

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: A74-07175
Date Received: 5/26/1992
Receipt No: E014777
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROGER K. OGDEN ESTATE
Address: 1650 E 875 S #A
CLEARFIELD UT 84015

Name: PENNY J. OGDEN
Address: 1650 E. 875 S. #A
CLEARFIELD UT 84015

2. Date of Priority: APR 20, 1983

3. Source: BIG TIMBER CREEK Trib. to: LEMHI RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
16N	26E	33	NW	NW			LEMHI

5. Description of diverting works:
HEADGATE TO DIVERSION DITCH FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.100		

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

8. Total consumptive use is 367.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
16N	26E	28	NE	SW		IRR	10.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
16N	26E	28	NW	SW		IRR	35.0
			SW	SW		IRR	40.0
			SE	SW		IRR	20.0
Section Acres							105.0
Total Acres							105.0

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:
74-07074, 37, 39A

14. Remarks:

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 _____ 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: _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
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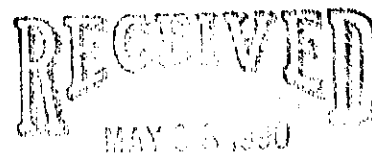
A74-07175

Date Received

5-8-90/6-6-90

Receipt Number

E014777/gp

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAWDepartment of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) Penny J. Ogden, individually and as Personal Representative
of the Estate of Roger Kent Ogden Phone ()

Mailing Address 1650 E. 875 S., #A, Clearfield, Utah Zip 84015

2. Date of Priority (Only one (1) per claim) 4-20-83

3. Source of water supply (a) Big Timber Creek
which is tributary to (b) Lemhi River4. a. Location of existing point of diversion is: Township 16N Range 26E Section 33
NW 1/4 of NW 1/4 of 1/4, Govt. Lot, B.M., County of Lemhi

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

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.

Headgate to diversion ditch for flood irrigation

A7407175



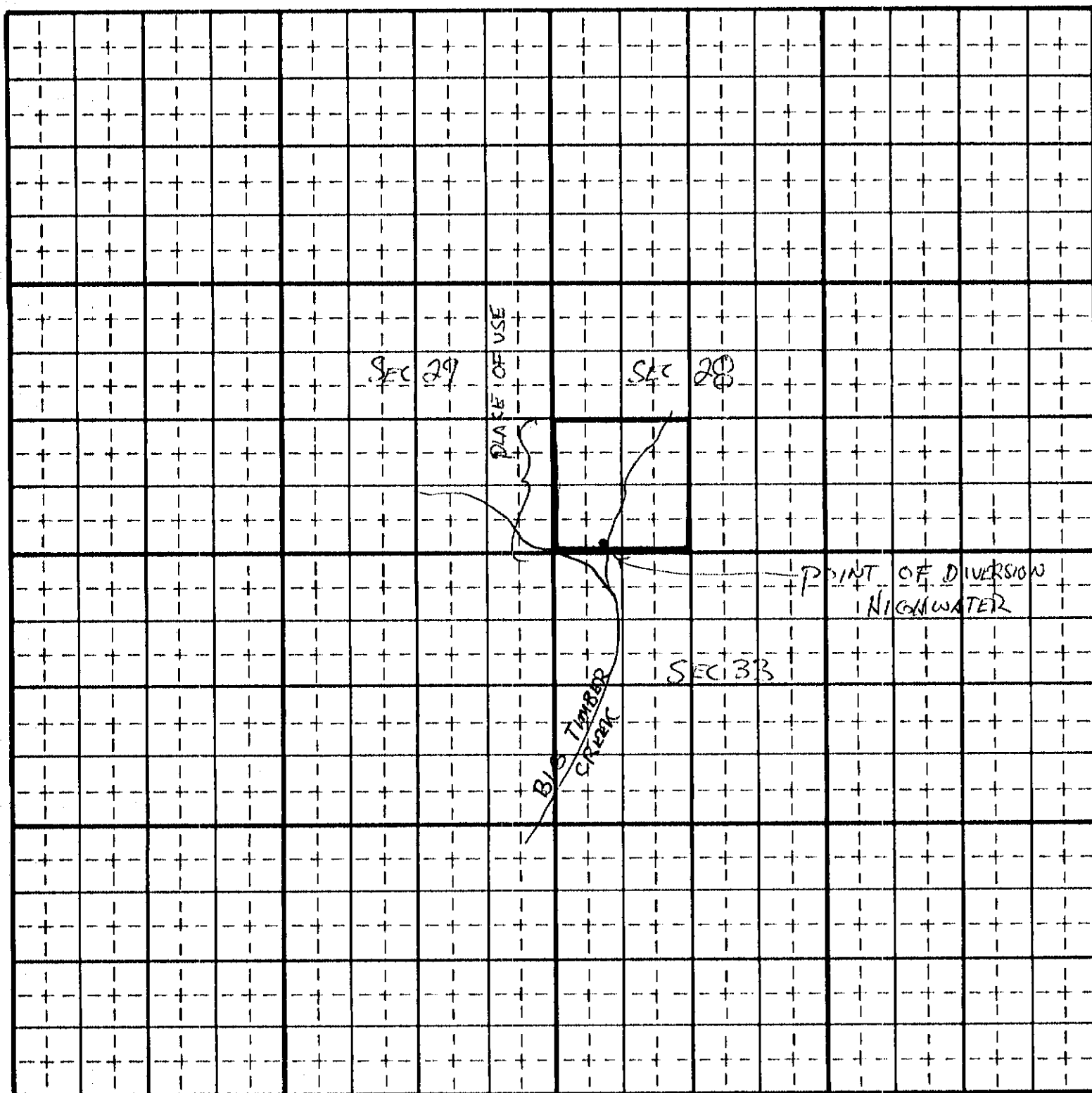
MICROFILMED

DEC 14 1992

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

T16N R26E



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DEC 14 1992

Last Name OGDEN

Ident No. _____

Copies: White-State, Yellow-Claimant

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 4/1 to 11/1 amount 2.1 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.1 high water (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 367.5 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	
16N	26E	28									10	35	40	20					105

Total number of acres irrigated 105

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

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.
License #74-07047; stock water transfer Fr. #74-0037 and or None ()
#74-0039A (by Clinger Enterprises, Inc.)

14. Remarks: See attached permit; diversion works constructed to
take high water in amount specified

Last Name OGDEN Ident No. _____

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15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit X
Decree _____
If applicable provide IDWR Water Right Number 74-7175
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 _____
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) Penny Jane Ogden Date 7 May 90

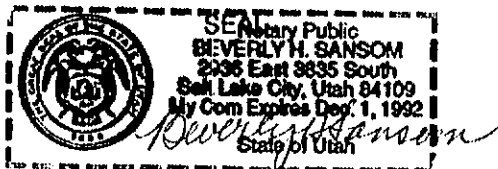
Date _____

For Organizations: I do solemnly swear or affirm that I am _____ the Personal Representative
Title
of _____ the Estate of Roger Kent Ogden _____, that I have signed the foregoing
Organization
document in the space below as _____ Personal Representative _____ of _____ Roger Kent Ogden
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Penny Jane Ogden
Title and Organization Estate of Roger Kent Ogden Date 7 May 1990

State of ~~Idaho~~ Utah)
County of Davis) SS.

Subscribed and sworn (or affirmed) before me this 7th day of May 19 90



Notary Public Beverly H. Sansom
Residing at 2936 E 3835 S SLC UT 84109
My Commission Expires 12-1-92

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, ALAN C. STEPHENS 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 [Signature] FOR A.C.S.
Address PO. BOX 50560 IDAHO FALLS, ID. 83404
Date 5-2-90

Thomsen and Stephens

Law Offices

June 6, 1990

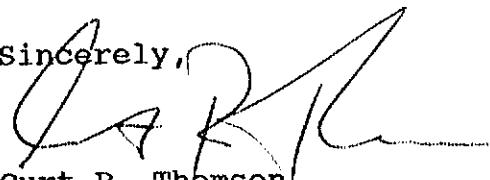
Mr. Eric S. Verner
Senior Water Right Agent
IDAHO DEPARTMENT OF WATER RESOURCES
150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402

RE: Permit #74-7175

Dear Mr. Verner:

Following up on our last correspondence, enclosed is a notice of claim to a water right to divert high water from Big Timber Creek. We are filing the claim to make sure we do not have any problems. We will also submit a petition to reinstate the permit shortly. Please note that this claim is supported by the affidavit of Frank Hays attached (copy). Thank you for your consideration.

Sincerely,



Curt R. Thomsen

CRT:clm
#319

Enclosures

cc: Penny J. Ogden

Curt R. Thomsen
G. Lance Nalder

Alan C. Stephens
Stephen H. Telford

James D. Holman
J. Michael Wheeler

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DEC 14 1992

Telephone: (208) 522-1230

P.O. Box 50560 Idaho Falls, ID 83405

Telefax: (208) 522-1277

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

AFFIDAVIT OF FRANK HAYS

RE: REINSTATEMENT OF PERMIT #74-07175

COPY

STATE OF IDAHO)
) ss.
County of Lemhi)

Frank Hays, being first duly sworn upon oath, deposes and states:

1. My name is Frank Hays. I reside in Leadore, Idaho. My mailing address is P.O. Box 87, Leadore, Idaho 83464. My telephone number is 768-2655.

2. I own property ^{1/2 mile} ~~adjacent~~ to property owned by Penny J. Ogden and Roger Kent Ogden. Roger Kent Ogden died in March 1987. Penny J. Ogden is Roger Kent Ogden's surviving spouse.

3. In the late spring or early summer of 1986 (about May or June) I assisted Roger Kent Ogden in the construction of diversion works to take high water out of Big Timber Creek pursuant to a permit he had obtained from the Idaho Department of Water Resources. I personally performed bulldozer work in helping to construct the ditches leading to the headgate where high water was to be diverted from Big Timber Creek. ~~personally observed~~ ^{and observed} Roger Kent Ogden performing work with ~~me~~. ~~Mr. Ogden~~ was using ^{an} backhoe to assist in constructing the works.

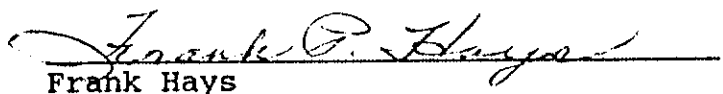
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DEC 14 1992

4. In the late spring or early summer of 1986 Mr. Ogden and I constructed the diversion from Big Timber Creek. Roger installed a headgate and, in fact, diverted high water that was running down Big Timber Creek at the time. I recall that Roger and I were working quickly to construct the works and put them in place because there was high water that year and Mr. Ogden wanted to divert the water to irrigate his property.

5. After the diversion works and headgates were in place, I personally observed Mr. Ogden diverting high water from Big Timber Creek. I have experience in irrigating property in this area. ~~I have been irrigating my own property for over ___ years.~~ Based on my experience and my observations, it appeared to me that Mr. Ogden diverted between 60 and 75 miner's inches of water onto his property and irrigated a portion of same, principally that portion on the north and east side of Big Timber Creek.

6. Since 1986, the area has generally experienced low water levels and I have not observed any diversion of high water at the premises. Obviously, Mr. Ogden died in March of 1987. His last illness and ultimate death took the focus away from the property in Leadore. However, there has been no real high water in Big Timber Creek since 1986 for actual diversion.

DATED this 4th day of June, 1990.


Frank Hays

SUBSCRIBED AND SWORN to on oath before me this 4th day of
June, 1990.

(SEAL)

Clara E. Ellis
Notary Public for Idaho
Residing at: Leadore
My Commission Expires: 5-1-92

CRT:clm
319.AFF

Form 202
3/78

Ident. No.

73 7175

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

JUN 30 1983

Department of Water Resources
Eastern District Office

To appropriate the public waters of the State of Idaho

1. Name of applicant Roger K. or Penney J. Ogden Phone (701) 594-2046
Post office address P.O. Box 132, Leadore, Id. 83464
2. Source of water supply Big Timber Creek which is a tributary of Lemhi River
3. Location of point of diversion is NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 33 Township 16N
Range 26E B.M. Lemhi County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 2.1 cfs for Irrigation purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 2.1 cubic feet per second and/or-b. _____ acre-feet per annum.

6. Proposed diverting works:

- a. Description of ditches, flumes, pumps, headgates, etc. Headgate to diversion ditch
for flood irrigation
- b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ (Month/Day) to _____ (Month/Day) inclusive.
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

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: _____ horsepower 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: _____

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

[illegible]

Total number of acres to be irrigated 105

c. Describe any other water rights used for the same purposes as described above. NONE

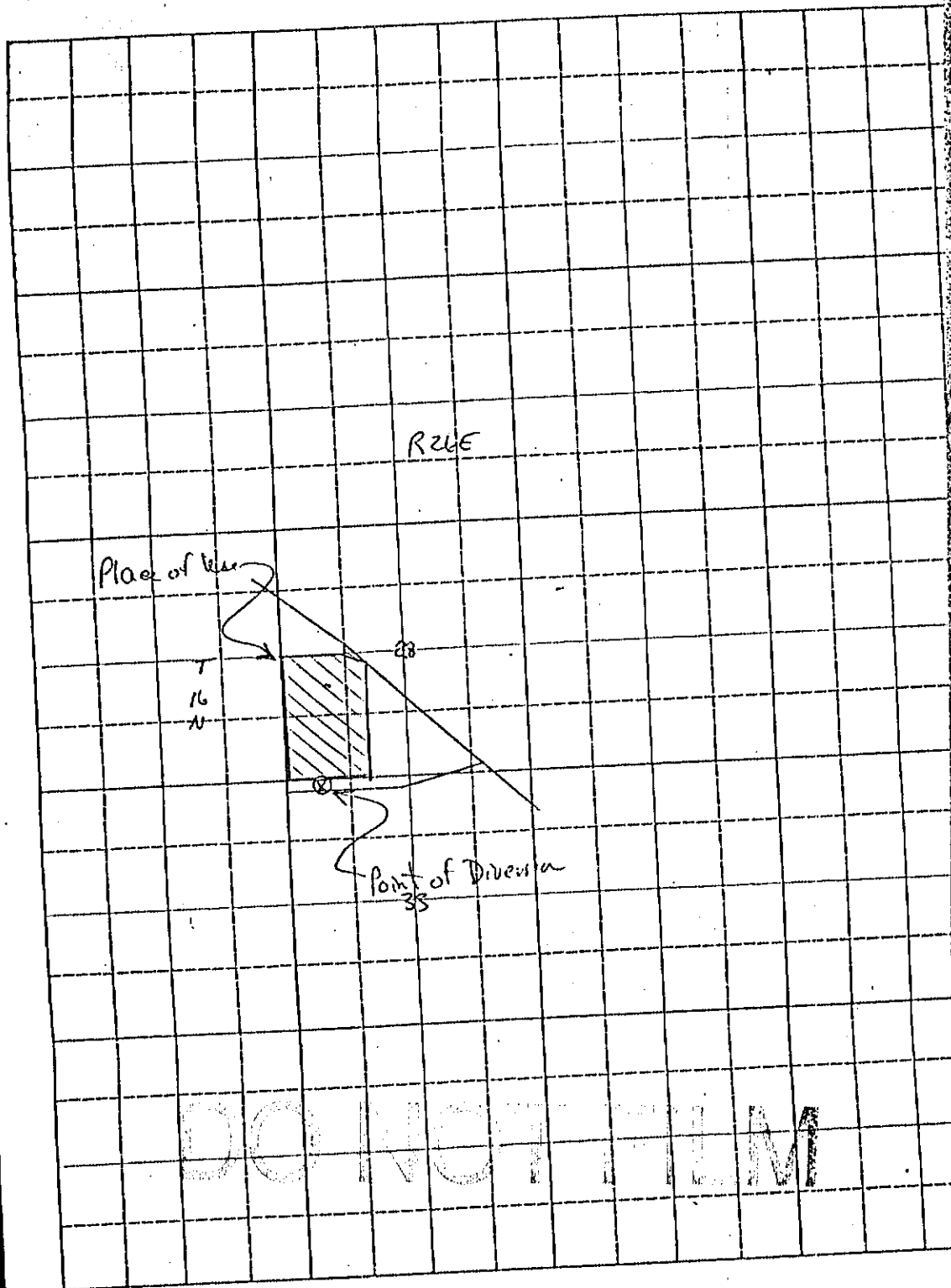
9. a. Who owns the property at the point of diversion Allen Purcell

b. Who owns the land to be irrigated or place of use Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Agreement with Mr. Purcell for diversion
works.

10. Remarks

11. Map of proposed project: show clearly 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 water of the State of Idaho as herein set forth.

[Signature]
(Applicant)

Received by BP Date 4-22-83 Time 5:30
Preliminary check by Emc Fee \$ 85.00
Receipted by BP Date 4/25/83 # 28089
Publication prepared by BP Date 4/27/83
Published in Recorder Herald
Publication dates 5/5 - 5/12/83
Publication approved aw Date 5-16-83
Protests filed by: None
Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by Emc Re

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. 74-7175, 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, 1988.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other:

Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

A measuring device and lockable controlling works of a type acceptable to the department shall be permanently installed and maintained as part of the diverting works.

Use of water under this permit is subject to control by the watermaster of State Water District No. 74 W, Big Timber Creek.

Witness my hand this 13th day of June, 1983.

A. Glen Saylor
Chief, Operations Bureau