Barinaga (deceased) Date \_\_\_\_\_  
Marilyn R. Barinaga Date 3-23-95

(Signature of former claimant(s) is not required if proof of ownership is attached.)

RECEIVED

MAR 24 1995

Department of Water Resources  
Southern Region

MICROFILMED

## FOR IDWR USE ONLY:

Initial Review and Data-Entry  
Date: \_\_\_\_\_ By: \_\_\_\_\_  
Further Action Needed: \_\_\_\_\_

Further Action Taken  
Date: \_\_\_\_\_ By: \_\_\_\_\_

Final Review and Data-Entry  
Date: \_\_\_\_\_ By: \_\_\_\_\_

Claim Numbers of Split, if any: \_\_\_\_\_

Original to be mailed to Idaho Department of Water Resources  
Copies to Former Owner and New Owner

NOV 25 1995



State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

\*GECU DANDRUS  
Governor PHIL BATT

R. KEITH HIGGINSON  
Director

March 30, 1995

JOSE BARINAGA TRUST  
MARILYN BARINAGA, TRUSTEE  
854 EAST 3600 NORTH  
BUHL, ID 83316

RE: SRBA CLAIMS: A47-04199, A47-04196, A47-04197, & A47-04439

DEAR CLAIMANT:

PURSUANT TO THE NOTIFICATION THAT YOU HAVE PURCHASED PROPERTY WITH THE ABOVE-REFERENCED ADJUDICATION CLAIMS, WE HAVE CHANGED THE DEPARTMENT'S RECORDS AS YOU REQUESTED. **THIS COPY IS FOR YOUR RECORDS.** PLEASE REVIEW THESE RECORDS FOR ACCURACY.

YOU HAVE ANY MORE QUESTIONS, PLEASE FEEL FREE TO CONTACT ME AT THIS OFFICE.

SINCERELY,

TARA L BACKLUND  
SNAKE RIVER BASIN ADJUDICATION  
RECORDS CLERK

/TLB  
ENCLOSURES

MICROFILMED  
NOV 29 1995

AFFIDAVIT

In the matter of claim #47-04196

The court documents accompanying this water claim show that water to irrigate the lands presently irrigated by the described coulee were diverted "for many years prior to April 11, 1929". The layout and elevation of the farm makes use of coulee water for the ditch described in the court document the best source of water for development of these fields.

Court records show that the first years on the farm were economically very difficult for the Monroes. Mortgages, default, foreclosures, redemption and remortgages all occurred in the first five years. Therefore, for reasons of physical expediency and economic necessity, it must be concluded that "many years prior to April 11, 1929" extends back to the date of the Final Certificate, July 6, 1909.

Jose Barinaga Trust  
Marilyn R. Barinaga TTEE  
Signature  
Marilyn R. Barinaga, Trustee  
Jose Barinaga Trust

STATE OF IDAHO,  
COUNTY OF Twin Falls

On this 14 day of March, in the year  
1995, before me Datsy L. Kinyon,  
a notary public in and for said State of Idaho, personally  
appeared Marilyn Barinaga  
known or identified to me to be the persons whose names are  
subscribed to the within instrument and acknowledged to me that  
they executed the same.

RECEIVED

MAR 14 1995

Department of Water Resources  
Southern Region

Datsy L. Kinyon  
Notary Public for Idaho

Residing at Castleford, Id

Commission expires Aug 2000

100-30FILMED  
NOV 29 1996

6/9/94

# COMMUNICATION DOCUMENTATION

**Claim No. see below**

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

**IDWR Employee/Agent** Kelly K Christensen

|                        |                  |
|------------------------|------------------|
| DATE                   | CUSTOMER         |
| March 14, 1995 12:05pm | MARILYN GARINAGA |

**SUBJECT:** evidence of priority FOR A47-04198, A47-04439, A47-04439,

AND A47-04196

phone call (.) walk-in (X)

She brought in evidence for the above claims. I briefly reviewed the claims and they appear to be sufficient at this time. We also discussed change of ownership and I gave her some forms.

**MICROFILMED**  
**NOV 29 1998**



State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

GOVERNOR PHILIP E. BATT  
Governor

R. KEITH HIGGINSON  
Director

January 10, 1995

A47-04196  
MARILYN R. BARINAGA  
854 E 3600 N  
CASTLEFORD ID 83321

RE: Evidence of Priority

\*\*\*\*\*  
\* RESPONSE DEADLINE \*  
\* MARCH 15, 1995 \*  
\*\*\*\*\*

Dear Claimant:

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, at a later date, conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, proof must be provided by the claimant supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the department. If you have received this correspondence from the previous owner of the property it is recommended that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Please find enclosed a computer printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

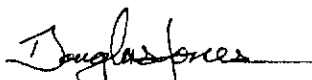
**SPECIAL NOTE:** The Department will not recommend the Notice be decreed by the court as claimed if no evidence of a priority date is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement must be in the form of a

January 10, 1995  
page 2

notarized affidavit.

Please submit the required evidence supporting the priority date by March 15, 1995, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,

  
Douglas Jones, P.E.  
Water Rights Supervisor

Enc.

MICROFILMED  
NOV 28 1995

For Water Claim # A47-04196

No. 1 Continued.

of courts. And there is reserved for the United States herchy granted, a right of way that is for the use of or canals constructed by the authority of the United States.

By the President: Woodrow Wilson

By M. P. LeRoy, Secretary

W. W. Sanford, Register of  
the General Land Office.

(SEAL)

(2)

State of Idaho,  
to  
James Monroe.

FINAL CERTIFICATE  
P.O. Book 1 Page 140  
Dated July 4, 1901  
Filed Nov. 22, 1900

Submits evidence of the reclamation, cultivation and settlement of SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10, Tp. 10 S., R. 13, E.B.M., and other property, containing 120 acres, and has paid to the State of Idaho the sum of \$20. being the final payment.

H. L. Lewis, Agent State  
Land Department

Certified, examined and approved as correct  
By Order of the State of Idaho

(SEAL)

L. I. Church, Register

(3)

State of Idaho,  
to  
James Monroe.

CAREY ACT PATENT  
C.A.P. Book 2 Page 110  
Dated April 5, 1913  
Filed Oct. 17, 1910

GRANTS to second party: SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10, Tp. 10 S., R. 13 E.B.M. and other property containing 120 acres, more or less.

John H. Haines, Register

Countersigned: H. Jennings, Register of Land Commissioners.

(SEAL)

Countersigned: Wilfred L. Gifford, Secretary of State.

(SEAL)

(4)

James Monroe and Hulda  
Monroe, his wife,  
to  
Citizens State Bank.

MORTGAGE 1400.  
Mtg. Book 9 Page 101  
Dated Nov. 19, 1908  
Filed Nov. 22, 1908

MORTGAGE to second party: SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10, Tp. 10 S., R. 13 E.B.M. and other property.

For Water Claim # A47-04196

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

EDWIN MONROE and PEARL MONROE,

Plaintiffs,

-vs-

EARL W. SAXTON and EMMA SAXTON,

Defendants.

Civil No. 12275

**DISTRICT COURT**  
Eleventh Judicial District  
County of Twin Falls, State of Idaho  
MEMORANDUM  
**FILED DEC 20 1946**  
*C. A. Buller*  
*Loris Oliver*  
Clerk  
Deputy Clerk

The above case was tried to the Court without a jury, briefs have been filed and the matter is now ready for decision. The question for determination is at what size and capacity are the defendants entitled to maintain a certain irrigation ditch across the premises of the plaintiffs.

It appears from the evidence that long prior to April 11, 1929, the plaintiff Edwin Monroe and his brother Harland Monroe, owned and operated a farm consisting of the lands now owned by the plaintiffs and by the defendants. The brothers decided to divide the farm and made deeds to each other for such purpose. Thereafter, the Harland Monroe land was deeded to John Gabhart in the fall of 1938, and was deeded by Gabhart to the defendants in the fall of 1943.

The deed from Edwin Monroe to Harland Monroe contained this provision: "Also an easement and right-of-way to become and be appurtenant to that portion of SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 10, above conveyed to him and which shall consist of and be the right to the use of one-half of waste water that is carried by coulee running in a northerly direction through N $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 15, and of the right to make use of said coulee for running of water to his said land."

The ditch in question in this suit takes water out of the coulee and carries the same in a generally northeasterly direction across plaintiffs' land and onto the land in the Southeast quarter of the Southeast quarter of Section 10, consisting of 29.4 acres. This ditch was used for many years prior to April '11, 1929, by the Monroe brothers for the irrigation of such land and has been used at all times since for such purpose. The purported easement set out in the deed to Harland Monroe is ambiguous. It does not even mention in terms the ditch in question although the ditch was in place and appurtenant to such 29.4 acres at the time the deed was made. The only reasonable interpretation of such easement is that it was the intention of the parties to describe and transfer the ditch as it then existed.

It is conceded that there is a water right for such land from the Twin Falls Canal Company but that it takes some additional water from the coulee to water such land, the same being very thin and poor land. Plaintiffs urge that the rights of defendants in and to such ditch are to be measured by the beneficial use which the defendants can make of the water from the coulee in irrigating the 29.4 acres fixed by the plaintiffs at 50 inches continuous flow. It is true that an appropriator cannot claim more water than he can beneficially use and that such fact is considered in the size of a ditch which an appropriator may gain by prescription or condemnation. However, such principle is not in point in this case as we are dealing with a ditch actually in existence of a certain size at the time of the grant and designed to carry a certain head of water. The terms of the grant could not in any event be construed to decrease the size of the existing ditch as the same was already

appurtenant to the land, and the grant<sup>ee</sup>er, Harland Monroe, already owned an undivided one-half interest therein. If there had been no description of the ditch or easement in the deed to Harland Monroe, the ditch as then existing would have passed as an appurtenance to the 29.4 acres of land.

The defendants claim the right to use the water appurtenant to such 29.4 acres upon their other lands, particularly upon 15 acres of land lying to the east. There is no question of such right of transfer; but such transfer cannot be used to increase the total amount of water or ditch capacity to which they are entitled unless such use continues for the prescriptive period of five years. The evidence does not disclose any continuous five-year period in which additional water and ditch capacity have been used to irrigate the fifteen acres in question.

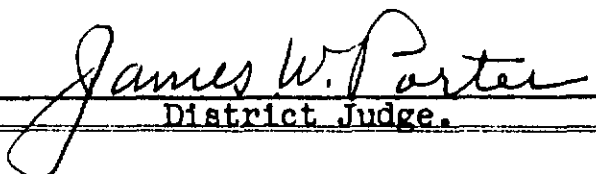
The Court is of the opinion that the defendants are entitled to maintain the ditch and their water capacity therein at the same size and amount existing at the time of the deed from Edwin Monroe to Harland Monroe. It appears from the record that the size and capacity of the ditch was not changed, except possibly by some erosion, from the time of the transfer to Harland Monroe until the year 1944. In 1944, the defendants under the guise of cleaning the ditch, actually enlarged the same and built a larger culvert or bridge across the road. The plaintiff, Edwin Monroe, testified that the ditch originally would carry 75 inches but that in 1944, it was enlarged to double that capacity. On the other hand, there is testimony to the effect that when the Monroe brothers used the ditch it would and was used to carry 200 inches. When Gabhart had the land, he estimates the ditch would carry 200 inches, but with

resulting trouble at the old bridge. There is testimony that the ditch is now large enough to carry possibly 500 inches. All these expressions are merely estimates as to the size and capacity of the ditch. From the actual measurements of the water in the ditch, it appears that it will carry approximately 250 inches. From an examination and comparison of all the testimony the Court is of the opinion that when the transfer was made to Harland Monroe, the ditch and bridge were of sufficient size to carry approximately 150 inches of water to the land in question. The preponderance of the testimony is that a head of this size can be beneficially used in watering the 29.4 acres. The plaintiff testified that he also waters 15 acres out of such ditch and that he sometimes uses a head of 75 inches which would make it reasonable to say that a head of 150 inches could be used in irrigating the 29.4 acres.

The judgment of the Court will be that the defendants have the right to maintain and use the ditch in question at sufficient size and capacity to carry a maximum head of 150 inches of water for use upon the land to which such ditch is appurtenant. The defendants will be enjoined and restrained from carrying more than such maximum head of 150 inches of water in such ditch. Plaintiffs' title to such ditch otherwise and to the use of such ditch will be quieted.

Counsel for plaintiffs will kindly prepare Findings of Fact, Conclusions of Law and Decree in accordance herewith, serve same upon counsel for defendants and submit the originals to the Court for signature.

DATED This 18th day of December, 1946.

  
District Judge.

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: A47-04196  
Date Received: 7/26/1988  
Receipt No: S001106  
Received By: lw

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: MARILYN R. BARINAGA 208-537-6645  
Address: RT. 1 83321  
CASTLEFORD, ID
2. Date of Priority: JUL 06, 1909
3. Source: WASTE WATER Trib. to: SALMON FALLS CREEK
4. Point of Diversion:  

|          |       |         |        |        |     |     |            |
|----------|-------|---------|--------|--------|-----|-----|------------|
| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County     |
| 10S      | 13E   | 15      | NE     | NE     |     |     | TWIN FALLS |
5. Description of diverting works:  
CHECK DAM AND DITCH
6. Water is used for the following purposes:  

|            |       |       |        |      |        |
|------------|-------|-------|--------|------|--------|
| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
| IRRIGATION | 03/15 | 11/15 | 4.000  |      |        |
| STOCKWATER | 03/15 | 11/15 | 0.070  |      |        |
7. Total Quantity Appropriated is:  
4.000 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:  
S/300 RANGE, 3000 SHEEP
10. Place of Use:

|               |       |         |        |     |     |     |       |
|---------------|-------|---------|--------|-----|-----|-----|-------|
| Township      | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
| 10S           | 13E   | 10      | SE     | SE  |     | IRR | 29.0  |
| Section Acres |       |         |        |     |     |     | 29.0  |

A47-04196

Page 1

Date: 07/26/88

MICROFILMED  
MAR 11 1993

10. Place of Use: Continued

| Township      | Range | Section | 1/4 of 1/4 | Lot | Use | Acres |
|---------------|-------|---------|------------|-----|-----|-------|
| 10S           | 13E   | 11      | SW         | SW  | IRR | 35.0  |
| Section Acres |       |         |            |     |     | 35.0  |
| Total Acres   |       |         |            |     |     | 64.0  |

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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 Individuals:

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

Signature of Claimant(s): Paulyn R. Bannaga Date: 7-26-88  
\_\_\_\_\_  
Date: \_\_\_\_\_

State of Idaho )  
County of T.E. ) SS.

Subscribed and sworn (or affirmed) before me this 26<sup>th</sup> day

of July 19 88

Lon White  
Notary Public

Seal

Residing at T.E.

My Commission Expires 5/95

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: A47-04197  
Date Received: 7/26/1988  
Receipt No: S001106  
Received By:         

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: MARILYN R. BARINAGA 208-537-6645  
Address: RT. 1  
CASTLEFORD, ID 83321

2. Date of Priority: JUL 12, 1910

3. Source: WASTE WATER Trib. to: SALMON FALLS CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County     |
|----------|-------|---------|--------|--------|-----|-----|------------|
| 10S      | 13E   | 11      | SE     | NW     |     |     | TWIN FALLS |

5. Description of diverting works:  
CHECK DAM AND DITCH

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 1.000  |      |        |

7. Total Quantity Appropriated is:  
1.000 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 | Lot | Use | Acres |
|---------------|-------|---------|--------|-----|-----|-----|-------|
| 10S           | 13E   | 11      | SW     | NW  |     | IRR | 15.0  |
|               |       |         | SE     | NW  |     | IRR | 12.0  |
| Section Acres |       |         |        |     |     |     | 27.0  |

10. Place of Use: Continued

Total Acres 27.0

11. Place of use in counties: TWIN FALLS

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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 Individuals:**

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

Signature of Claimant(s): Marilyn R. Barinaga Date: 7-26-88  
Date:                     

State of Idaho )  
County of TF ) SS.

Subscribed and sworn (or affirmed) before me this 26<sup>th</sup> day

of July 19 88

Low White  
Notary Public

Seal

Residing at TF

My Commission Expires 5/95

Log for claim 47-04196

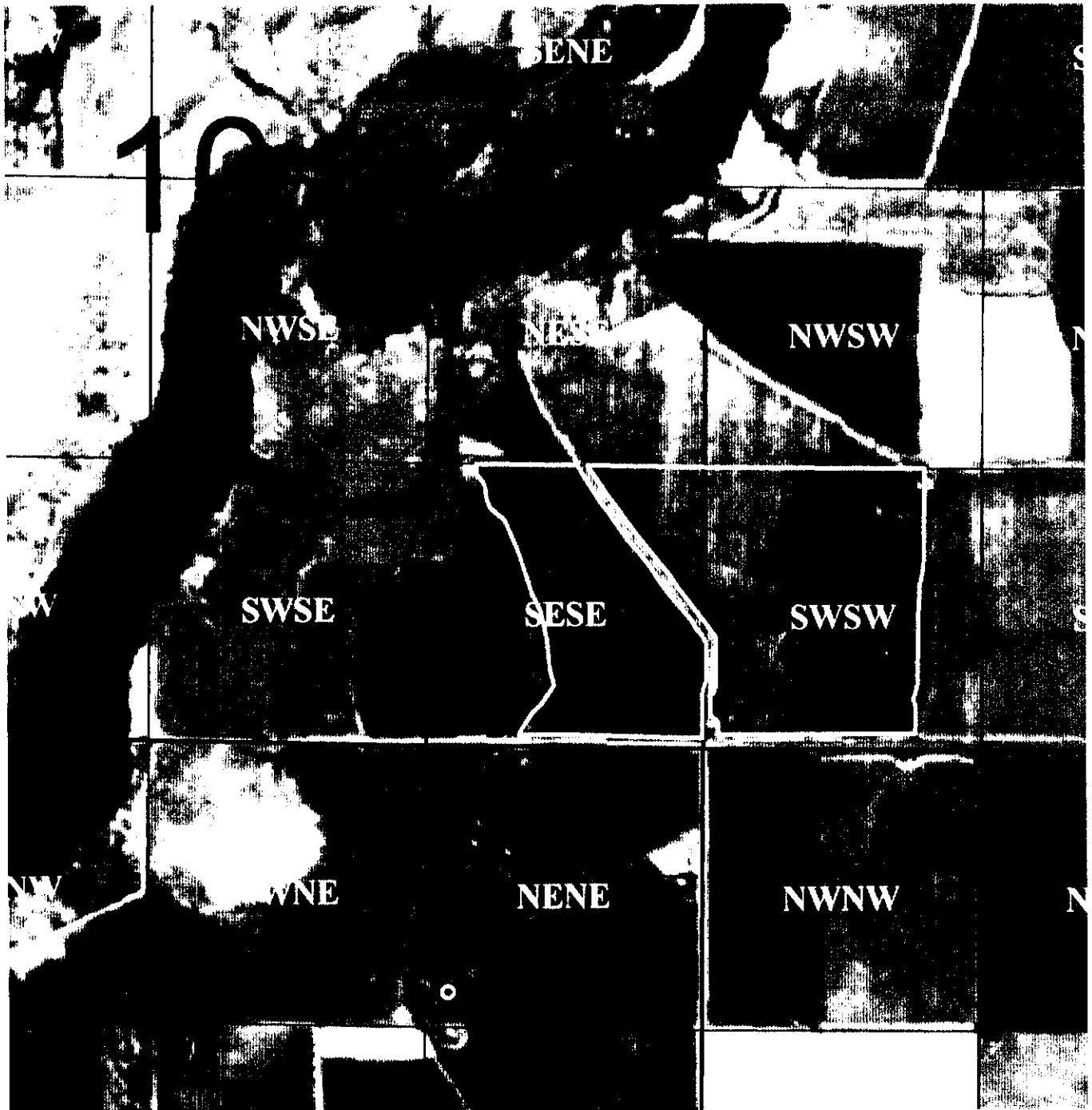
Spatial Dynamics BTD

3/20/01

| TR      | SEC | QQ   | Acres<br>Claimed | Acres<br>Found | COMMENT |
|---------|-----|------|------------------|----------------|---------|
| 10s13e  | 10  | SESE | 29               | 24             |         |
| 10s13e  | 11  | SWSW | 35               | 29             |         |
| Totals: |     |      | 64               | 53             |         |

Water Right Claim Number 47-04196  
Township , 10S13E

03/20/2001



**Legend**

Irrigated Area



Place of Diversion

Section Line

Quarter Section Line

Roads

Streams and Canals

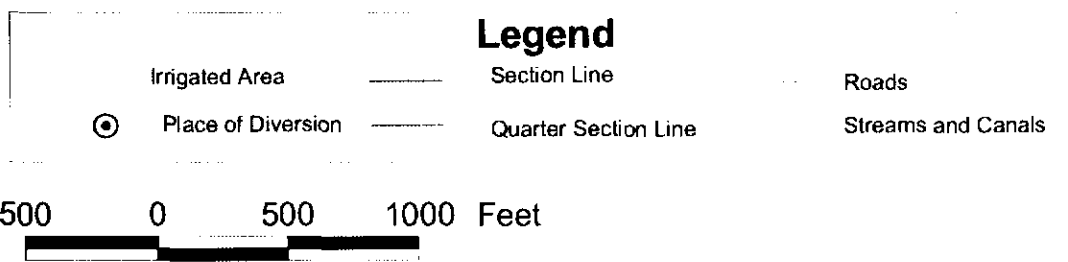
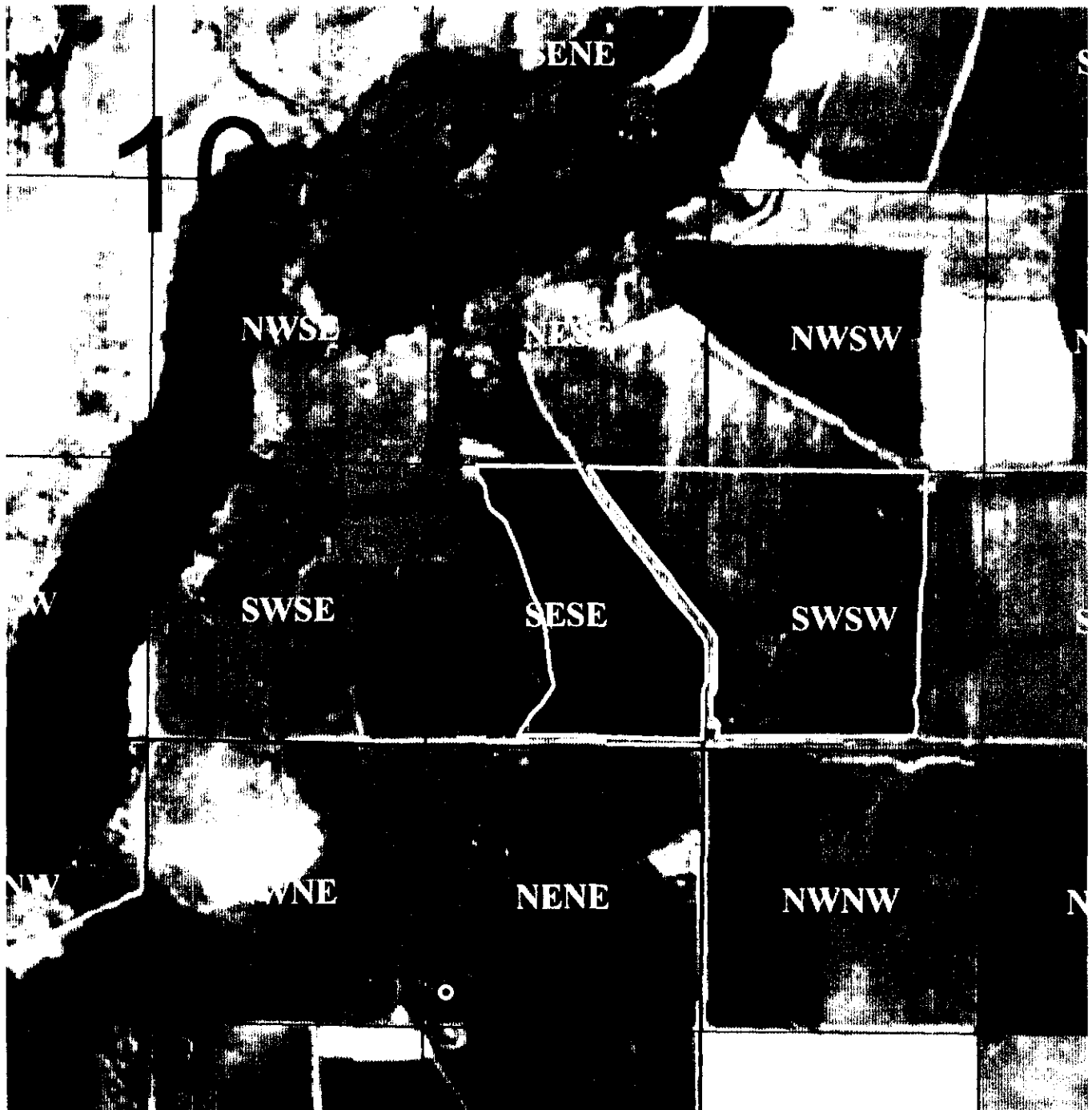


500 0 500 1000 Feet

*SPATIAL  
DYNAMICS*

Water Right Claim Number 47-04196  
Township , 10S13E

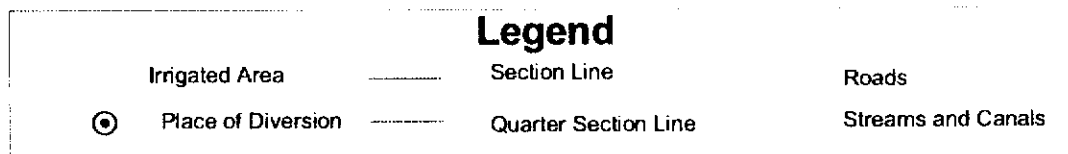
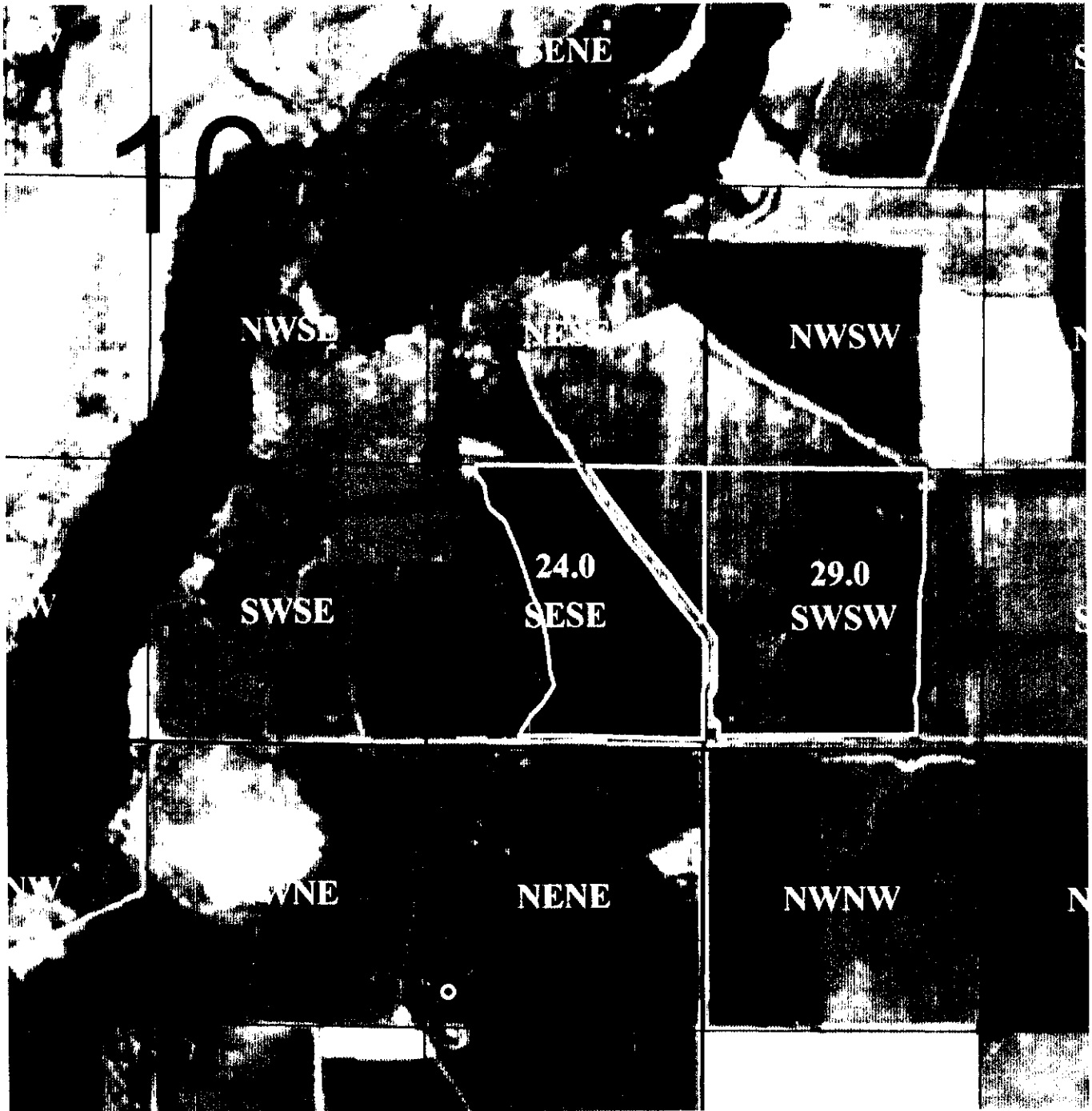
03/20/2001



SEATTLE  
DYNAMICS

Water Right Claim Number 47-04196  
Township , 10S13E

03/20/2001



500 0 500 1000 Feet



SPATIAL  
DYNAMICS

AJ5809NP  
No. A47-04196

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/12/01  
PAGE: 126

| OWNER<br>CODE    | NAME & ADDRESS                                                                                                  | PRIORITY<br>DATE | WATER USE                | USE PERIOD<br>FROM TO      | DIVERSION<br>RATE      | DIVERSION<br>VOLUME |
|------------------|-----------------------------------------------------------------------------------------------------------------|------------------|--------------------------|----------------------------|------------------------|---------------------|
| C                | JOSE BARINAGA TRUST<br>C/O MARILYN BARINAGA<br>TRUSTEE<br>854 E 3600 N<br>CASTLEFORD ID 83321<br>(208) 537-6645 | 07/06/1909       | IRRIGATION<br>STOCKWATER | 03-15 11-15<br>03-15 11-15 | 4.000 CFS<br>0.070 CFS |                     |
| TOTAL DIVERSION: |                                                                                                                 |                  |                          |                            | 4.000 CFS              |                     |

Water Source: WASTE WATER

Tributary to: SALMON FALLS CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T10S R13E S15 NENE

TWIN FALLS County

Place of use Legal Description for: IRRIGATION

|             |        | NE    |       |       |       | NW    |       |       |       | SW    |       |       |       | SE    |       |       |       |      |
|-------------|--------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|------|
|             |        | NENE  | NWNE  | SWNE  | SENE  | NENW  | NWNW  | SWNW  | SENW  | NESW  | NWSW  | SWSW  | SESW  | NESE  | NWSE  | SWSE  | SESE  | SUM  |
| T           | R S    | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac | Lt Ac |      |
| 10S         | 13E 10 | :     | :     | :     | :     | :     | :     | :     | :     | :     | :     | :     | :     | :     | :     | :     | :     | 29.0 |
| 10S         | 13E 11 | :     | :     | :     | :     | :     | :     | :     | :     | :     | 35    | :     | :     | :     | :     | :     | :     | 35.0 |
| TOTAL ACRES |        |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       | 64.0  |      |

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

POU County: TWIN FALLS

Non-Irrigation Uses: S/300 RANGE, 3000 SHEEP

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):  
47-11394 A47-04337 A47-11394 R47-04196

Other Water Rights Listing Overlapping Place(s) of Use:  
A01-0020921 A47-04337 A47-04439 R47-04196 R47-04439

Remarks: GEN NAME CHANGE MADE 3-30-95 BY TLB. MADE INTO A TRUST.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:  
Presumption Flag:

Audit: 07/26/88 WHITE 10/26/88 BLAU 03/30/95 TBACKLUN 03/30/95 POST-STD

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Jose Barinaga (Name of Claimant)  
Route #1, Castleford, Idaho 83321 (Mailing Address) Telephone No. 537-6645 (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) July 6, 1909

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) Wastewater tributary to Salmon Falls Creek

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

| Quantity                 | (cfs, gpd, AFA) | Use                   | (Domestic, Irrigation, Stock, Etc.) | (Both dates inclusive)           |                  |
|--------------------------|-----------------|-----------------------|-------------------------------------|----------------------------------|------------------|
|                          |                 |                       |                                     | (Mo., Day)                       | (Mo., Day)       |
| Quantity <u>4.00 cfs</u> |                 | Use <u>irrigation</u> |                                     | Period of Use From <u>Mar 15</u> | To <u>Nov 15</u> |
| Quantity <u>0.07 cfs</u> |                 | Use <u>livestock</u>  |                                     | Period of Use From <u>Mar 15</u> | To <u>Nov 15</u> |
| Quantity _____           |                 | Use _____             |                                     | Period of Use From _____         | To _____         |
| Quantity _____           |                 | Use _____             |                                     | Period of Use From _____         | To _____         |
| Quantity _____           |                 | Use _____             |                                     | Period of Use From _____         | To _____         |

(4) 4.00 cfs TOTAL QUANTITY USED.  
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)  
NE 1/4 NE 1/4, Sec. 15 Twp. 10S Rge. 13E B.M., County of Twin Falls  
Additional points of diversion: \_\_\_\_\_

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Check dam & ditch

(6) A) Describe location of use by listing number of irrigated acres within each 40 acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

| T   | R   | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTAL |
|-----|-----|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------|
|     |     |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |       |
| 10S | 13E | 10   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 29    |
|     |     | 11   |        |        |        |        |        |        |        |        |        |        | 35     |        |        |        |        |        | 35    |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |
|     |     |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |       |

No. of acres 64

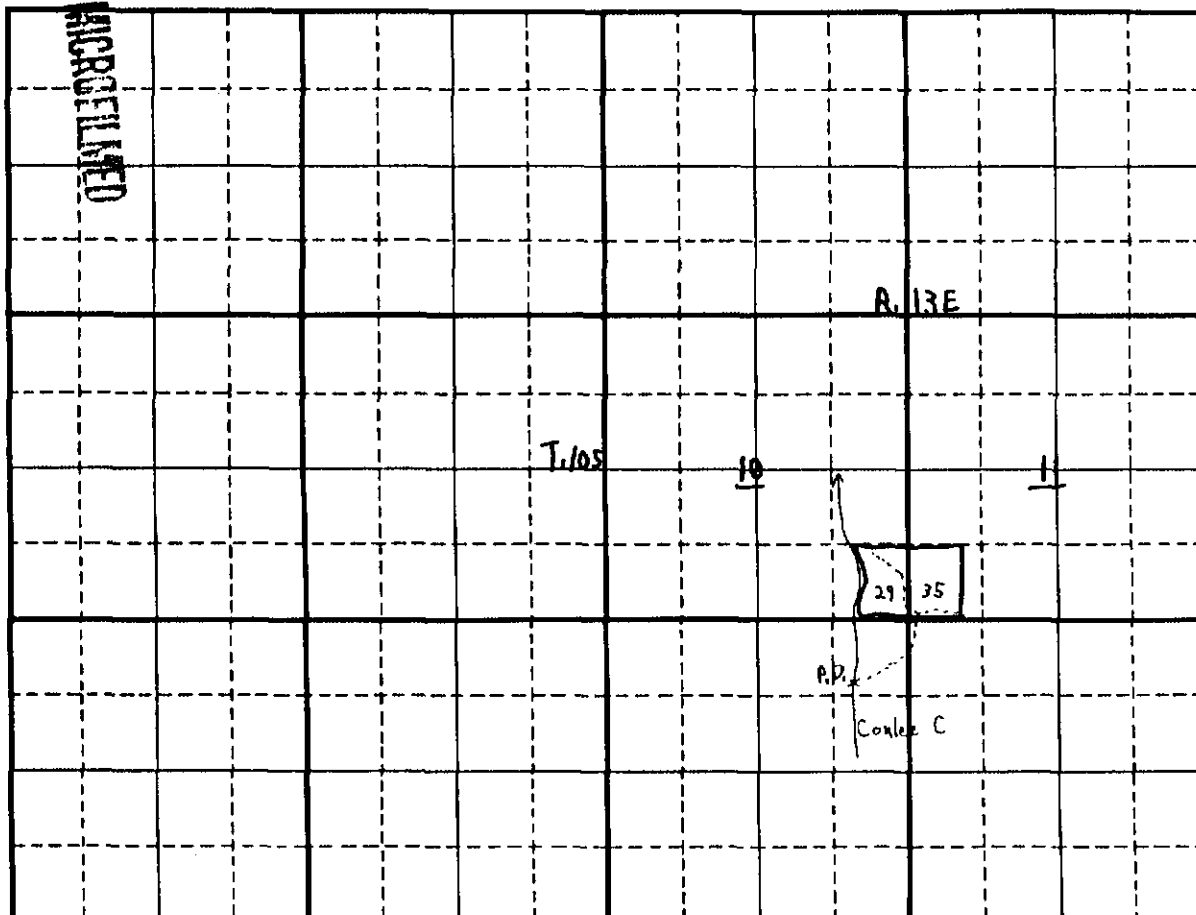
B) If water is used for other than irrigation, fully describe that use, being as specific as possible: \_\_\_\_\_

NOTE: Include here the type and number of stock watered: 300 range cattle &/or 3000 sheep

(7) If you are claiming water as a member of an organization, list name of organization: \_\_\_\_\_

RECEIVED

(8) Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho )  
County of Twin Falls ) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 2nd day of December, 1980.

Jose Basimaga  
(Claimant)

Mary A. Hill  
Notary Public  
Residing at Twin Falls, Id

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by JF Stanton Date 12-2-80 Exception filed by: \_\_\_\_\_ Date \_\_\_\_\_  
Prelim. check by ADM Date 12-9-80 Forwarded to claimant by: \_\_\_\_\_  
\$20.00 fee received by Mary Date 12-2-80 #16699  
Published in Times Boise  
Dates 12/18 & 12/25/80

No. 1 Continued.

of courts. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

By the President: Woodrow Wilson  
By M. P. LeRoy, Secretary  
H. W. Sanford, Recorder of  
the General Land Office.

(SEAL)

(2)

State of Idaho,  
to  
James Monroe.

FINAL CERTIFICATE  
P.C. Book 1 Page 240  
Dated July 6, 1909  
Filed Nov. 22, 1909

Submits evidence of the reclamation, cultivation and settlement of SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10, Tp. 10 S., R. 13, E.B.M., and other property, containing 120 acres, and has paid to the State of Idaho the sum of \$30. being the final payment.

H. B. Lewis, Agent State  
Land Department

Certified, examined and approved August 10, 1909  
By Order of the State Board of Land Commissioners.  
(SEAL) M. I. Church, Register.

(3)

State of Idaho,  
to  
James Monroe.

CAREY ACT PATENT  
C.A.P. Book 2 Page 310  
Dated April 5, 1913  
Filed Oct. 17, 1916

GRANTS to second party: SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10, Tp. 10 S., R. 13 E.B.M. and other property, containing 120 acres, more or less.

John M. Haines, Governor

Countersigned: N. Jenness, Register State Board  
(SEAL) of Land Commissioners.

Countersigned: Wilfred L. Gifford, Secretary of  
(SEAL) State.

(4)

James Monroe and Hulda \_  
Munroe, his wife,  
to  
Citizens State Bank.

MORTGAGE \$400.  
Mtg. Book 9 Page 299  
Dated Nov. 19, 1909 ✓  
Filed Nov. 22, 1909

MORTGAGE to second party: SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10, Tp. 10 S., R. 13 E.B.M. and other property,

MICROFILMED

No. 55 Continued.

and personal property described in their complaint.

IT IS ORDERED that the titles of the plaintiffs to said real property to-wit:

S $\frac{1}{2}$  SE $\frac{1}{4}$  of Sec. 10; SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec. 11; NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Sec. 14; and N $\frac{1}{2}$  NE $\frac{1}{4}$  of Sec. 15, all in Tp. 10 S., R. 13 E.B.M. together with all water rights, represented by shares in the Twin Falls Canal Company, and the personal property which was on said premises on Sept. 8, 1922.

Be, and the same is established, confirmed and quieted in the plaintiffs as against any and all adverse claims and interests of the defendants.

Wm. A. Babcock, Judge District Court.

(56)

Edwin Monroe, a bachelor,  
to  
Harland Monroe.

WARRANTY DEED  
Deed Book 91 Page 298  
Dated April 11, 1929  
Filed May 8, 1929

Said parties are now owners in common, each having an undivided half interest in: S $\frac{1}{2}$  SE $\frac{1}{4}$  of Sec. 10; SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec. 11; NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Sec. 14 and N $\frac{1}{2}$  NE $\frac{1}{4}$  of Sec. 15 all in Tp. 10 S., R. 13 E.B.M. together with 226.36 shares of capital stock of the Twin Falls Canal Company.

That agreement has been reached by which said real property is to be apportioned and divided between them so that each shall have and hold his interest separately and in entirety.

Edwin Monroe, GRANTS, BARGAINS, SELLS AND CONVEYS to Harland Monroe all right, title, estate and interest in and to that portion of SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10 surrounded by and described as follows:

BEGINNING at a point 200 feet East of the Northwest corner of said SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10, running

THENCE in a Southeasterly direction to point on South line of said 40 acre tract, which is 500 feet East of the Southwest corner, thereof;

THENCE East to Southeast corner of said 40 acre tract;

THENCE North to Northeast corner of said 40 acre tract;

THENCE West to point of beginning. **FLB 31**

ALSO all of the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec. 11; and all the

No. 56 Continued.

NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Sec. 14 all in Tp. 10 S., R. 13 E.B.M. together with 109.40 shares of capital stock of the Twin Falls Canal Company.

ALSO an easement and right of way to become and be appurtenant to that portion of SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 10 above conveyed to him, and which shall consist of and be the right to use of one-half of waste water that is carried by coulee running in a northerly direction through NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 15 and right to make use of said coulee for running of water to his said land.

Edwin Monroe

Ack., April 13, 1929 by Edwin Monroe before Marlin J. Sweeley, Notary Public, Twin Falls County, Idaho. (SEAL)

(57)

J. Harland Monroe and  
M. Edith Monroe,  
to  
Idaho Power Company.

APPLICATION FOR ELECTRIC  
SERVICE  
Misc. Book 12 Page 267  
Dated June 17, 1929  
Filed August 30, 1929

APPLIES for electric service on:  
SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec. 11, Tp. 10 S., R. 13 E.B.M.  
TERM: July 20, 1929 to July 20, 1934  
ON THE FOLLOWING TERMS: \$152.75 cash and \$72.  
yearly.

The terms and conditions of this contract shall be a lien on the above described property during the term of the same.

WITNESSES:  
W. O. Watts

J. Harland Monroe  
M. Edith Monroe

Accepted Dec. 13, 1928  
IDAHO POWER COMPANY  
By J. D. Orr Division Manager

Ack., June 17, 1929 by J. Harland Monroe and M. Edith Monroe, husband and wife, before W. O. Watts, Notary Public, Twin Falls County, Idaho. (SEAL)

(58)

The caption land is within the AMERICAN FALLS RESERVOIR DISTRICT and subject to its assessments from Jan. 22, 1923, which assessments are collected yearly with other taxes through the County Treasurer's office.

MICROFILMED

No. 77  
Deed

J W Gabhart and Kathleen  
M Gabhart, his wife  
to  
Earl W Saxton and Emma  
Marie Saxton, his wife and  
Kenneth Eugene Saxton, a  
bachelor

WARRANTY DEED  
Dated October 23, 1943.  
Filed November 8, 1943.  
Recorded in Book 135 of  
Deeds, page 374.  
Consideration \$13,675.00.

Convey The East 29.4 acres of the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec 10, the  
SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Sec 11, and the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Sec 14, all in Tp 10 S,  
R 13 E B M, together with 109.4 shares of the capital stock of  
the Twin Falls Canal Company.

Subject to an unpaid balance on mortgage of \$4800.00 to  
the Federal Land Bank of Spokane. There is also granted to  
second parties an easement and right of way to become and be  
appurtenant to that portion of the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Sec 10,  
above conveyed to second parties, and which shall consist of  
and be the right to the use of one half of the waste water that  
is carried by the coulee running in a northerly direction  
through the N $\frac{1}{2}$  NE $\frac{1}{4}$  of Sec 15 Tp 10 S R 13 E B M, and of the  
right to make use of said coulee for the running of water to  
their land.

Signed: J W Gabhart

Kathleen M Gabhart

Acknowledged October 23, 1943 before J W Taylor, Notary  
Public, Twin Falls County, Idaho (Seal).

No. 78  
Mortgage

Earl W Saxton & Emma Marie  
Saxton, his wife, & Kenneth  
Eugene Saxton, a bachelor  
to  
J W Gabhart and Kathleen M  
Gabhart, his wife

MORTGAGE  
Dated November 1, 1943.  
Filed November 13, 1943.  
Recorded in Book 127 of  
Mortgages, page 316.  
Consideration \$3997.19.

Covers The East 29.4 acres of the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec 10, SW $\frac{1}{4}$  SW $\frac{1}{4}$   
of Sec 11 and the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Sec 14 all in Tp 10 S R 13 E B M, to-  
gether with 109.4 shares of the capital stock of the Twin Falls  
Canal Company.

Subject to unpaid balance on mortgage of \$4800.00 to the  
Federal Land Bank of Spokane.

Given to secure payment of two notes of even date, one for  
\$2000.00 due on or before December 15, 1944, and one for \$1997.19  
due on or before December 15, 1945, with the privilege of paying  
any amount at any time before maturity.

Signed: Earl W Saxton

Emma Marie Saxton

Kenneth Eugene Saxton

Acknowledged November 2, 1943 by Earl W Saxton before J W  
Taylor, Notary Public, Twin Falls County, Idaho (Seal).

Acknowledged November 4, 1943 by Emma Marie Saxton and Ken-  
neth Eugene Saxton, a bachelor, before John L Foote, Notary Public,  
Columbia County, Oregon (Seal).

No. 79  
Release

J W Gabhart and Kathleen M  
Gabhart, husband and wife  
to  
Earl W Saxton and Emma Marie  
Saxton, husband and wife,  
and Kenneth Eugene Saxton, a  
single man

SATISFACTION OF MORTGAGE.  
Dated January 24, 1945.  
Filed February 28, 1945.  
Recorded in Book 51 of Satis-  
factions of Mortgages, page 674.

Certify that a certain Mortgage, dated November 1, 1943, made  
and executed by Earl W Saxton and Emma Marie Saxton, husband and  
wife, and Kenneth Eugene Saxton, a single man, to J W Gabhart and

(Continued)

Title of Court and Matter as above      PETITION.  
Filed November 12, 1948.

Edwin Monroe and Pearl Monroe, husband and wife, the above named plaintiffs, and Earl W Saxton and Emma Saxton, husband and wife, the above named defendants, petition the Court and allege that the above entitled case was tried before the above entitled Court on June 18, 1946.

That neither Findings of Fact nor Conclusions of Law nor a Decree have ever been made or entered in said case.

That under date of March 22, 1948, the above named plaintiffs and defendants made and entered into a written agreement regarding the subject matter of above entitled case, compromising and settling their differences regarding said subject matter; that a true and correct copy of said written agreement is made a part hereof; that said written agreement was completed, signed and acknowledged by said parties on April 16, 1948, and ever since said date, plaintiffs and defendants have been and now are handling the water and ditches described in said Agreement in conformance with the terms and provisions of said Agreement.

Petitioners believe and allege that the terms and provisions of said Agreement are fair and reasonable and petitioners' compliance therewith and observance thereof is advantageous to all of petitioners. That petitioners believe and allege that said written agreement and all of its terms and provisions should be by the above entitled court approved and confirmed.

Pray that the above entitled Court approve and confirm the terms and provisions of said Written Agreement in lieu of making and entering its Findings of Fact, Conclusions of Law and Decree in the above entitled case.

That plaintiffs be required to pay their own costs and that defendants be required to pay their own costs herein.

Signed: Frank L Stephan,  
Attorney for Petitioners Saxton  
Graydon W Smith,  
Attorney for Petitioners Monroe  
Residing at Twin Falls, Idaho.

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| Title of Court and Matter<br>as above | AGREEMENT.<br>Dated March 22, 1948.<br>Filed November 12, 1948. |
|---------------------------------------|-----------------------------------------------------------------|

Agree that the plaintiffs are to have the exclusive right to and use of that certain ditch now existing and running and lying along the South line of the NW 1/4 Sec 14, Tp 10 S R 13 E B M, which said 40 acre tract is now owned by said defendants, for the purpose of transporting an unlimited amount of water through said ditch to the lands now owned by plaintiffs hereinabove described; that plaintiffs shall have a right of way for said ditch and its use and maintenance ten feet in width.

That the defendants shall cease using and shall abandon the use of that certain ditch now existing and running and lying along the south edge of the NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Sec 14 Tp 10 S R 13, and grant and convey to plaintiffs an exclusive right and easement to use said ditch to convey water to his lands as aforesaid and defendants are to construct, at their own expense and for their own use a new ditch approximately four feet north of the old ditch above described and running parallel to said ditch and are to transport through said new ditch all of the water now belonging to defendants and heretofore conveyed through said old ditch, it being specifically understood and agreed that in the construction of said new ditch defendants may remove the dirt on and along the banks of old ditch down to eight inches above the normal water level in said old ditch.

Plaintiffs further agree to surrender to defendants all right and title and interest in and to that certain ditch hereinabove described as running from Coulee C and crossing the N $\frac{1}{2}$  NE $\frac{1}{4}$  Sec 15 Tp 10 S R 13 E B M, which lands are owned by plaintiffs, and plaintiffs further agree that defendants may use said ditch for the transportation of not more than 200 inches of waste water from Coulee C

(Continued)

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Continued

in said ditch. Plaintiffs agree to give and grant to defendants and defendants do agree to accept a maximum head of 200 inches, to be transported through said ditch from Coulee C subject however to the express condition that whenever the flow of water in said Coulee C shall fall below 400 inches, said water shall be divided equally between plaintiffs and defendants. Plaintiffs further agree that they, will build on said N $\frac{1}{2}$  NE $\frac{1}{4}$  Sec 15 Tp 10 S R 13 E B M, a new ditch on the north side of the established ditch in paragraph first described which shall run parallel to said established ditch to be used exclusively by plaintiffs for the irrigation of their lands to the north thereof.

Further agreed that if the Twin Falls Canal Company will consent to do so, one headgate may be installed on Lateral No. 5-A by Twin Falls Canal Company and that the expense of installing said headgate shall be shared equally by parties to this agreement. The expense of installing a headgate or headgates on said Coulee C, which will be used to divert wastewater from said Coulee C into the two ditches described shall be borne equally by plaintiffs and defendants. The plaintiffs and defendants further agree to maintain their respective ditches at their own expense, to keep them in repair, keep down weeds of all kinds and to operate, maintain and care for said ditches in such a manner as to prevent the water flowing in said ditches from overflowing their respective banks.

Further provided, agreed and understood that plaintiffs shall have the right to connect, by tile pipe, their two septic tanks, situated on the N $\frac{1}{2}$  NE $\frac{1}{4}$  Sec 15 Tp 10 S R 13 E B M, in such manner that the sewerage disposal from plaintiffs' house now situated on said premises shall run into said ditch as described above. It being agreed that said tile pipe or conduit shall be constructed so as not to be in violation of law.

Agreed that in the matter of the case is still pending in the District Court in Twin Falls County, the parties to said action shall pay their own respective costs incurred to date in said action and neither of the parties shall be entitled to Judgment against the other party for costs or disbursements.

Signed: Edwin Monroe  
Mrs. Pearl Monroe, Plaintiffs  
Earl W Saxton  
Emma Saxton, Defendants.

Acknowledged March 22, 1948 by Edwin Monroe and Pearl Monroe, husband and wife, before Frank L Stephan, Notary Public, Twin Falls County, Idaho (Seal)

Acknowledged April 16, 1948 by Earl W Saxton and Emma Saxton, husband and wife, before Pauline Brandenfels, Notary Public, Columbia County, Oregon (Seal)

No. 83  
Order

Title of Court and Matter  
as above

ORDER.  
Dated December 17, 1948.  
Filed December 17, 1948.

Recites hearing on above entitled matter.

Court finds that since the trial of said case plaintiffs and defendants have made and entered into an Agreement in writing dated March 22, 1948, settling and compromising all issues involved in above entitled case; that the terms and provisions set out in said written agreement are fair, reasonable and equitable and are not prejudicial to the rights or interests of any person, association or corporation owning land or water or water rights or being charged with the duty or responsibility of distributing water

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