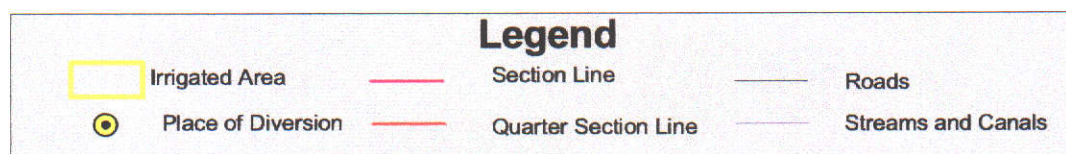
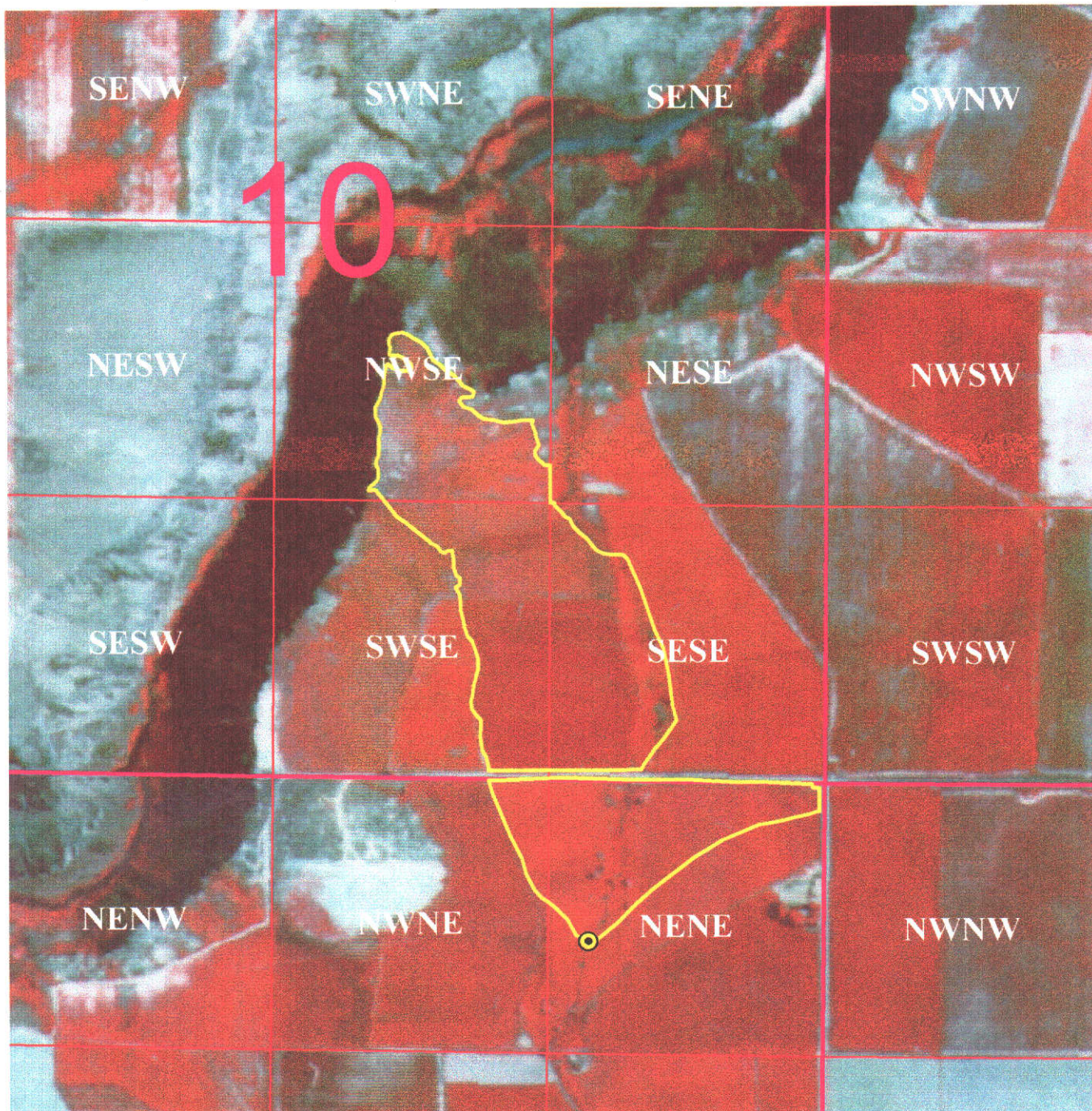


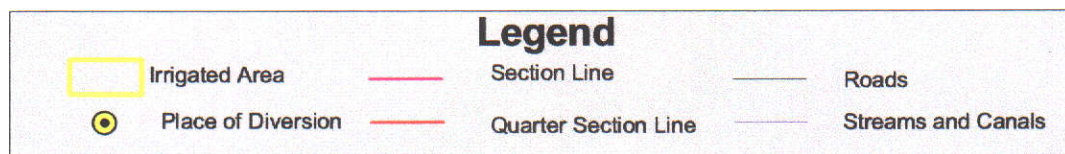
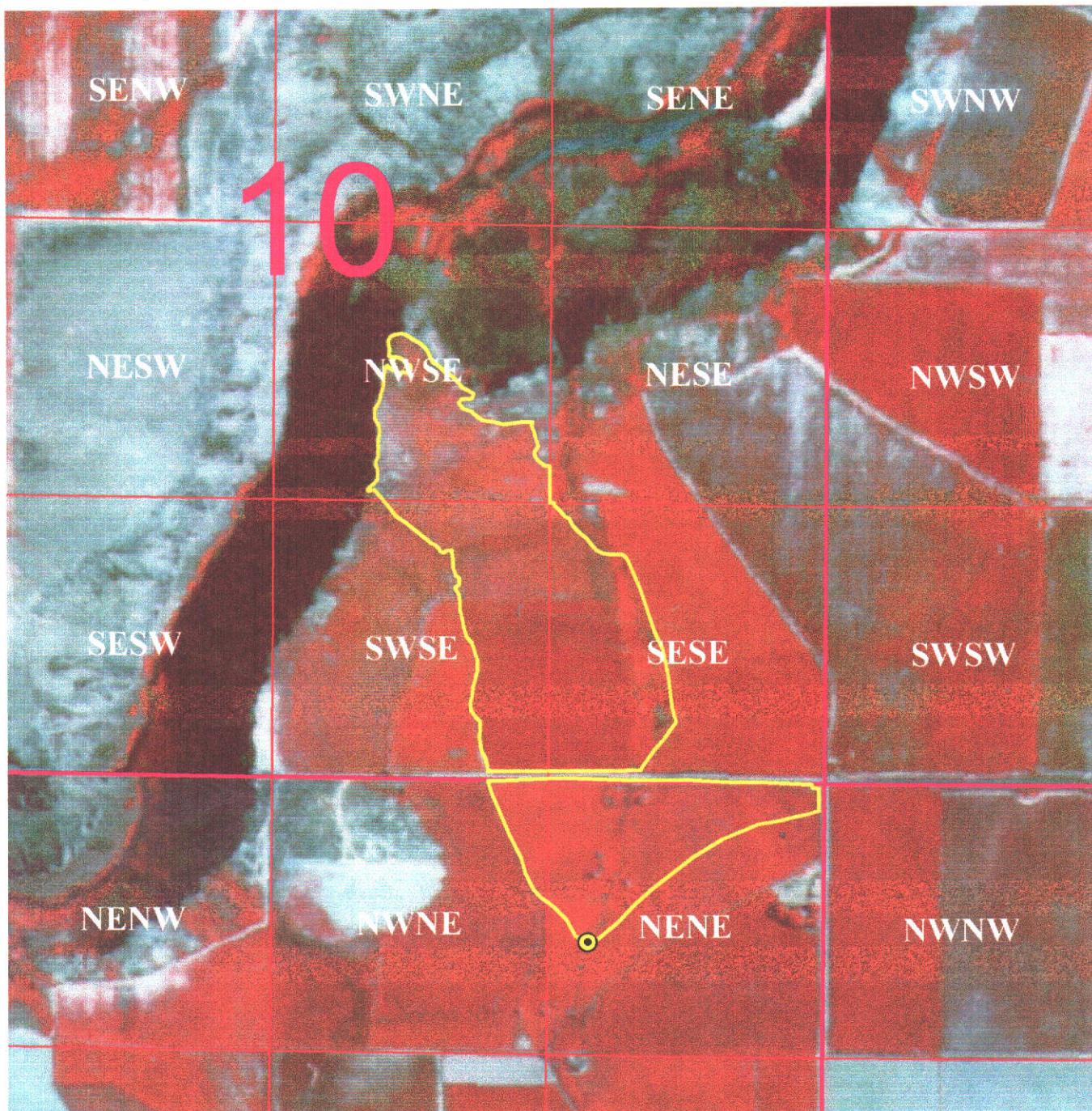
Water Right Claim Number 47-04337  
Township , 10S13E

03/21/2001



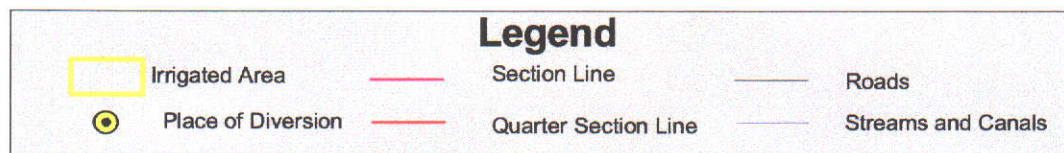
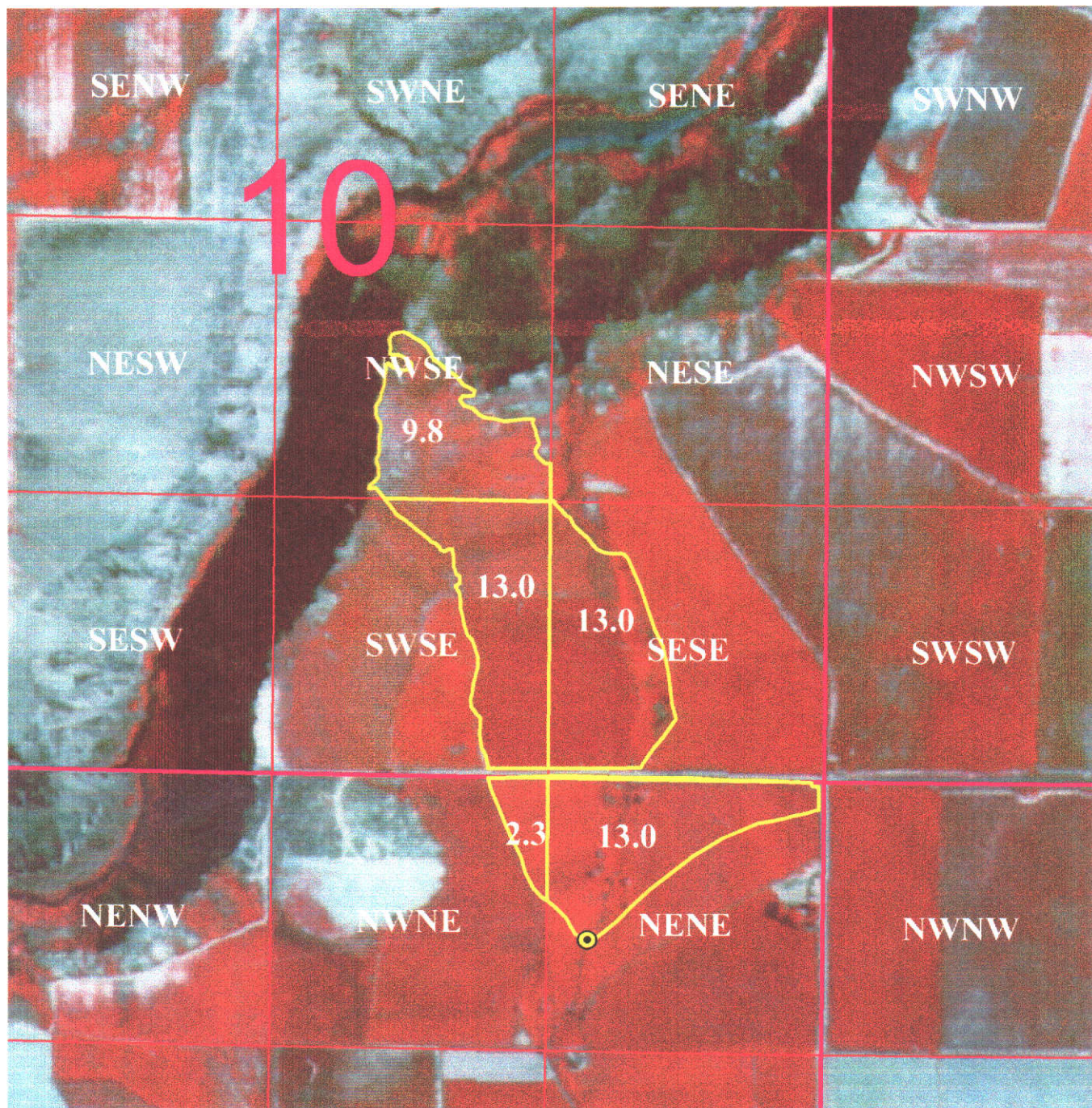
Water Right Claim Number 47-04337  
Township , 10S13E

03/21/2001



Water Right Claim Number 47-04337  
Township , 10S13E

03/21/2001



500 0 500 1000 Feet



SPATIAL  
DYNAMICS

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: A47-04337  
Date Received: 11/08/1988  
Receipt No: S003654  
Received By: /w

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: TED M. QUIGLEY 208-537-6648  
Address: RT. 2 BOX 110  
BUHL, ID 83316

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:  
CONCRETE CHECK DAM, HEADGATES, DITCHES

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 04/15 | 11/01 | 2.500 |      |        |
| STOCKWATER | 05/01 | 12/01 | 0.030 |      |        |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
S/100 RANGE

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|----------|-------|---------|--------|-----|-----|-----|-------|
| 10S      | 13E   | 10      | NW     | SE  |     | IRR | 11.0  |
|          |       |         | SW     | SE  |     | IRR | 11.0  |

A47-04337

Page 1

Date: 11/08/88

MICROFILMED

MAR 11 1993

10. Place of Use: Continued

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use           | Acres |
|----------|-------|---------|--------|-----|-----|---------------|-------|
| 10S      | 13E   | 10      | SE     | SE  |     | IRR           | 11.0  |
|          |       |         |        |     |     | Section Acres | 33.0  |
|          |       | 15      | NE     | NE  |     | IRR           | 16.0  |
|          |       |         | NW     | NE  |     | IRR           | 4.0   |
|          |       |         |        |     |     | Section Acres | 20.0  |
|          |       |         |        |     |     | Total Acres   | 53.0  |

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

(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.

MICROFILMED  
MAR 11 1993

A47-04337

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 DEC 18 1946  
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

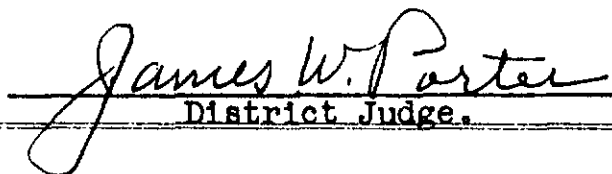
Monroe v. Saxton #4.

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.

RECEIVED

MAR 13 1995

Department of Water Resources  
Southern Region

AFFIDAVIT

IN THE MATTER OF CLAIM # A47-04337

STATE OF IDAHO

COUNTY OF TWIN FALLS

TED QUIBLEY BEING FIRST DULY SWORN, DEPOSES AND SAYS:

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, 1927". The topography of the farm makes use of coulee water for the ditch described in the court document and the corresponding ditch on the west side of the coulee the most expedient source of water for development of these fields, and in fact, makes these fields the most easily reclaimed of any land on the farm. The fields served by coulee water include the most productive land on the farm.

Court records show that the first years on the farm were economically very difficult for the Monroes. Mortgages, remortgages, default, foreclosure, 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, 1927" extends back to the date of the Final Certificate, July 6, 1929.

*Ted M. Quibley*  
(SIGNATURE)

SUBSCRIBED AND SWORN TO BEFORE ME THIS 7<sup>th</sup> DAY  
OF March, 1995.

*Fred W. Jaynes*  
(NOTARY PUBLIC)

RESIDING AT File, Idaho  
MY COMMISSION EXPIRES 11-28-98

NOV 28 1996



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

Governor PHILIP E. BATT

A. KEITH HIGGINSON  
Director

January 10, 1995

A47-04337  
TED M. QUIGLEY  
RT. 2 BOX 110  
BUHL

ID 83316

RE: Evidence of Priority

Dear Claimant:

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

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.

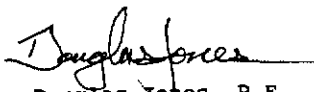
**SPECIAL NOTE:** The Department will not recommend the Notice be decreed by the court as claimed if no evidence of a priority date is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement must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

NOV 28 1996

**Log for claim 47-04337**

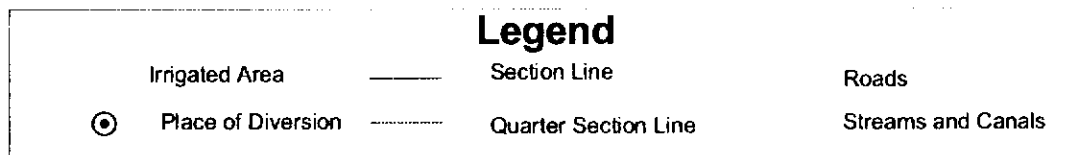
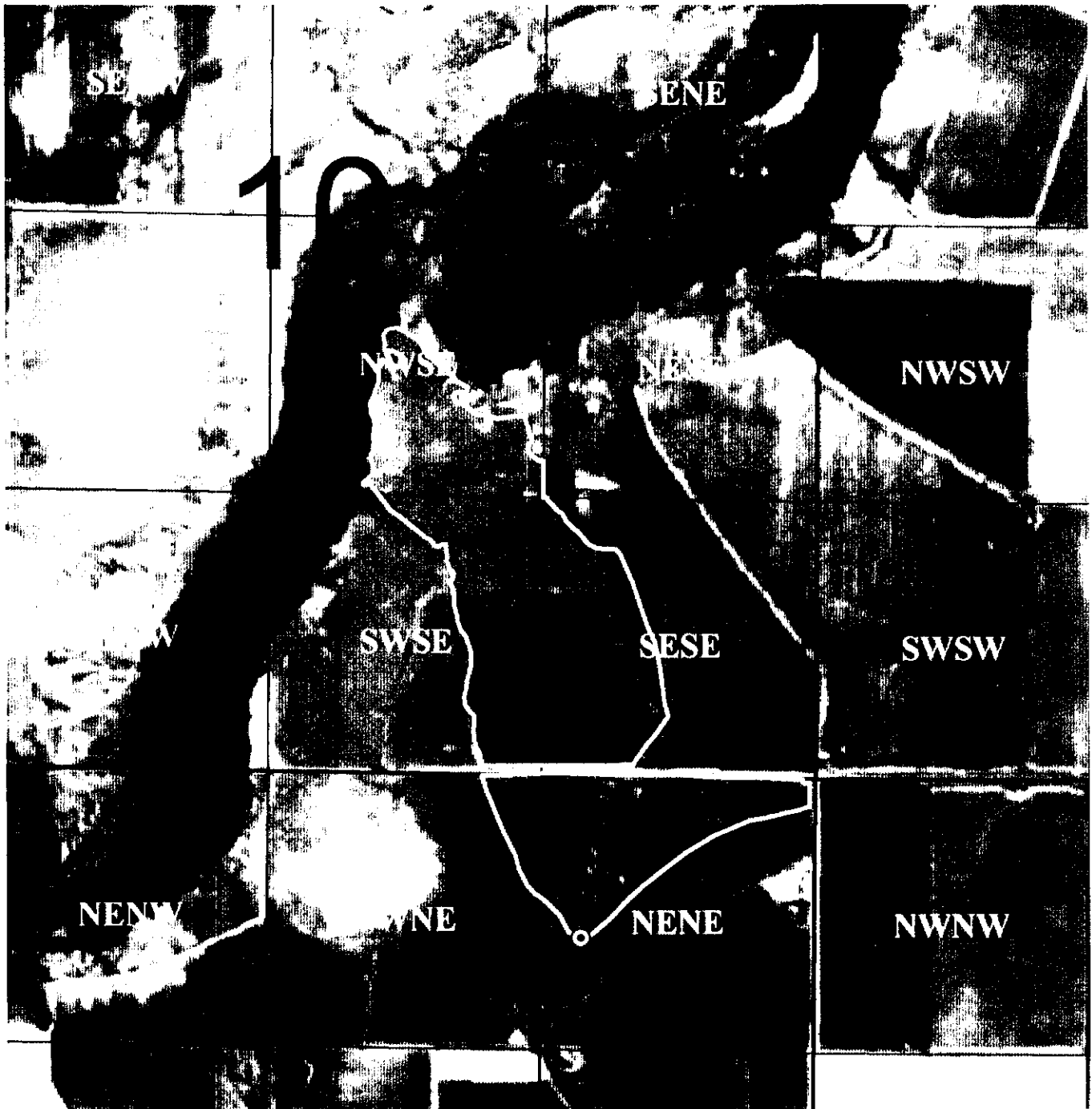
**Spatial Dynamics BTD**

**3/21/01**

| TR             | SEC | QQ   | Acres<br>Claimed | Acres<br>Found | COMMENT |
|----------------|-----|------|------------------|----------------|---------|
| 10s13e         | 10  | NWSE | 11               | 9.8            |         |
| 10s13e         | 10  | SWSE | 11               | 13             |         |
| 10s13e         | 10  | SESE | 11               | 13             |         |
| 10s13e         | 15  | NENE | 16               | 13             |         |
| 10s13e         | 15  | NWNE | 4                | 2.3            |         |
| <b>Totals:</b> |     |      | 53               | 51.1           |         |

Water Right Claim Number 47-04337  
Township , 10S13E

03/21/2001

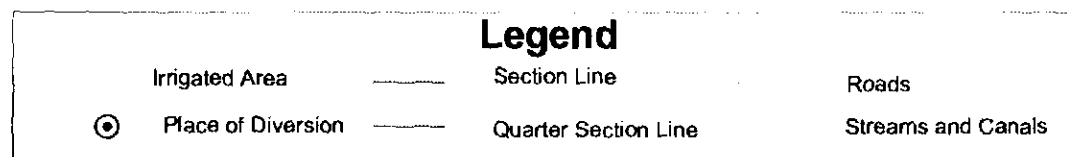
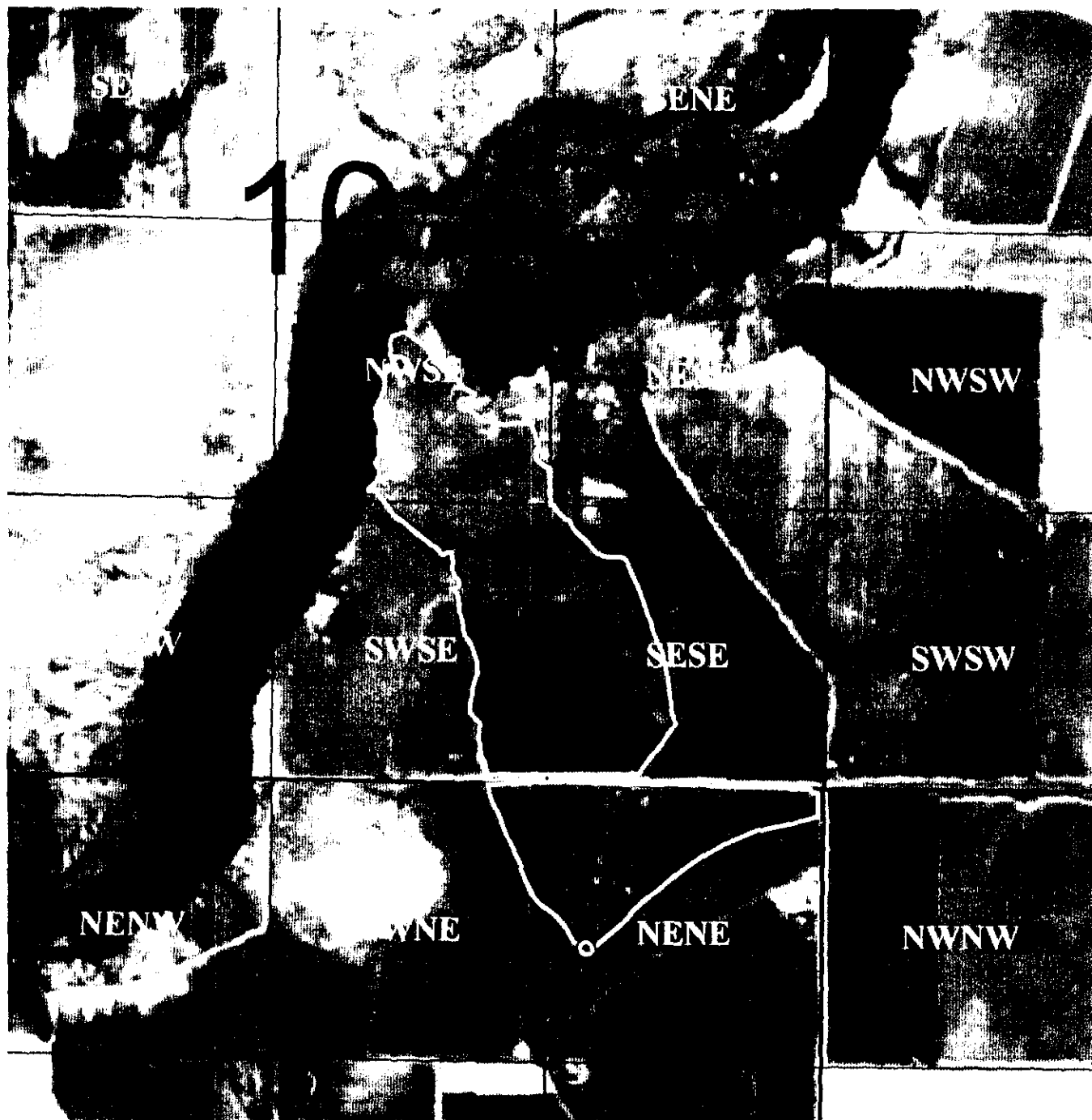


500 0 500 1000 Feet

*SPATIAL  
DYNAMICS*

Water Right Claim Number 47-04337  
Township , 10S13E

03/21/2001



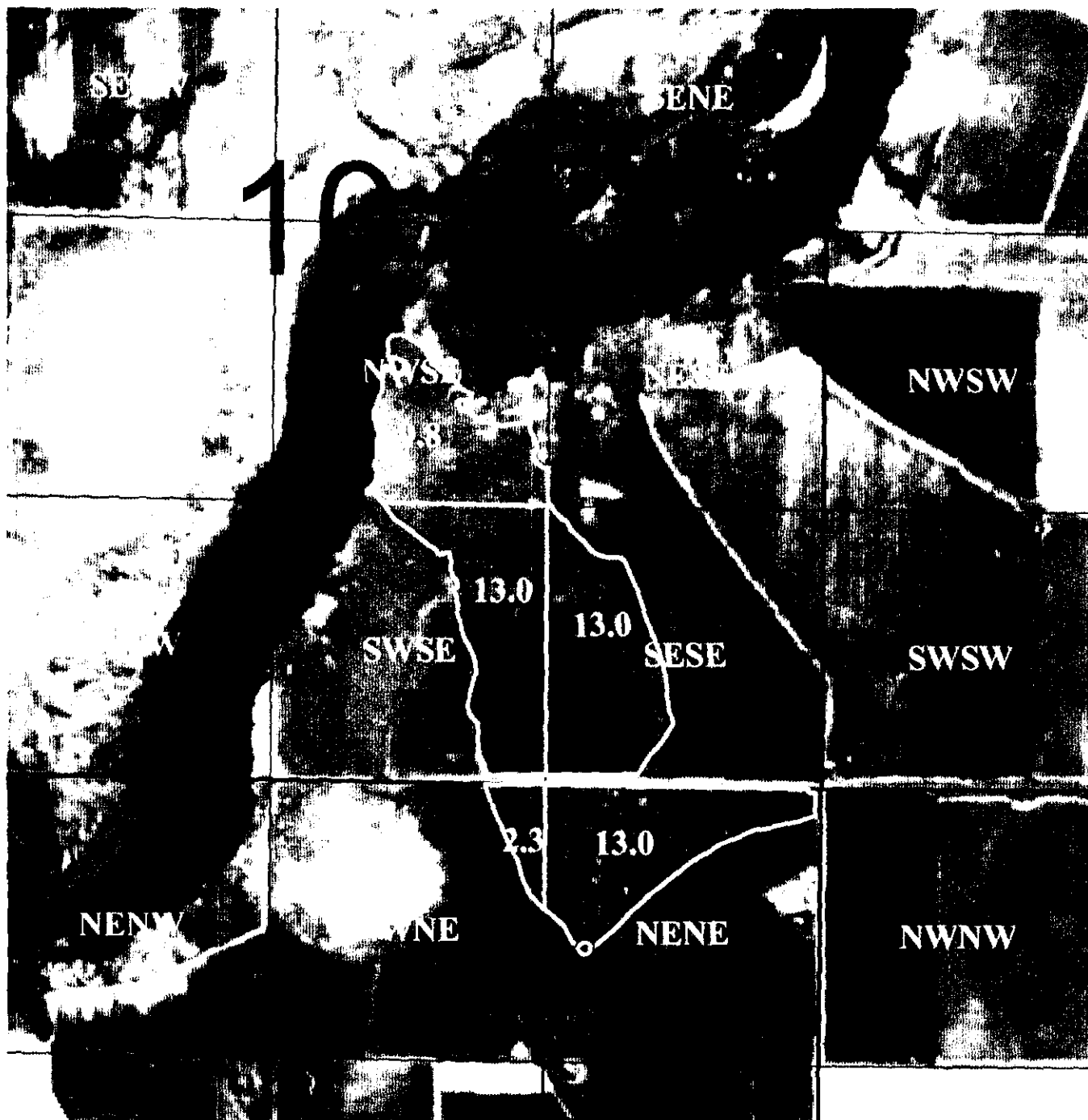
500 0 500 1000 Feet



SPATIAL  
DYNAMICS

Water Right Claim Number 47-04337  
Township , 10S13E

03/21/2001



| Legend                                                                                                 |                                                                                                          |                                                                                                          |
|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
|  Irrigated Area     |  Section Line         |  Roads              |
|  Place of Diversion |  Quarter Section Line |  Streams and Canals |



*SPATIAL  
DYNAMICS*

AJ5809NP  
No. A47-04337

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/12/01  
PAGE: 136

| OWNER<br>CODE    | NAME & ADDRESS                                                   | PRIORITY<br>DATE | WATER USE                | USE PERIOD<br>FROM TO      | DIVERSION<br>RATE      | DIVERSION<br>VOLUME |
|------------------|------------------------------------------------------------------|------------------|--------------------------|----------------------------|------------------------|---------------------|
| C                | TED M QUIGLEY<br>RT 2 BOX 110<br>BUHL ID 83316<br>(208) 537-6648 | 07/06/1909       | IRRIGATION<br>STOCKWATER | 04-15 11-01<br>05-01 12-01 | 2.500 CFS<br>0.030 CFS |                     |
| TOTAL DIVERSION: |                                                                  |                  |                          |                            | 2.500 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 |    |    |    |             |     |      |  |
|-----|-----|----|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------------|-----|------|--|
| T   | R   | S  | : | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | :           | SUM |      |  |
| 10S | 13E | 10 | : |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 11 | 11 | 11          | :   | 33.0 |  |
| 10S | 13E | 15 | : | 16 |    | 04 |    |    |    |    |    |    |    |    |    |    |    |    |    |             | :   | 20.0 |  |
|     |     |    |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | TOTAL ACRES |     | 53.0 |  |

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

POU County: TWIN FALLS

Non-Irrigation Uses: S/100 RANGE

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

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

Dates: Exam Made Date: Verified Date: 03/07/1986 Objection Filed Date:

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

Audit: 11/08/88 WHITE 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 Ted M. Quigley (Name of Claimant)

Route #2 Box 110, Buhl, ID 83316 (Mailing Address) Telephone No. 537-6648 (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:

|          | (cfs, gpd, AFA) | (Domestic, Irrigation, Stock, Etc.) | (Both dates inclusive)           |                 |
|----------|-----------------|-------------------------------------|----------------------------------|-----------------|
|          |                 |                                     | (Mo., Day)                       | (Mo., Day)      |
| Quantity | <u>2.5 cfs</u>  | Use <u>Irrigation</u>               | Period of Use From <u>Apr 15</u> | To <u>Nov 1</u> |
| Quantity | <u>0.03 cfs</u> | Use <u>Livestock</u>                | Period of Use From <u>May 1</u>  | To <u>Dec 1</u> |
| Quantity |                 | Use                                 | Period of Use From               | To              |
| Quantity |                 | Use                                 | Period of Use From               | To              |
| Quantity |                 | Use                                 | Period of Use From               | To              |

- (4) 2.5 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. Concrete check dam & 2 headgates, earth ditches to gravity irrigation system.  
Cattle drink from wastewater stream & from ditches.

- (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. | NE1/4 |       |       |       | NW1/4 |       |       |       | SW1/4 |       |       |       | SE1/4 |       |       |       | TOTAL |
|-----|-----|------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|     |     |      | 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 |       |
| 10S | 13E | 10   |       |       |       |       |       |       |       |       |       |       |       |       |       | 11    | 11    | 11    | 33    |
|     |     | 15   | 16    | 4     |       |       |       |       |       |       |       |       |       |       |       |       |       |       | 20    |
|     |     |      |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |
|     |     |      |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |
|     |     |      |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |
|     |     |      |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |
|     |     |      |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |
|     |     |      |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |
|     |     |      |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |

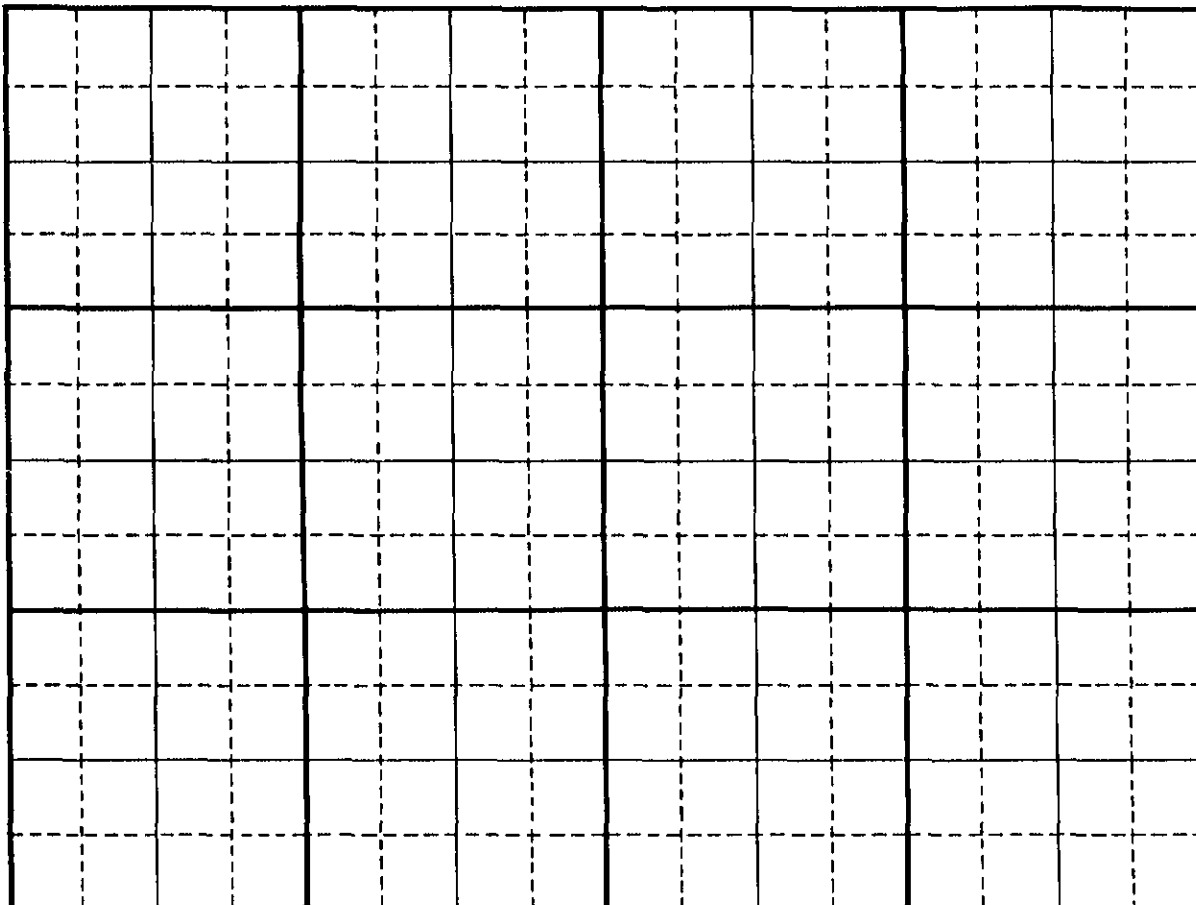
No. of acres 53

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: 100 beef cattle

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

(8) Remarks Claim 47-4196 uses the same check dam but a different headgate. Priority  
date was taken from above claim.



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 )  
 ) ss.  
County of Twin Falls )

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 31st day of January, 19 83.

Ted M. Ziegler  
(Claimant)  
Loren O. Kalman  
Notary Public  
Residing at Twin Falls, ID

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by J. F. Stanton Date 1-31-83 Exception filed by: \_\_\_\_\_ Date \_\_\_\_\_  
Adm. check by J. F. Stanton Date 2/2/83  
\$100 fee received by J. F. Stanton Date 1-31-83 #23967  
Published in Times News  
Dates 3/24 + 3/31/83

RIBE

T. 10S

