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MAY 29 2003

Department of Water Resources

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

In Re SRBA

) Subcase 63-15243

) (Insert water right number)

Case 39576

) STANDARD FORM 4

) MOTION TO FILE:

) ☐ LATE NOTICE OF CLAIM

) ☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☐ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is William L. Carter

My address is 8452 Desert Av
Boise, ID 83709

My phone number is: Work _____ Home 208-362-3646

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

☐ A fully completed Notice of Claim (available from IDWR).

☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____

(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

☒ I must amend my Notice of Claim to the use of water in the SRBA because:

see attached page

- ☒ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

1. Objections already filed with the court
2. The directors report as we would like to see it
amended.
3. Two maps of claim area

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

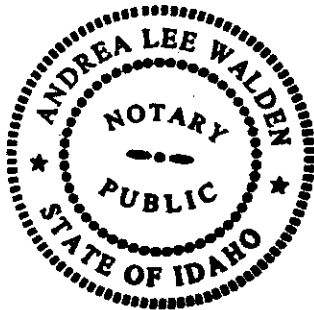
VERIFICATION (Must be completed)

State of Idaho

County of ADA

William L. Carter, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



William L. Carter
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on May 27 2003
(Insert Date)

Andrea Lee Walden
Notary Public for Idaho
Residing at: ADA County
My Commission expires: 12-8-05

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on 5/27, 2003 I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

Right Number: 63-15243

Name and Address: BETTY L CARTER
WILLIAM L CARTER
WILLIAM L CARTER III
8452 DESERT AVE
BOISE, ID 83709

Source: CLAY CREEK Tributary: GRIMES CREEK

Quantity: .01 CFS
.02 AFY

Priority Date: 02-01-1956

Diversion Point: T07N R05E S20 Lot 2 (NESESE) Within Boise County

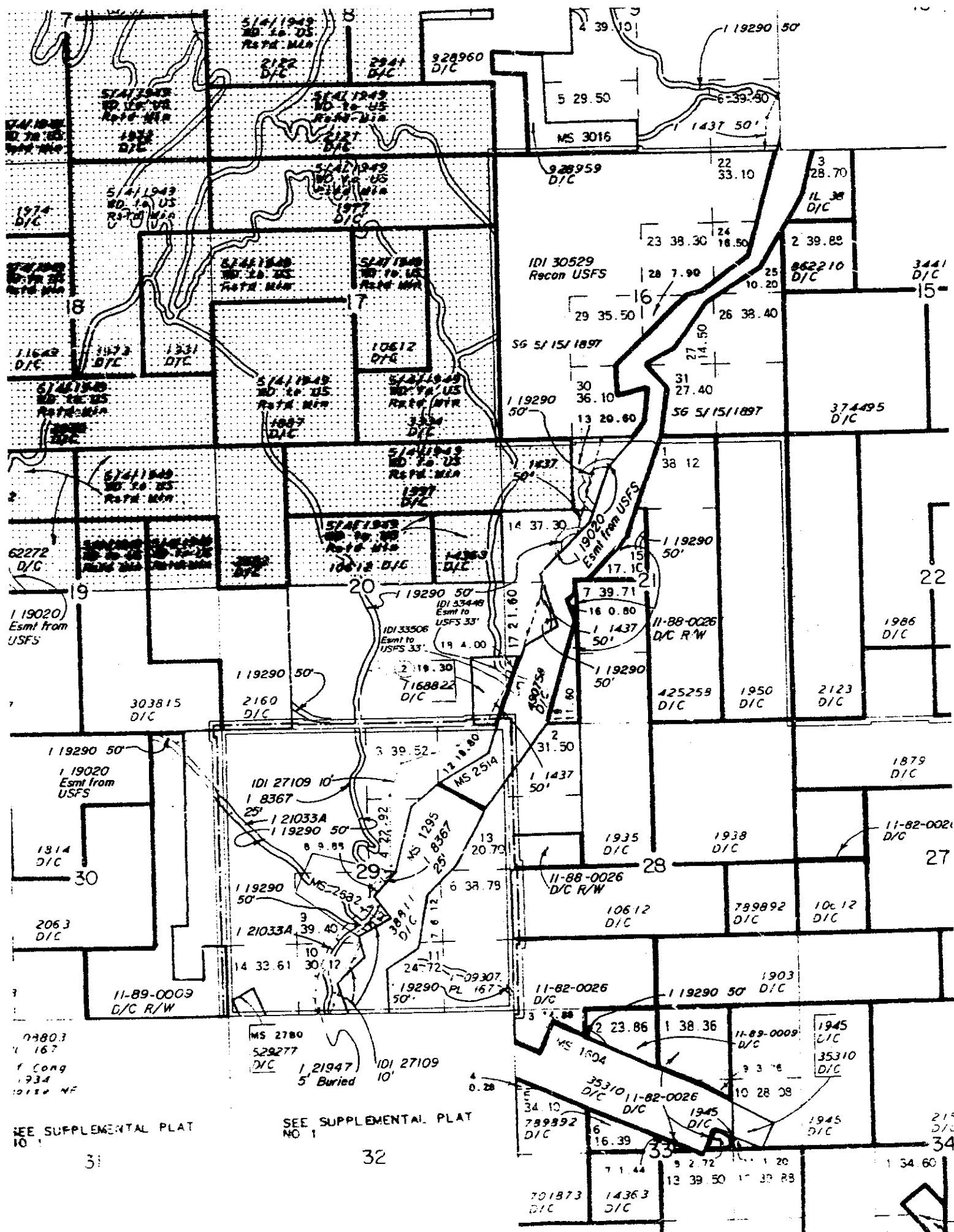
Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	Mining	<u>05-01</u> ~~06-01~~ TO 08-31	.01 CFS
	Recreation	<u>05-01</u> ~~06-01~~ TO 08-31	.01 CFS
	Recreation Storage	<u>05-01</u> ~~06-01~~ TO 08-31	.02 AFY

Place of Use:	Mining	Within Boise County
	T07N R05E S20	~~NESE~~ <u>Lot 2</u> (SESE)
	Recreation	Within Boise County
	T07N R05E S20	<u>Lot 2</u> (SESE)
	Recreation Storage	Within Boise County
	T07N R05E S20	<u>Lot 2</u> (SESE)

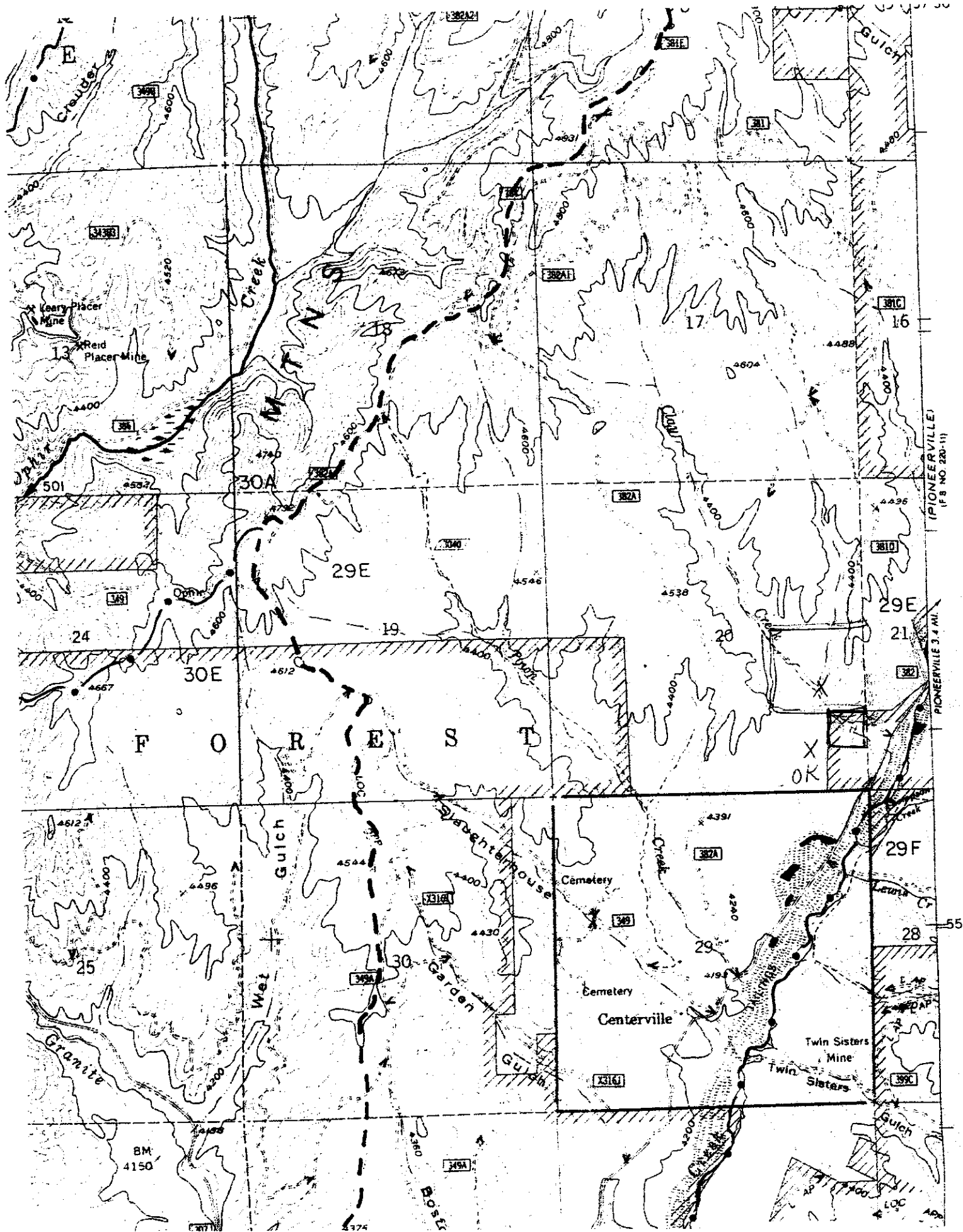
Other Provisions Necessary for Definition / Administration of this Water Right:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO
CODE.

Explanatory Material: Basis of Claim - Beneficial Use



13 15243



Our claim no. 63-15243 must be amended because we need to have the season of use begin May 1 instead of June 1, as we claimed it and as it was recommended. We filed an objection to the directors report recommendation for this purpose.

The Forest Service also objected to our water right because a point of use was on the forest. We have met with the Forest Service to discuss this matter. We see that the point of use in the NESE of Section 20 is on the National Forest. We do not use water at this location. It should be deleted from the claim. This would resolve part of the Forest Service objection to our water right.

Our discussions with the Forest Service also showed that there could be confusion with our point of diversion and places of use in the SESE of Section 20. We own the E ½ of Section 20. One map and our deeds show that we own Government Surveyed LOT 2 of Section 20. The map accompanies this information. The legal descriptions of our point of diversion and places of use are more accurately described as LOT 2, which is 19.3 acres in what would normally be called the E½ of the SESE of Section 20, T7N, R5E. Adding LOT 2 to the legal descriptions would make it certain that the point of diversion and places of use are all on our private land and not on the National Forest. It would also resolve concerns the Forest Service has that there may be possibilities for confusion in the future about where our water right is if this is not done. We agree and wish to have LOT 2 added to the legal descriptions.

All these changes are shown on the marked up copy of the Directors Report Recommendation that is being considered by the Forest Service, IDWR and us as a settlement to both the Forest Service and our objections to the claim as recommended. Accepting this Motion to File an Amended Notice of Claim would resolve the objections to our claim.