

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

IDAHO DEPARTMENT OF WATER RESOURCES 10/15/2001
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

NAME AND ADDRESS: JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY ID 83234

JENNIE HART
2435 E HAWKINS
DOWNEY ID 83234

SOURCE: SPRING

TRIBUTARY: PECK CREEK

QUANTITY: 1.20 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 1.2 CFS. COMBINED RIGHT NOS.: 29-04109,
29-04111

PRIORITY DATE: 06/01/1930

POINT OF DIVERSION:

T11S R37E S6 NWSE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.200 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T10S R37E S31 Lot 8 SWSW 17.0 T11S R37E S06 Lot 3 NENW 18.0

35 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 35 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 29-04109, 29-04111

OTHER PROVISIONS NECESSARY FOR DEFINITION OR 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: Beneficial Use

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP. RGE.	SEC.	1/4	1/4	1/4	1/4	LOT	FLAG	POD	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A29-04111	11S	37E							NW	SE	BANNOCK	

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A29-04112 NONE
WR RECORDS IN SAME 40 ACRE TRACT
29-04039
29-04112

SOURCE: SPRING

TRIB: PECK CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP. RGE.	SEC.	1/4	1/4	1/4	1/4	LOT	FLAG	POD	COUNTY	DIVERSION NAME	DIVERSION NUMBER
29-04111	11S	37E							NW	SE	BANNOCK	

OTHER WR RECORDS WITH SAME WR POD
AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX
29-04039
29-04112
A29-04112 NONE

SOURCE: SPRING

TRIB: PECK CREEK

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A() Y() N()

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y() N()

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y() N()

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y() N()

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM) Y() N()

AJ FIELD EXAM (DATE OF FIELD EXAM) NAME OF EXAMINER Y() N()

OTHER (DESCRIBE IN NOTES BELOW)

NOTES:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (____) DO

TWP.	RGE.	SEC.	1/4	1/4	1/4
11S	37E	6	NW	SE	

POD
FLAG

COUNTY
BANNOCK

DIVERSION NAME

DIVERSION NBR

SOURCE: SPRING

TRIB: PECK CREEK

REVIEWED BY:

DATE:

SYSTEM DESCRIPTION: DESCRIBED BELOW (____), SEE LICENSE FILE (____), OR SEE ATTACHMENT (____)

A. ROOT WATER RIGHT NUMBERS: A29-04111

B. POU LISTING						AJ	WR	LANDSAT	FIELD	RECOMM.	
TWP	RNG	SEC	1/4	1/4	LOT	NAME	#/ACRES	#/ACRES	DATA	EXAM.	ACRES
10S	37E	31	SW	SW		HART, JENNIE	A29-04111 / 12.0	29-04111 / 13.0			
			SW	SW		HART, JOHN WILLIAM	A29-04109 / 20.0	29-04109 / 20.0			
			SW	SW	4	MARSH CENTER IRRIGATION CO	A29-10663 / 1.0	- /			
			SW	SW	4	MARSH CENTER IRRIGATION CO	A29-10664 / 1.0	- /			
			SW	SW	4	MARSH CENTER IRRIGATION CO	A29-10665 / 1.0	- /			
			SW	SW	4	MARSH CENTER IRRIGATION CO	A29-12058 / 1.0	- /			
			SW	SW	4	CROWDER, GARY	A29-11885 /	- /			
			SW	SW	4	CROWDER, ESTHER	29-11885 /	- /			
			SW	SW	4	MARSH CENTER IRRIGATION CO	A29-00430 / 1.0	- /			
			SW	SW	7	BASTIAN, LYNN S	A29-04302 / 2.0	29-04302 / 2.0			
			SW	SW	6	MANNING, LEON WALLACE	A29-04302 / 2.0	29-04054 / 4.0			
10S	37E	31	SE	SW		HART, JENNIE	A29-04111 / 5.3	29-04111 / 5.0		24.0	
			SE	SW		MEADOWBROOK RANCH	A29-04054 / 7.0	29-04054 / 25.0			
11S	37E	6	NW	NE		HART, JENNIE	A29-04111 / 10.0	29-04111 / 10.0			
			NW	NE		GILBERT, ERVIN	A29-04324 / 25.0	29-04324 / 25.0			
			NW	NE		GILBERT, ELLIS E	A29-11198 /	- /			
			NW	NE		GILBERT, ELLIS E	29-11198 /	- /			
11S	37E	6	NE	NW		HART, JENNIE	A29-04111 / 27.0	29-04111 / 27.0			
			NE	NW		HART, JOHN WILLIAM	A29-04109 / 18.0	29-04109 / 18.0			
			NE	NW		HART, JOHN WILLIAM	A29-04110 / 26.0	29-04110 / 26.0			
11S	37E	6	SW	NW		HART, JENNIE	A29-04111 / 15.0	29-04111 / 15.0			
11S	37E	6	SE	NW		HART, JENNIE	A29-04111 / 29.0	29-04111 / 29.0		37.0	
11S	37E	6	NE	SW		HART, JENNIE	A29-04111 / 32.0	29-04111 / 15.0		33.0	
			NE	SW		HART, JOHN W	A29-07183 / 35.0	29-07183 / 35.0			
11S	37E	6	NW	SW		HART, JENNIE	A29-04111 / 40.0	29-04111 / 20.0			
			NW	SW		BENNETT FARMS	A29-04039 / 2.0	- /			
			NW	SW	6	HART, JOHN W	A29-07183 / 53.0	29-07183 / 53.0			

ADDITIONAL POU FOUND

TOTAL ACRES	A29-04111	170.30	134.00	94.00
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POU COUNTY: BANNOCK

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED? Y() N()

* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A29-04111	SPRING	HART, JENNIE	2.800	0.016		
A29-00430	HAWKINS CREEK	MARSH CENTER IRRIGATION CO	40.000	0.012		
A29-04039	HAWKINS CREEK, SOUTH FORK					
A29-04054	PECK CREEK	BENNETT FARMS	0.780	0.020		
A29-04109	PECK CREEK	MEADOWBROOK RANCH	3.800	0.020		
A29-04110	PECK CREEK	HART, JOHN WILLIAM	0.800	0.020		
A29-04302	SPRINGS	HART, JOHN WILLIAM	0.940	0.036		
A29-04324	MARSH CREEK	BASTIAN, LYNN S	6.720	0.018		
A29-07183	UNNAMED STREAM	GILBERT, ERVIN	0.500	0.020		
A29-10663	GROUNDWATER	HART, JOHN W	1.920	0.009	714.00	3.58
	SPRINGS	MARSH CENTER IRRIGATION CO	0.330			
A29-10664	SPRINGS					
	SPRINGS	MARSH CENTER IRRIGATION CO	0.330			
	SPRINGS					
A29-10665	SPRING					
A29-12058	MASON SPRING	MARSH CENTER IRRIGATION CO	0.330			
	COLE SPRING			0.002		
	HEWITT SPRING					
	SHEEP CREEK					

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A29-11885	DOMESTIC	CROWDER, GARY	FROM 01-01 TO 12-31	0.040 CFS	
A29-11885	STOCKWATER	CROWDER, GARY	FROM 01-01 TO 12-31	0.020 CFS	
29-11885	DOMESTIC	CROWDER, ESTHER	FROM 01-01 TO 12-31	0.040 CFS	
29-11885	STOCKWATER	CROWDER, ESTHER	FROM 01-01 TO 12-31	0.020 CFS	
A29-11198	STOCKWATER	GILBERT, ELLIS E	FROM 01-01 TO 12-31	0.020 CFS	
A29-11198	DOMESTIC	GILBERT, ELLIS E	FROM 01-01 TO 12-31	0.040 CFS	
29-11198	STOCKWATER	GILBERT, ELLIS E	FROM 01-01 TO 12-31	0.020 CFS	
29-11198	DOMESTIC	GILBERT, ELLIS E	FROM 01-01 TO 12-31	0.040 CFS	

MAY 31 2001

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-04111
Date Received: 4/26/1990
Receipt No: E013753
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN WILLIAM HART 208-897-5743
Address: 2435 E. HAWKINS
DOWNEY ID 83234

OR
Name: JENNIE HART 208-897-5743
Address: 2435 E. HAWKINS
DOWNEY ID 83234

2. Date of Priority: JUN 1, 1930

3. Source: UNNAMED SPRING Trib. to: PECK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
11S	37E	6	NW	SE			BANNOCK

5. Description of diverting works:
DITCH/ PUMP TO MAINLINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.800		

7. Total Quantity Appropriated is:
2.800 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 of	Lot	Use
10S	37E	31	SW	SW		IRR

MICROFILMED
Acres
12 APR 12 1994

A2904111



10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
10S	37E	31	SE		SW		IRR	5.3

Section Acres 17.3

11S	37E	6	NW	NE	IRR	10.0
			NE	NW	IRR	27.0
			SW	NW	IRR	15.0
			SE	NW	IRR	29.0
			NE	SW	IRR	32.0
			NW	SW	IRR	40.0

Section Acres 153.0

Total Acres 170.3

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

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): _____ Date: _____

Date:

MICROFILMED

APR 12 1994

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

SEP 05 2003

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

Department of Water Resources
 Eastern Region

Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	29-4109				
	29-4111				
	29-4112				
	29-4110				

The following **REQUIRED** information must be submitted with this form:

A. The appropriate **FILING FEE**. See instructions for fee amounts.

B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a **USDA Farm Service Agency AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) John William Hart Jennie Hart
2435 E Hawkins Downey ID 83234
4. New Owner/Claimant(s) John William Hart Marilyn Mikkelsen
 Name Connector (Check one): ☐ and, ☐ or, ☒ and/or
- New Mailing Address 2435 E Hawkins 2433 E Hawkins
- City, State and ZIP Code Downey ID 83234 Downey ID 83234
- New Telephone Number (208) 897-5743 (208) 897-9918.
5. Date you acquired the property NA.

CERTIFICATION OF VITAL RECORD

STATE OF IDAHO

IDAHO DEPARTMENT OF HEALTH AND WELFARE
CENTER FOR VITAL STATISTICS AND HEALTH POLICY

State of Idaho CERTIFICATE OF DEATH

State File No. 6-545
Local Reg. No. 6-545

ONLY A COPY OF THIS DOCUMENT CERTIFIED BY THE STATE REGISTRAR, WITH THE DEPT. OF HEALTH & WELFARE RAISED SEAL, SHALL BE USED AS PRIMA FACIE EVIDENCE OF THIS DEATH UNDER IDAHO CODE 39-241(a) & 39-274

DECEDENT

TYPE OR PRINT IN PERMANENT BLACK INK DO NOT USE FELT TIP PEN

NAME OF DECEDENT For use by physician or institution

DECEDENT — NAME FIRST MIDDLE LAST JENNIE MARIE DUNTON HART				SEX FEMALE	DATE OF DEATH (Month, Day, Year) NOV. 17, 1999
SOCIAL SECURITY NUMBER 528-46-2395		AGE — Last Birthday (Yrs.) 64	UNDER 1 YEAR MONTHS DAYS 5b	UNDER 1 DAY HOURS MINS 5c	DATE OF BIRTH (Month, Day, Year) MAY 30, 1935
WAS DECEDENT EVER IN U.S. ARMED FORCES? ☐ Yes ☒ No		PLACE OF DEATH (Check only one) HOSPITAL (1) ☐ Inpatient (2) ☐ ER/Outpatient (3) ☐ DOA OTHER (4) ☐ Long-Term Care Facility (5) ☒ Own Residence (6) ☐ Other Private Residence (7) ☐ Other (Specify)			
FACILITY NAME AND ADDRESS (If not a hospital, enter name of place, street and number) 2435 E. HAWKINS RD.				CITY, TOWN OR LOCATION OF DEATH DOWNEY	COUNTY OF DEATH BANNOCK
MARITAL STATUS — Married, Never Married, Widowed, Divorced (Specify) MARRIED		SURVIVING SPOUSE (If wife, give maiden name) JOHN WILLIAM HART		DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.) HOUSEWIFE	KIND OF BUSINESS / INDUSTRY HOMEMAKING
RESIDENCE STATE IDAHO	COUNTY BANNOCK	CITY, TOWN OR LOCATION DOWNEY	STREET AND NUMBER 2435 E. HAWKINS RD.	ZIP CODE 83234	
INSIDE CITY LIMITS? ☐ Yes ☒ No		WAS DECEDENT OF HISPANIC ORIGIN? (Specify No or Yes — If yes, specify Cuban, Mexican, Puerto Rican, etc.) ☐ Yes ☒ No		RACE — American Indian, Black, Japanese, White, etc. (Specify) WHITE	
				16. DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) 3 College (1-4 or 5+) 3	

PARENTS

FATHER — NAME HARVEY DUNTON	BIRTHPLACE UTAH	MOTHER — FULL MAIDEN NAME VIRGINIA WHITE	BIRTHPLACE OREGON
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INFORMANT

INFORMANT'S NAME (Type/Print) JOHN WILLIAM HART	MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code) 2435 W. HAWKINS RD. DOWNEY, IDAHO 83234
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DISPOSITION

METHOD OF DISPOSITION ☒ Burial ☐ Cremation ☐ Removal from Idaho ☐ Donation ☐ Other (Specify)	PLACE OF DISPOSITION (Name of cemetery, crematory, or other place) MARSH CENTER CEMETERY	LOCATION — City or Town, State VIRGINIA, IDAHO
--	--	--

SIGNATURE OF FUNERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH <i>[Signature]</i>	LICENSE NUMBER (of Licensee) M-607 132	NAME AND ADDRESS OF FACILITY HORSLEY FUNERAL HOMES W. 300 N. MALAD CITY, IDAHO 83252
--	--	--

TIME OF DEATH 0430	DATE PRONOUNCED DEAD (Month, Day, Year) NOV. 17, 1999	WAS CASE REFERRED TO CORONER? ☐ Yes ☒ No	MANNER OF DEATH (Check One) ☒ Natural ☐ Homicide ☐ Suicide ☐ Accident ☐ Pending Investigation ☐ Could Not Be Determined
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27. PART I Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line.

IMMEDIATE CAUSE (Final disease or condition resulting in death)	a. Metastatic Breast Cancer	Approximate Interval Between Onset and Death 10 months
	b. DUE TO (or as a consequence of):	
	c. DUE TO (or as a consequence of):	
	d. DUE TO (or as a consequence of):	

CAUSE OF DEATH

Sequentially list conditions, if any, leading to immediate cause. Enter UNDERLYING CAUSE (disease or injury that initiated events resulting in death) LAST

27. PART II. Other Significant Conditions contributing to death but not resulting in the underlying cause given in Part I.		WAS AN AUTOPSY PERFORMED? ☐ Yes ☒ No	WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? ☐ Yes ☐ No
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CERTIFIER

IF DEATH WAS DUE TO OTHER THAN NATURAL CAUSES, THE CORONER MUST COMPLETE AND SIGN THE CERTIFICATE

CERTIFIER (Check only one) ☒ PHYSICIAN — To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. ☐ CORONER — On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.		
SIGNATURE AND TITLE OF CERTIFIER <i>[Signature]</i>	LICENSE NUMBER M5725	DATE SIGNED (Month, Day, Year) 11/24/99

NAME AND ADDRESS OF CERTIFIER (Type/Print) DR. LYNN ESKELSON 37 N. 1st E. PRESTON, IDAHO		
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TO BE USED FOR EXTERNAL CAUSES ONLY

DATE OF INJURY (Mo., Day, Yr.) 30a	HOUR OF INJURY 30b	DESCRIBE HOW INJURY OCCURRED 30c
INJURY AT WORK? ☐ Yes ☐ No		IF TRANSPORTATION ACCIDENT, Specify ☐ Driver ☐ Passenger ☐ Pedestrian ☐ Other
PLACE OF INJURY — At home, farm, street, factory, office building, etc. (Specify) 30d		LOCATION (Street or Route Number, City/Town, or County, and State) 30e

CORONER'S REVIEW AREA

CORONER'S ACTION 31a I have reviewed and/or amended, and certified.	CORONER'S SIGNATURE 31b	DATE SIGNED (Month, Day, Year) 31c
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REGISTRAR

REGISTRAR'S SIGNATURE <i>[Signature]</i>	DATE FILED (Month, Day, Year) Dec. 6, 1999
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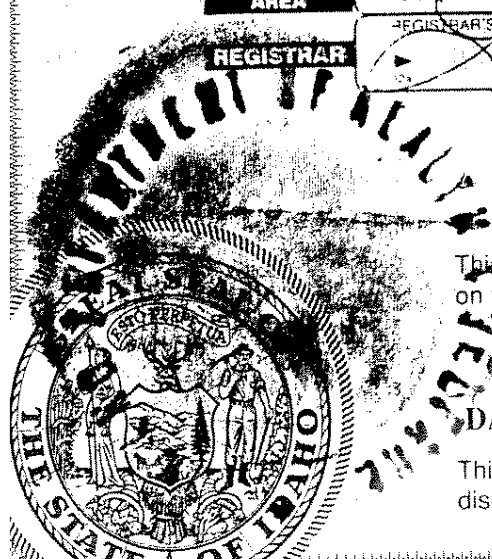
This is a true and correct reproduction of the document officially registered and placed on file with the IDAHO CENTER FOR VITAL STATISTICS AND HEALTH POLICY.

DATE ISSUED: Dec 6, 1999

This copy is not valid unless prepared on engraved border displaying state seal and signature of the Registrar.

[Signature]
JANE S. SMITH
STATE REGISTRAR

BK8663PG0755



WARRANTY DEED

For Value Received Ten Dollars and other valuable consideration

Herman Reisner

94016225

the grantor, do hereby grant, bargain, sell and convey unto

John W. Hart and Jennie Hart, husband and wife

the grantees, the following described premises, in Bannock County Idaho, to wit:

Lot 5 -54.24 Acers; Lot 4 -55.57 Acers Tr. Lot 3 & SE $\frac{1}{4}$ NW $\frac{1}{4}$ Tax 12- 68.53
Acers Section 6 Township 11 South Range 37 E. B. M.

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 Acers.

Section 1 Township 11 South Range 36 E. B. M.

Of better described as follows:

Lot 5 and Lot 4, Section 6, Township 11 South, Range 37 E. B. M., Bannock
County, Idaho, and Lot 3 and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, Township 11 South, Range
37 E. B. M., Bannock County, Idaho, Except the Following described tract:
Beginning at the Southwest corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, Township 11
South, Range 37 E.B.M., thence East 20 Rods, thence North 100 Rods, thence
West 20 Rods, thence South 100 Rods to the point of Beginning. NE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 1, Township 11 South, Range 36, E. B. M., Bannock County, Idaho...

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee &
Their heirs and assigns forever. And the said Grantor do so hereby covenant to and
with the said Grantee, that he is the owner in fee simple of said premises; that they are free
from all incumbrances none

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: December 6, 1966

Herman Reisner

STATE OF IDAHO, COUNTY OF

On this 6 day of December, 1966,
before me, a notary public in and for said State, personally
appeared Herman Reisner

NOTARY SEAL

known to me to be the person whose name
subscribed to the within instrument, and acknowledged to
me that he executed the same.

John B. Downey
Notary Public
Residing at Downey, Idaho
Comm. Expires Oct. 25, 1968

94016225

NO. 94016225
RECORDED AT REQUEST OF
JOHN W. HART

'94 SEP -6 P4:12

OFFICIAL RECORD BOOK NO. 623
BANNOCK COUNTY IDAHO
LARRY G. HAN (RECORDED)
EE. 30 DEPUTY

Furnished by the POCAHELLO TITLE CO.

WARRANTY DEED

565940

For Value Received HERMAN H. REISNER and BEATRICE V. REISNER,
husband and wife,

the grantor s, do hereby grant, bargain, sell and convey unto
JOHN W. HART and JENNIE D. HART,
husband and wife,

whose current address is Rural Route, Downey, Idaho 83234

the grantee s, the following described premises, in Bannock County Idaho, to wit:

Township 10 South, Range 37 East of the Boise Meridian
Section 31: Commencing at a brass cap marker which is the Southwest corner of Section 31, and running thence North across the Virginia Highway to the North Bank of the channel of Marsh Creek 1027 feet, more or less, thence North 77°05' East 200 feet along said channel, thence North 47°50' East 400 feet, more or less, thence East 20.08 feet, thence South across the Virginia Highway 1340.20 feet, more or less, to the South line of Section 31, thence West 31 rods, more or less, to the place of beginning, and being a portion of LOT SEVEN (7), Township 10 South, Range 37 East of the Boise Meridian. EXCEPTING THEREFROM those portions of above-described premises falling within the bounds of the Virginia Highway.

ALSO, Commencing at the Northeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of LOT EIGHT (8), Section 31, and running thence West 80 rods to the East boundary line of LOT SEVEN (7), thence South 729 feet, more or less, to the North boundary line of the Virginia Highway, thence Easterly following the North boundary of the said highway to a point 686 feet South along the East line of Lot 8, thence North 686 feet along the East line of Lot 8 to the place of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s, their heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantee s, that they are the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: November 22, 1976

Herman H. Reisner

Beatrice V. Reisner

STATE OF IDAHO, COUNTY OF

On this 22nd day of November, 1976,
before me, a notary public in and for said State, personally
appeared

HERMAN H. REISNER and
BEATRICE V. REISNER, husband
and wife,

known to me to be the person s whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

John B. Brown
Notary Public

Residing at Downey, Idaho
Comm. Expires Oct. 25, 1980

565940

NO. RECORDED AT REQUEST

John Hart

NOV 24 4 30 PM '76

296
BANNOCK COUNTY, IDAHO
TIM ECKEN, RECORDER

FE 1.00 DEED 1n

NOTARY SEAL

WARRANTY DEED

565941

For Value Received HERMAN H. REISNER and BEATRICE V. REISNER,
husband and wife,

the grantor s do hereby grant, bargain, sell and convey unto
JOHN W. HART and JENNIE D. HART,
husband and wife,
whose current address is Rural Route, Downey, Idaho 83234

the grantees, the following described premises, in Bannock County Idaho, to wit:

Township 10 South, Range 37 East of the Boise Meridian
Section 31: Commencing at the Southeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of
LOT EIGHT (8), Section 31; and running thence West
300 feet along the section line, thence North 677.88
feet to the South boundary line of the Virginia Highway,
thence South 72°27' East 314.65 feet along said highway,
thence South 583 feet to the place of beginning.

ALSO, Commencing at a point 256 feet North of the Southwest
corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of LOT EIGHT (8), Section 31; and
running thence North 280 feet, more or less, to the South
Boundary Line of the Virginia Highway, thence Easterly
325 feet along said Highway, thence South 280 feet,
thence Westerly 325 feet to the point of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee S,
their heirs and assigns forever. And the said Grantor s do hereby covenant to and
with the said Grantee S, that they are the owners in fee simple of said premises; that they are free
from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: November 22, 1976

STATE OF IDAHO, COUNTY OF

On this 22nd day of Nov., 1976,
before me, a notary public in and for said State, personally
appeared

HERMAN H. REISNER and
BEATRICE V. REISNER, husband
and wife,

known to me to be the person s whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

John B. Brown

Notary Public

Residing at Downey, Idaho
Comm. Expires Oct. 25, 1980

565941

NO. 565941
RECORDED AT REQUEST OF

John Hart

NOV 24 4 30 PM '76

296
BANNOCK COUNTY, IDAHO
JENNIFER L. REISNER, RECORDER
FEE 1.00 OF CITY IN

NOTARY SEAL

02/08/2003

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: April 21, 2003

Water right number: 29-4111

JOHN WILLIAM HART
2435 E HAWKINS
DOWNEY ID 83234
Telephone Number: (208)897-5743

JENNIE HART
2435 E HAWKINS
DOWNEY ID 83234
Telephone Number: (208)897-5743

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

____ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 8-1-03 SIGNATURE: John Hart
Please print your name: JOHN HART

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

RECEIVED
AUG 11 2003
Department of Water Resources
Eastern Region

MEMORANDUM

DATE: August 12, 2003

FROM: Ernie Carlsen

TO: 29-4109 and 29-4111

RE: Objection by John Hart

Claimant will file objections to both of the above claims along with a motion to amend 29-4109 to increase the acreage from 40 to 46.9. John described the development and use of water from both the spring and Beck Creek. On his original claims Lot 7, and a strip of land south of the county road in SWSW, Section 31 10S 37E was overlooked. The attached layout reflects the acreage John wishes to have included on his claims.

John was accompanied by his daughter, Marilyn, who is going to assist him with filing the objections and motion to amend.



Department of Water Resources

Claim No.:

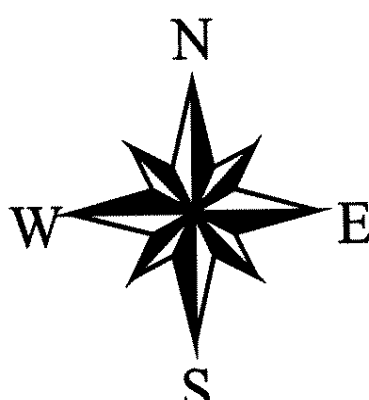
29-4109

29-4111



0 1320 2640 3960 5280 Feet

- 29-4109.shp
- QQ
 - Sections
 - Townships

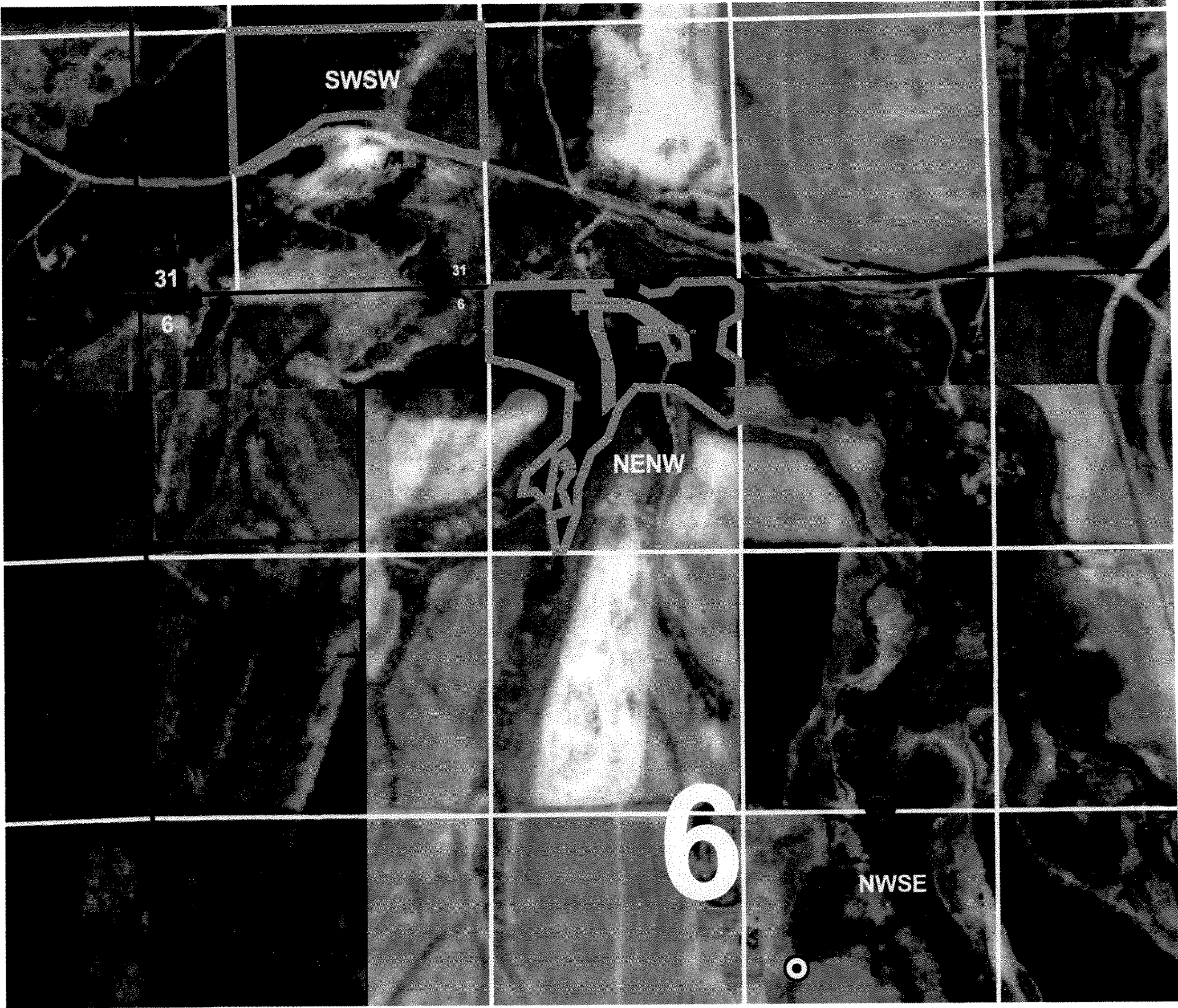


GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepare by: E. Carlsen
Date: August 2003

IDAHO DEPARTMENT OF WATER RESOURCES

29-04111

T11S, R37E SEC 6
T10S, R37E SEC 31



ACRES IRRIGATED- 35

⊙ POINT OF DIVERSION



PLACE OF USE

GIS: PLACE OF USE
POINT OF DIVERSION
1987/1988 NAPP PHOTOS
DAVE CARLSON

CLAIMS 29-04112 and 29-04111 John Hart

Dave Carlson

10-2001

These two claims are for water rights developed from a spring source. See Finding of Facts hearing 1969 in the two files. Reisner Vs Stewart.

In that hearing, it was determined that the ditch or flood irrigation Originated in 1930, and irrigated a POU below the existing ditch to the north of the spring area 1.81 cfs total. Some land belongs to Mr Hart, some does not.

In 1953 a pump was installed into the ditch and water was pump up on the flat area to the west of the ditch. About 88 acres and 1.27 cfs All appears to be Mr Harts land now

29-04111 as filed, represents both the ditch and the pump irrigation and 29-04112 is an earlier filing for the same spring.

RECOMMENDATIONS

29-04111 is recommended for the 1930 water rights from the spring diverted in the ditch only and not for the water pumped up onto the flat to the west.

29-04112 is totally changed to the 1953 water rights pumped out of the ditch to the pou above to the west. See recommendation map. Note the POD and source of this water right was changed in the 1970's to the unnamed stream trib to Peck Creek
Mr Hart made these similar statements to me 10/2001 DC

BEFORE THE LOCAL GROUND-WATER BOARD FOR BANNOCK COUNTY

STATE OF IDAHO

RECEIVED

AUG 15 1979

Department of Water Resources
Eastern District Office

HERMAN REISNER, THELMA REISNER,
JOHN HART, FRED HART, KEITH BENNETT,
ALICE DENNY, AND JULIA BLANCHARD

Claimants

v.

REID STEWART

Respondent

FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

---o---

This matter came on regularly for hearing on January 29, 1969, before the Local Ground-Water Board for Bannock County, consisting of Mr. Jack A. Barnett, Deputy State Reclamation Engineer, Chairman; Mr. Marshall K. Corbett, a geologist appointed by the Judge of the District Court; and Mr. Boyd Gunter, a resident irrigation farmer of Bannock County, who was selected by the other two Board members.

Claimants were represented by their attorneys, Merrill K. Gee and Howard L. Armstrong. Respondent was represented by attorney R. D. Merrill. The hearing was held in the afternoon of January 29 and the morning of January 30. It was intended to continue with the hearing in the afternoon of January 30. However, during the noon recess, attorney R. D. Merrill was unexpectedly taken seriously ill. The remainder of the hearing was continued until March 28, 1969. Upon reconvening the hearing, the Board was informed that at this and future hearings, the respondent, Reid S. Stewart, would be represented by himself and his engineer, Frank W. Haws.

At the conclusion of the hearing on March 23, 1969, a request was made by claimants' counsel that the names Alice Denny and Julia Blanchard be added to the names of the claimants in this case. With the stipulation that the claimants' case would stand with the data and facts already submitted and additional testimony would not be required to represent the additional claimants' position, and hearing no objections, the two names were added to the list of claimants.

Following the hearing, the Board found that the claimants and respondents had failed to provide the Board with enough facts and data to decide the case. With this in mind and following the urging of both parties, the Board requested by letter of April 4, 1969, that the Idaho Department of Reclamation conduct an investigation to determine the ground-water hydrology of the area and the use made of the spring waters and ground waters by the claimants and respondents. A subsequent hearing was held on December 16, 1969, for the Board to hear the results of the requested investigation.

Having heard and reviewed all the evidence presented to the Board and having consulted all of the County, State and Federal Government records that the Board felt necessary, as agreed to by the parties, and having reviewed the transcript of a previous court action on the matter which has been designated Civil No. 23583, as agreed to by the parties, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

A. WATER RIGHTS

The Ground-Water Board finds that there are three types of rights to water from the spring referred to in the hearing as the Reisner Spring. The first type (I) is surface flood irrigation rights; the second type (II) is domestic rights; and the third type (III) is pumped sprinkler irrigation rights. The Board also finds ground-water rights (IV) to pump from two wells.

I. Surface Flood Irrigation Rights

The Board finds that all of the surface flood irrigation using spring water was initiated in about 1930. The diversion of water is from the spring area that was referred to as the Reisner Springs at the Board's hearings, and is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E. The water is diverted from the natural spring stream channel in the above-described area near the spring issuance. The Board finds that all right holders to this type of right have an equal priority dating 1930. The Board also finds that individuals holding this type of right are entitled to as much as an inch to the acre for irrigation and additional waters for conveyance loss in the long canal used to deliver the water. Testimony was given that as much as another inch to the acre is required to deliver the water to the end of the two-mile-long canal. With this in mind, the Board finds that the individuals are

entitled to conveyance water in proportion to the distance down the canal from the springs that their diversion occurs. That is to say that an individual diverting one-half mile down the canal would be entitled to one-fourth inch per acre of additional conveyance water. The Board then finds that the rights to divert out of the Reisner Spring by gravity means with a 1930 priority are listed as follows in order of their diversion:

- a. T. Levere Juchao, c/o Keith Bennett, 7.1 acres of irrigation in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; 7.1 inches irrigation water plus 1.4 inches conveyance water make a total diversion at the spring of 8.5 inches (.16 c.f.s.).
- b. Etna E. Gilbert (not a party of the Ground-Water Board), 10.2 acres of irrigation in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; 10.2 inches irrigation water plus 3.0 inches of conveyance water make a total diversion at the spring of 13.2 inches (.26 c.f.s.).
- c. Herman Reisner, 20.4 acres of irrigation in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; 20.4 inches irrigation water plus 14.2 inches of conveyance water make a total diversion at the spring of 34.6 inches (.69 c.f.s.).
- d. H. Vance Polk, c/o Richard Butmaster (not a party of the Ground-Water Board), 5.3 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T. 10 S., R. 37 E.; 5.3 inches irrigation water plus 4.2 inches of conveyance water, making a total of 9.5 inches (.19 c.f.s.).
- e. Herman Reisner, 12.8 acres of irrigation in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T. 10 S., R. 37 E.; 12.8 inches irrigation water plus 12.8 inches of conveyance water, making a total of 25.6 inches (.51 c.f.s.).

(.69 cfs) (20.4 ac)

.51 cfs (12.8 ac)

Total surface flood irrigation rights: 1.81 c.f.s.

II. Domestic Rights

The Board finds that Thelma Reisner Ramey (widow of Wilford Reisner) is entitled to a total of .06 c.f.s. (25 gallons per minute) to be pumped from the head of the spring with a 1932 priority, to be used for a home

located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E. Said water is also to be used for incidental yard irrigation, including up to one-fourth acre of garden.

Total domestic rights: .06 c.f.s.

III. Sprinkler Irrigation

The Board finds that individuals have been using waters from the springs for pumping and sprinkler irrigation since 1953 and such rights have a priority as of that year. The Board finds that the pump diversion, located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, is sufficiently close to the spring area that conveyance waters are not required, and the Board determines that irrigation practices require no more than .8 inches of water per acre. With this in mind, the Board finds the following rights:

- (36.6 AC)
- (16)
- 15.4
- 26.0
- a. Herman Reisner, 35.7 acres of irrigation in the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 28.6 inches (.47 c.f.s.).
 - b. Herman Reisner, 15.6 acres of irrigation in the S $\frac{1}{2}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 12.5 inches (.25 c.f.s.).
 - c. Thelma Reisner Ramey, 15.4 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 12.3 inches (.25 c.f.s.).
 - d. Thelma Reisner Ramey, 20.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T. 11 S., R. 37 E.; total diversion of 16.0 inches (.30 c.f.s.).
- Total pumped diversion: 1.27 c.f.s.

The Board therefore finds that there is a total right of 3.14 c.f.s. from the Reisner Springs.

IV. Ground-Water Rights

- a. The Board finds that the claimants Julia Blanchard and Alice Denny are entitled to the licensed right issued in the name of Edward Denny by virtue of their ownership of Lots 3 and 4 in Section 7, T. 11 S., R. 37 E. This licensed right has been designated by the number 23873 (29-2330) in the records of the Idaho Department of Reclamation. It has a priority of

February 27, 1953, to divert 1.2 c.f.s. from a well located in Lot 3 of said Section 7. The right is to irrigate up to 90 acres of ground in Lots 3 and 4 of the Section ($W\frac{1}{2}SW\frac{1}{2}$).

- b. The Ground-Water Board finds that Reid Stewart has a licensed right, which has been given the number 25728 (29-2366), to divert water from a well located in the $SE\frac{1}{4}NW\frac{1}{4}$ of Section 7, T. 11 S., R. 37 E., (referred to as Stewart Well #1). This right was originally in the name of Mark Dunford Weston and Lois L. Weston. Mr. Stewart has a right to use these waters by virtue of his ownership of the lands upon which the well is located and the lands that are irrigated from it. This licensed right has a priority of May 26, 1955, to irrigate 120 acres from the well. The lands to be irrigated are in the $E\frac{1}{2}NW\frac{1}{4}$ and $SE\frac{1}{4}NW\frac{1}{4}$ of said Section 7.
- c. The Board finds that Application No. 30723 (29-2466), filed with the Idaho Department of Reclamation to pump water from the well before-mentioned (Stewart Well #1) in Section 7, is in the name of Reid Stewart; that, in fact, a water right has been established to irrigate up to as much as 200 acres in the $NW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$ and $E\frac{1}{2}SW\frac{1}{4}$ of Section 18, T. 11 S., R. 37 E. This established right is to divert up to as much as an additional 4.0 c.f.s. from this well. The license for this right has not been issued, pending the decision of the Ground-Water Board. The Board finds that this license, when issued, should be limited to the actual amount diverted and used prior to the time that the proof of beneficial use of the waters was submitted and the lands irrigated should likewise be limited. The priority date of this second right on the well, referred to in the Ground-Water Board hearing as the Reid Stewart Well #1, should be September 14, 1962.

B. GROUND-WATER HYDROLOGY

The Board finds that the ground water in the area of the Reisner Spring, the Alice Denny Well and the Stewart Well is of a common source. Hydrologic data, dye tests, and the testimony by scientists studying the occurrence and movement of the water has led the Board to conclude that this is a common source. The water is flowing from the southeast to the northwest, and the aquifers encountered in the Stewart Well and the Alice Denny Well, and other wells in the general area, are the same aquifers that carry the water that issues at the Reisner Springs. The Reisner Spring area represents a natural overflow to the ground-water system and the amount of discharge from the springs is very sensitive to small water-level changes in the aquifer.

The Ground-Water Board finds from evidence and testimony that the flow of the Reisner Springs has decreased over the years. The Ground-Water Board determines that the decrease in flow has been brought about by at least three factors:

I. The flow of the springs varies to a certain extent seasonally and from season to season, as precipitation varies. Precipitation is one of the sources of recharge to the aquifer and therefore to the springs.

II. The spring flow has decreased because of reduction in surface-water irrigations in the area, starting back at least as early as 1941 and continuing to the present. Most of the surface water irrigation on the bench lands above the spring level has been with waters imported into the area from the Portneuf River by the Portneuf-Marsh Valley Canal. Some of the water from this source percolated down to the aquifer and recharged the aquifer, hence adding to the flow of the spring. Stopping of this irrigation practice has thereby decreased the flow of the spring. Both the claimants and the respondents, as well as others in the area, have stopped their use of these surface waters over the years.

III. The Ground-Water Board finds that the pumping of the Stewart Well and several other wells in the immediate region has taken water from the aquifer and thereby reduced the discharge of the spring. The Board further finds, however, that there was not sufficient evidence introduced by the claimants in the case, nor was there sufficient evidence presented at a later date by the Idaho Department of Reclamation, for the Board to determine whether the effect of the Stewart Well alone was appreciable and could be measured.

The Ground-Water Board finds that the testimony given demonstrates that the pumping of the Stewart Well has, to some undetermined extent, lowered the water in the Alice Denny Well and thereby reduced the production of the well owned by claimants Alice Denny and Julia Blanchard. Both of these wells are diverting water from the same aquifer system. The Board further finds, however, that the construction of the well referred to as the Alice Denny Well is such that only the top few feet of water in this aquifer are available to the pump. Lowering of the water levels in the aquifer only a portion of a foot can affect this well, and minimum drawdown caused by pumping of the Alice Denny Well itself is significant to the production of the well.

CONCLUSIONS OF LAW

The Ground-Water Board finds that, in the case of the alleged interference of the Stewart Well with the Reisner Spring, the burden of proof of the interference must rest with the accusing party. The Ground-Water Board finds that, with the data submitted to it by the parties and the additional data supplied by the Idaho Department of Reclamation, it is not able to determine whether or not the damages alleged by the claimants are significant and real; therefore, the Board is not able to award any relief to the claimants. Because of this, the Board finds that the claimants have failed to make the showing to the Board that is required of them as accusing parties, if they are to prevail in the matter.

The Board also finds that the development of the well by the claimants Alice Denny and Julia Blanchard does not represent a reasonable effort to develop the ground-water resources of the aquifer. With respect to the claim of the well owners, the Board wishes to cite a portion of Section 42-226 of the Idaho Code:

"...and, while the doctrine of 'first in time is first in right' is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources, but early appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be established by the state reclamation engineer as herein provided."

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters herein its order as follows:

1. That the respondent Reid Stewart be allowed to continue to pump his well within the rights set forth in the Findings of Fact, without regard to interference with the Reisner Springs until such time as the right holders in the spring have conclusively demonstrated the extent of the alleged interference with their rights specified in these findings before a court of law or a Local Ground-Water Board, and/or until the claimants Julia Blanchard and Alice Denny have proceeded with reasonable diligence and effort to develop the ground-water resources under their property and demonstrated this before a court of law or a Local Ground-Water Board.

2. That the respondent Reid Stewart immediately proceed with the installation of a measuring device on his system that will allow the Idaho Department of Reclamation within the next 60 days to measure the total discharge of his well and observe the irrigation from this well. The water rights established under Water License No. 25728 and Application No. 30723 should be limited to the amount of water actually being produced, and that he should not be allowed to irrigate lands in addition to those described in his licensed right or in addition to land actually irrigated prior to the submission of proof under the pending license. The measuring device is to be accessible for inspection by the Idaho Department of Reclamation at any reasonable time.

3. That within 90 days the claimants, Herman Reisner, Thelma Reisner Ramey, John Hart, Fred Hart, and Keith Bennett, proceed to install a measuring device on the springs that is of a standard type to be approved by the Department of Reclamation, and which can measure the amount of water issuing from the springs. Said measuring device is to be accessible for inspection by the Idaho Department of Reclamation at any reasonable time.

4. That Alice Denny and Julia Blanchard be allowed to continue to pump their well in a manner that they see fit, within the rights set forth here, but should not be allowed to produce water from a deepened or improved well until such time as a measuring device approved by the Idaho Department of Reclamation is installed so that the actual production of their improved well can be monitored.

Dated this 1st day of July, 1970.

LOCAL GROUND-WATER BOARD FOR BANNOCK COUNTY

Jack A. Barnett
Jack A. Barnett

Marshall K. Corbett
Marshall K. Corbett

Boyd Gunter
Boyd Gunter

SCANNED

MAY 21 2001

Log for claim A29-04111

Spatial Dynamics TWB

5/24/00

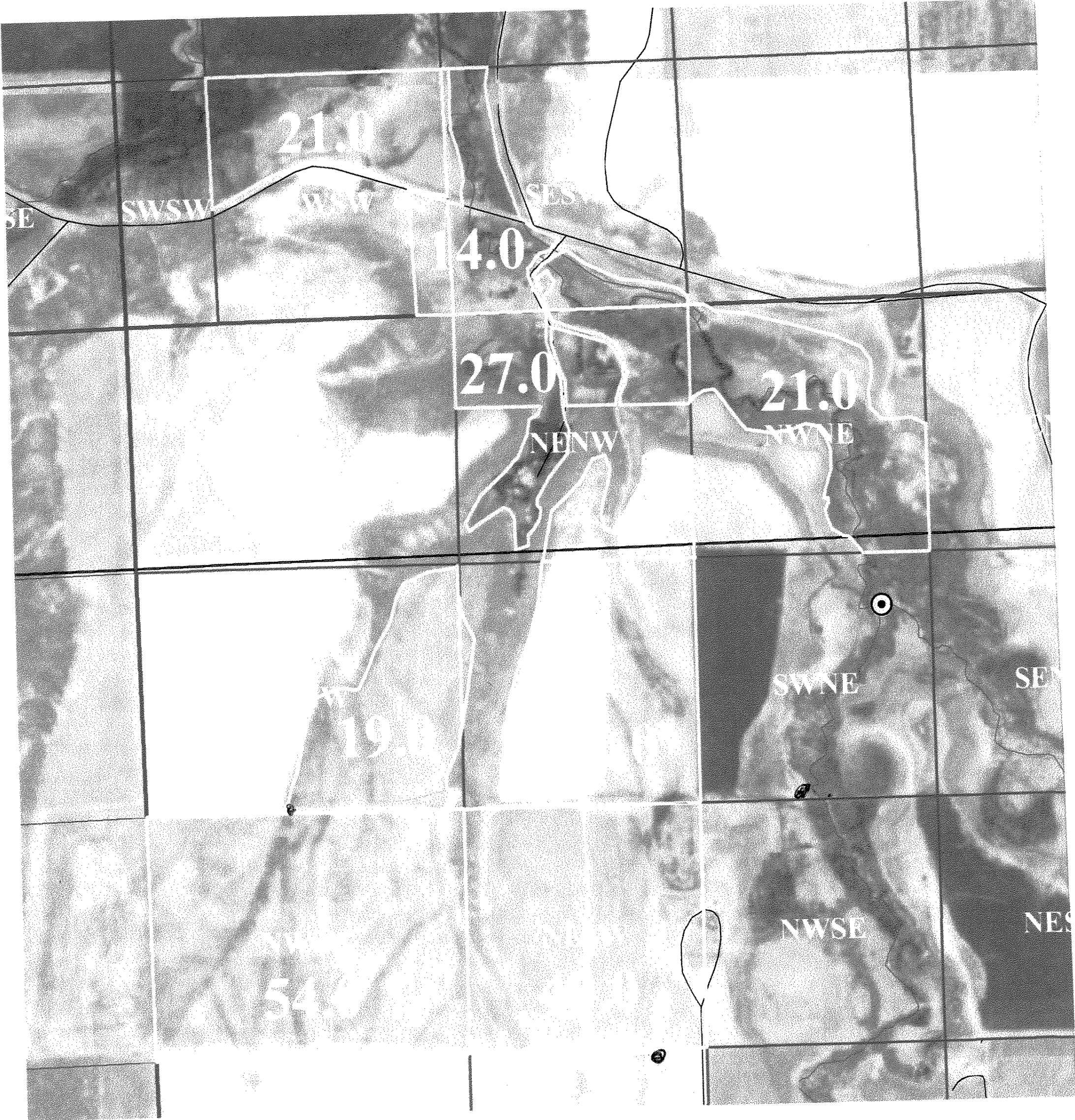
TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s37e	31	SWSW	12	21	
10s37e	31	SESW	5	14	
11s37e	6	NWNE	10	21	
11s37e	6	NENW	27	27	
11s37e	6	SWNW	15	19	
11s37e	6	SESW	29	31	
11s37e	6	NESW	32	40	
11s37e	6	NWSW	40	54	
11s37e	6	NWSE	0	0	nwse should be swne in database
Totals:			170	227	

1960 pump

1951

1970s moved to
creek

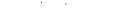
Township , 12S37E



 Irrigated Area

 Place of Diversion

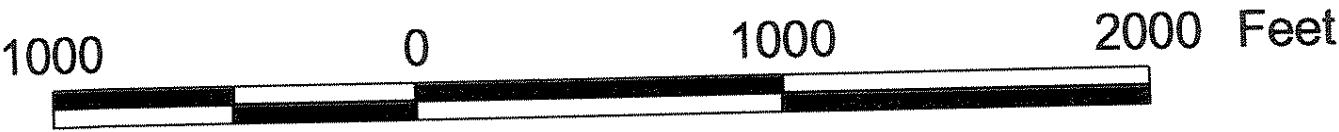
Legend

 Section Line

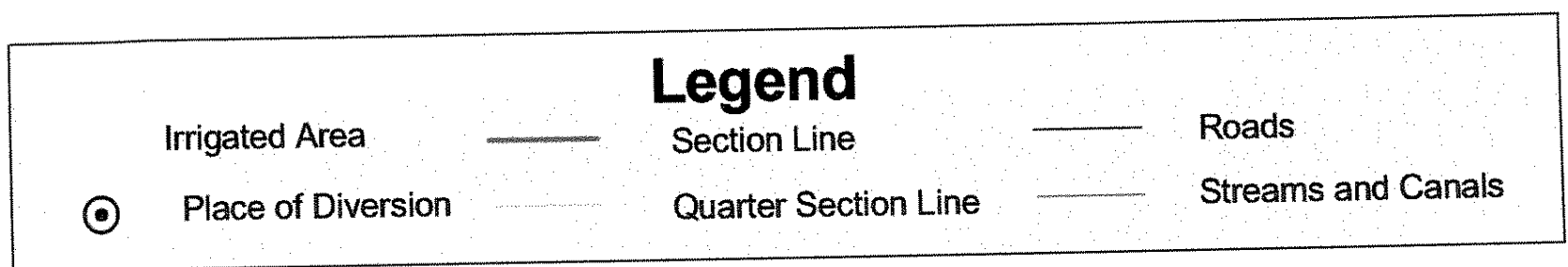
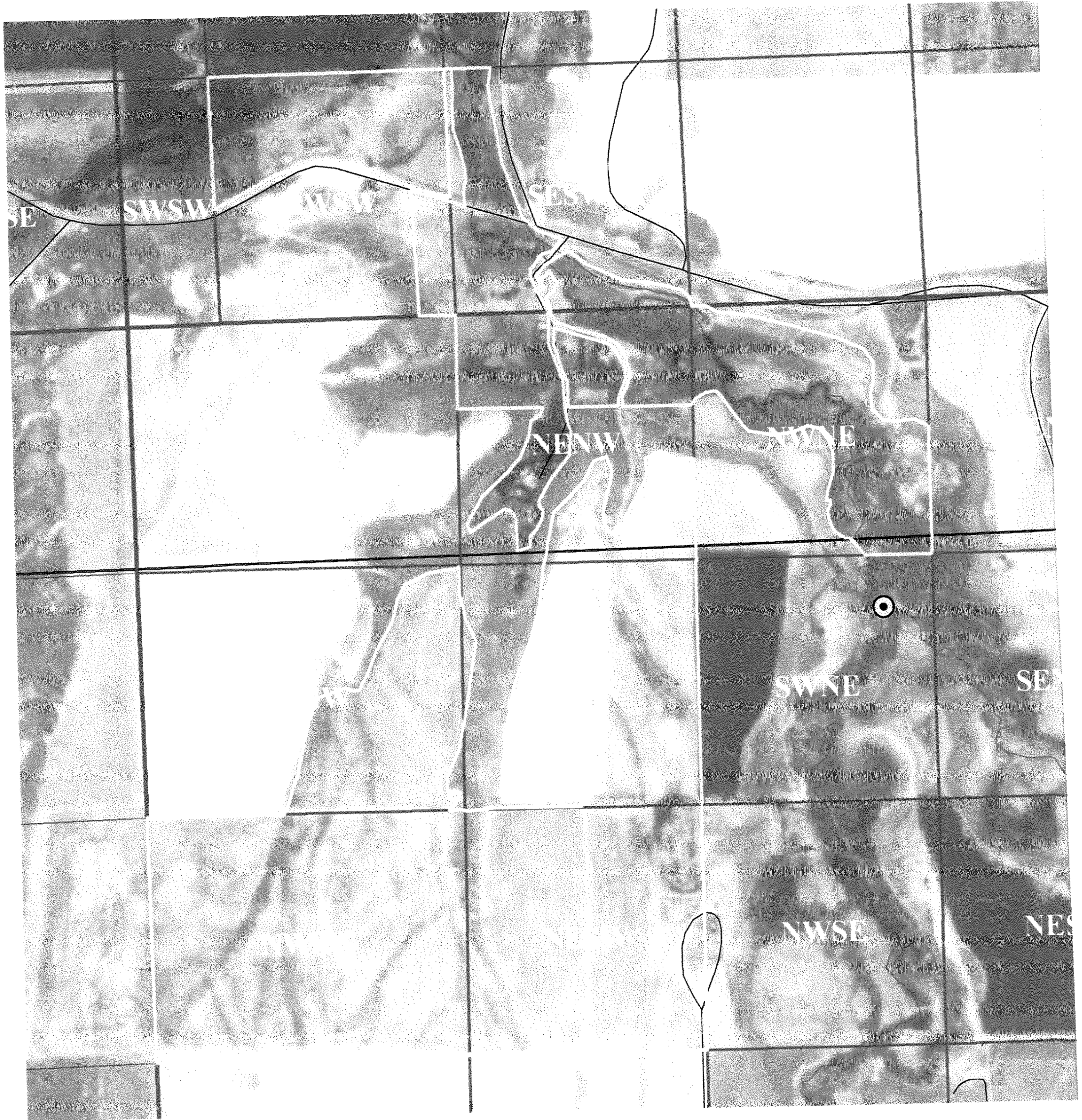
 Quarter Section Line

 Roads

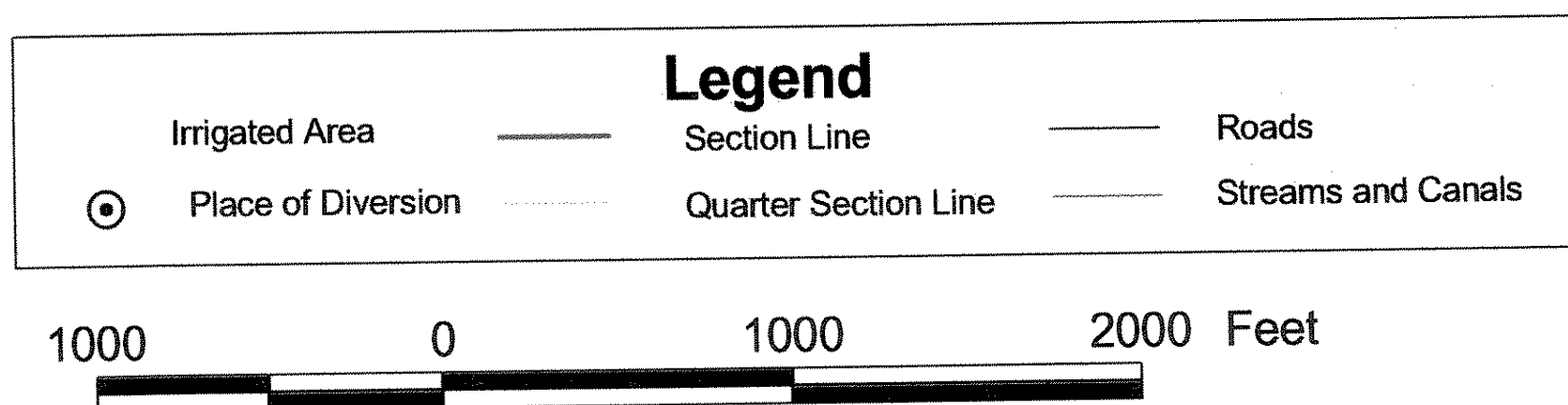
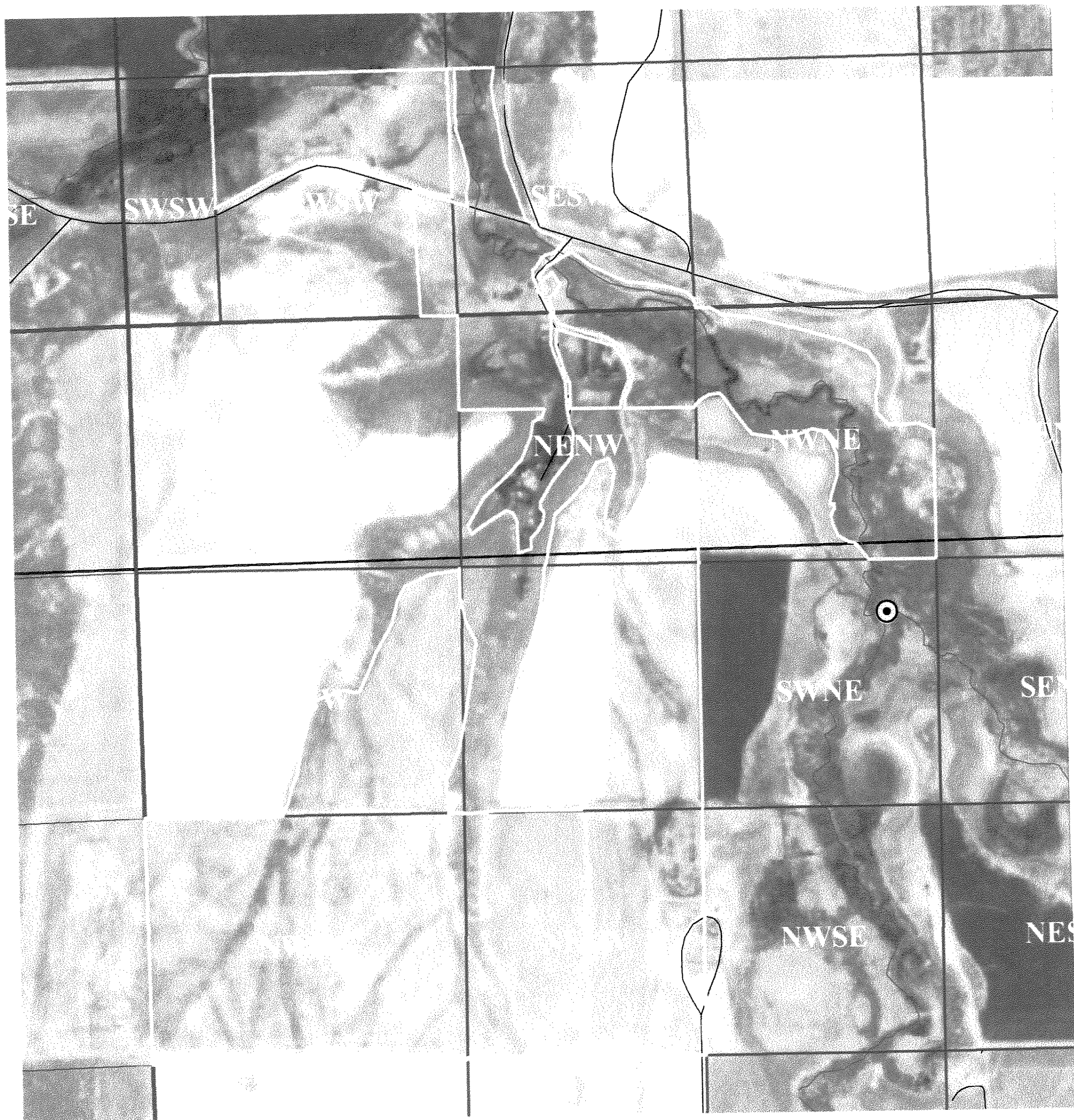
 Streams and Canals



Township , 12S37E



Township , 12S37E



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 John William Hart &/or Jennie Hart
(Name of Claimant)

Rt. #2, Downey, Idaho 83234 Telephone No. 897-5743
(Mailing Address) (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) June 1, 1930

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)

unnamed spring tributary to Peck 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>2.80</u>	Use <u>irrigation</u>	Period of Use From <u>Apr. 1</u>	To <u>Nov. 1</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____

- (4) 2.80 TOTAL QUANTITY USED.
(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

NW ¼ SE ¼, Sec. 6 Twp. 11S Rge. 37E B.M., County of Bannock

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 dam and open 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.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11S	37E	6		10.2			27.1		15.6	29	15.4	20							117.3
10S	37E	31											12.8	5.3					18.1

No. of acres 135.4

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: _____

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

MICROFILMED

TOTAL DIVERSION: 2.800 CFS

Stage: STATUTORY CLAIM

BANNOCK County

20

TOTAL ACRES

A29-04112

A29-04039 A29-04054

Objection Filed Date:

03/29/95 POST-STD

April 17, 1995

RECEIVED

APR 20 1995

State of Idaho
Department of Water Resources
Eastern District Office
900 N. Skyline DR.
Idaho Falls, Idaho 83402-1918

Department of Water Resources
Eastern District Office

Dear Sir:

In 1930, my brother, Herman Reisner, got an easement from LaVere Jushau to put in a ditch from a spring below Wilford Reisner's house to Herman Reisner's farm, a distance of two miles.

Mr. Keefer measured the spring. It was running 3.0CFS. Mr. Keefer surveyed the land for the ditch. My husband, Fred W. Hart, with my brothers, Wilford Reisner and Herman Reisner, began digging the ditch early in the spring with a team of horses, a hand plow and a scraper. They finished the two miles of ditch in 1930. The water was turned in after each section was completed to check to see if the ditch was correctly leveled. When the ditch was completed, the full stream was turned in.

Much later, pipe and a pump took the place of the ditch to more effectively utilize the water.

Freda R Hart
Sincerely,

Freda Hart
2433 E. Hawkins
Downey, Idaho 83234

INDIVIDUAL

STATE OF Idaho)
COUNTY OF Bannock) ss.

On this 19 day of April, in the year 95, before me, a Notary Public in and for said State, personally appeared Freda Hart, known to me to be the person whose name is/are subscribed to the within instrument, and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Barbara A. Byrnes
Notary Public for Idaho
Residing at Downey Id
12-22-99

NOV 13 1995

Stage: STATUTORY CLAIM

BANNOCK County

NE-

POU County: BANNOCK

Verified Date:

Field Inspection Flag:
Presumption Flag:

NOV 13 1996